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8 On behalf of Defendant:

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13 Representing Roto Rooter Services Company

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C O N T E N T S

WITNESSES:	PAGE
JOEL BOLAND	
Examination by Mr. Rafi	5
Examination by MS. Dobur	None
Examination by Mr. Harrison	None

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EXHIBITS

RESPONDENTS:	MARK'D REC'D
Plaintiff's Ex 1	
Roto-Rooter Plumbing & Drain Service	70
Plaintiff's Ex 2	
Map	73
Plaintiff's Ex 3	
Roto-Rooter DeKalb GA Google Search	77
Plaintiff's Ex 4	
Google Map	80
Plaintiff's Ex 5	
Search	81
Plaintiff's Ex 6	
Roto-Rooter Services Company Safety Training Program Attendance Sheet	123
Plaintiff's Ex 7	
Roto-Rooter Safety Training & Policy Review	125
Plaintiff's Ex 8	
Roto-Rooter Services Company Policy and Procedure Manual	130

EXHIBITS CONTINUED			
	RESPONDENTS:		MARK'D REC'D
1			
2			
3	Plaintiff's Ex 9	CFT Test Ride Evaluation Form	137
4			
5	Plaintiff's Ex 10	Driving Safety Policy	142
6	Plaintiff's Ex 11	Service Technician Green Hiring and Training Folder	149
7			
8	Plaintiff's Ex 12	Driving Safety Policy Acknowledgement Form	
9			
10	Plaintiff's Ex 13	RRSC Service Technician's Regulations, Rules of Conduct & Liabilities (230G)	151
11			
12			
13	Plaintiff's Ex 14	Vehicle Accident Reporting Requirements	171
14			
15	Plaintiff's Ex 15	Incident Review Date	183
16			
17	Plaintiff's Ex 16	Photograph	236
18	Plaintiff's Ex 17	Time Tracking	246
19	Plaintiff's Ex 18	Roto-Rooter Services Company GPS Mileage Tracking Agreement	248
20			
21			
22	Plaintiff's Ex 19	Google Search	
23	Plaintiff's Ex 20	Photograph	
24			
25			

1 -----

2 PROCEEDINGS

3 -----

4 COURT REPORTER: Usual

5 stipulations?

6 MR. RAFI: I will do

7 everything if you are ready to go.

8 -----

9 JOEL BOLAND, having been duly

10 sworn, was examined and testified as

11 follows:

12 -----

13 MR. RAFI: This is the

14 deposition of Joel Boland. It is

15 January 9th, 2015 at 10:10 a.m.

16 -----

17 DIRECT EXAMINATION

18 -----

19 BY MR. RAFI:

20 Q. Mr. Boland, we just met a moment ago. Let

21 me introduce myself. My name is Michael Rafi and

22 I represent Sherman Spencer. I have to do some

23 things before I start asking you questions, so if

24 you can bear with me for one moment.

25 MR. RAFI: This deposition is

1 taken to the pursuant to the Georgia  
2 Civil Procedure Act and may be used for  
3 all purposes allowed under that Act.  
4 Chris, since this is our first  
5 deposition in this case, I propose that  
6 number all depositions starting with 1  
7 sequentially, so that way we don't have  
8 any duplicate exhibits.

9 Is that okay with you?

10 MR. HARRISON: Sure, that is  
11 fine.

12 MR. RAFI: We will reserve all  
13 objections except for form of the  
14 question, responsiveness of the answer,  
15 and any privilege assertion until a  
16 later date.

17 MR. HARRISON: Agreed.

18 MS. DOBUR: Agreed.

19 BY MR. RAFI:

20 **Q. Mr. Boland, would you start by stating your**  
21 **full name?**

22 A. Joel Leland Boland.

23 **Q. Can you spell Leland for us?**

24 A. L-E-L-A-N-D.

25 **Q. Have you ever been deposed before?**

1 A. No. Not in this setting. No.

2 Q. What kind of setting could you have been?

3 A. Grand Jury duty, Federal Grand Jury, State  
4 Court. Stuff like that.

5 Q. You have been all over the place it looks  
6 like.

7 A. Yes.

8 Q. Let me give you some background and what we  
9 will do today. It's very simple.

10 This is my opportunity to ask you  
11 questions and hear your answers. If I ask you a  
12 question and you understand it, please answer.  
13 If for some reason you don't understand my  
14 question, any language that I use or a document  
15 that I will show you, and I will show you some  
16 from time to time, just let me know and I will  
17 clarify that for you.

18 A. All right.

19 Q. From time to time Mr. Harrison or Andrea  
20 down here might object to some of my questions.  
21 Unless they specifically tell you not to answer  
22 the question, please go ahead and answer that  
23 question.

24 Do you think you can do that?

25 A. Yes, I can.

1 Q. You are doing a good job right now, but let  
2 me ask you to please give all answers verbally.  
3 Using an actual word, meaning "yes" or "no" as  
4 opposed to "uh-huh" or "unt-huh."

5 A. Okay.

6 Q. That is all I have for you. If anything  
7 comes up in the meantime, you just ask me and we  
8 can address any concerns you have.

9 A. Okay.

10 Q. What is your current position right now with  
11 Roto-Rooter?

12 A. I am the plumbing instructor.

13 Q. And is that with Roto-Rooter Services  
14 Company or Roto-Rooter Development Company?

15 A. Roto-Rooter Services Company.

16 Q. Do you have any relationship with  
17 Roto-Rooter Development Company?

18 A. No.

19 Q. How long have you been employed with  
20 Roto-Rooter Services?

21 A. Roto-Rooter Services, October 29th, 2012. I  
22 mean 2003. So 11 and a half years, roughly.

23 Q. And if we can agree that every time I say  
24 Roto-Rooter, I mean Roto-Rooter Services Company.  
25 That is probably what you are used to I am



1     **assuming.**

2     A.     That is fine.

3     **Q.     Other than Joel Leland Boland, have you been**  
4     **known by any other names at any point in your**  
5     **life?**

6     A.     A nickname.

7     **Q.     What are those?**

8     A.     Jody.

9     **Q.     How would you spell that?**

10    A.     J-O-D-Y.

11    **Q.     Seems like a common nickname that you have.**

12    A.     Yeah, and I don't like it.    And Joey.

13    **Q.     You like that one?**

14    A.     No.

15    **Q.     That is the thing about nicknames, you don't**  
16    **get to pick them.    At least those ones don't**  
17    **stick, right?**

18    A.     And there is a Spanish word called grulia  
19    (phon).

20    **Q.     What is that?**

21    A.     Three hair colors or something along the  
22    lines.

23    **Q.     I have a feeling you don't like that.**

24    A.     Grulia.

25    **Q.     When were you born?**

1 A. January 17th, 1960.

2 Q. And where was that?

3 A. San Antonio, Texas.

4 Q. How long have you lived in Atlanta -- or,  
5 excuse me, in Georgia?

6 A. 1973. So 41 years.

7 Q. That is fine. You don't have to do the math  
8 for me since 1973.

9 Where do you currently live right  
10 now?

11 A. Clayton County, Georgia.

12 Q. And what is your address?

13 A. 11197 Shannon Circle, Hampton, Georgia  
14 30228.

15 Q. And how long -- I will ask you to do the  
16 math. How long have you lived there at that  
17 address in Clayton County?

18 A. Since '95. So 20 years.

19 Q. What is your -- do you have a home telephone  
20 number?

21 A. No, I do not.

22 Q. Do you have a cell phone?

23 A. I have my company phone.

24 Q. Okay.

25 Is that the only way to get ahold

1 of you?

2 A. That is the only way to get ahold of me.

3 Q. I take it you thereby take personal calls on  
4 that Roto-Rooter cell phone?

5 A. Yes, I do.

6 Q. What is that cell number?

7 A. 770.294.2360.

8 Q. And do you have any intentions of moving  
9 from that address you have been at for 20 years?

10 A. Only if my wife throws me out.

11 Q. Or tells you you are moving, ha?

12 A. Oh, you earlier asked what my position was.  
13 I hadn't finished.

14 Q. I am sorry.

15 What is your full position at  
16 Roto-Rooter?

17 A. Plumbing instructor, branch safety  
18 coordinator, and license holder.

19 Q. Let me do this, now. What is a license  
20 holder?

21 A. I am the master license at Roto-Rooter that  
22 Atlanta works under.

23 Q. I think I will have to come back to that,  
24 but let me divert for a moment back to where we  
25 were.

1                   **You gave me your cell phone number.**  
2                   **If for some reason I need to give you a call and**  
3                   **circumstances arise that I can do so, would you**  
4                   **take my call and answer the phone?**

5           A.       If I recognize the number, yes.  If I don't,  
6           I let it go to voicemail.

7                   MR. HARRISON:  Let me just  
8                   clarify that, not that he had any  
9                   intention but you are represented by  
10                  us.  So it would be a situation where  
11                  we are no longer representing you,  
12                  which is not the case, but I think that  
13                  is what he meant but I am clarifying  
14                  that for you.  So he won't be  
15                  contacting you now.

16                  THE WITNESS:  Okay.

17       BY MR. RAFI:

18       **Q.       The only reason I would contact you if I**  
19       **needed to and I would make sure that it was in**  
20       **such a situation that I was able to do so.**

21       A.       Okay.

22       **Q.       And if you didn't answer my phone from the**  
23       **number you don't recognize, I would leave you a**  
24       **voice and I would take it that you would call me**  
25       **back once you remembered our conversation here**

1     **today.**

2     A.     Yes.    After I -- if I had to call him first.

3     **Q.     Yes, of course.**

4                    **Take me back through your**  
5     **education.  What is your formal education?**

6     A.     High school.

7     **Q.     Where did you attend high school?**

8     A.     North Clayton Senior High, Clayton County,  
9     Georgia.

10    **Q.     Do you have any technical training?  I**  
11    **assume you do.**

12    A.     20 years in the military.  Military  
13    technical training.

14    **Q.     What branch in the military were you in?**

15    A.     United States Navy.

16    **Q.     Thank you for your service.  I mean that.**

17    A.     Thank you.

18    **Q.     How were you discharged from the Navy?**

19    A.     Retired.

20    **Q.     When was that at?**

21    A.     1994.

22    **Q.     You then moved to Clayton County in 1995?**

23    A.     No.  I have always been a resident of  
24    Clayton County since 1973.  I went in the  
25    service, did my time and came back here.

1     **Q.     What was the first job that you held after**  
2     **you retired from the Navy?**

3     A.     I was a licensed optician at the time being.  
4     I worked for -- for the first job, wait a second.  
5     Sorry. West Building Supply.

6     **Q.     And what did you do there?**

7     A.     Stack lumber, operations, dock operations.  
8     Lasted about six months.

9     **Q.     What was your next position?**

10    A.     I went to work in an optical lab, I was a  
11    licensed optician in the military, in Macon. I  
12    drove to Macon everyday, made glasses and then,  
13    you know, that was the full extent of my duties  
14    there.

15    **Q.     And how long did you do that for?**

16    A.     About six months when an opportunity became  
17    available in Clayton County.

18    **Q.     And what was that opportunity?**

19    A.     Lens Crafters. Also making glasses and lab  
20    manager. I was the lab manager and trained new  
21    fabrication techs and stuff like that.

22    **Q.     How long were you at Lens Crafters for?**

23    A.     Two and a half years.

24    **Q.     So I think that brings us to roughly 1997.**

25    **Does that sound about right?**

1 A. '97, '98. Yeah '97. Yes.

2 **Q. And you can keep going with where you worked**  
3 **after that.**

4 A. Lucent Technologies.

5 **Q. And what did you do there?**

6 A. Started out as an installer of  
7 telecommunication equipment. My -- it's -- you  
8 had to be family to be hired there and a job  
9 opportunity came up and I started out as an  
10 installer and then about 18 months into it I  
11 became a manager there and was there for five  
12 years.

13 The 2000 timeframe,  
14 telecommunication industry started having  
15 layoffs. I was the junior manager, that was my  
16 job to lay everybody off for the next two years,  
17 and then I was sacked, released the day before my  
18 fifth year.

19 **Q. What was your job after that? Did that**  
20 **bring you directly to Roto-Rooter?**

21 A. No. The first time ever being laid off, so  
22 -- and 911 had just happened and TSA was forming,  
23 so I decided I would go back into the government.  
24 Being a retiree, they made offers to retirees, I  
25 accepted and of course the government lied to me

1 and I lasted about a year.

2 **Q. What was your position with TSA?**

3 A. Well, they called me -- I handled all  
4 passing people through the metal detectors, pat  
5 downs and then I wound up become a glorified  
6 baggage handler, throwing bags onto a machine  
7 conveyor belt.

8 **Q. Was this at Hartsfield?**

9 A. Yes, it was. Stuck outside on the curb at 4  
10 in the morning was not my cup of tea.

11 **Q. After a year, then what?**

12 A. Roto-Rooter. That would be 2003 then.

13 **Q. We will circle back to Roto-Rooter in just a  
14 minute.**

15 **There are questions I have to ask  
16 you, just because it's my job. So don't take any  
17 offense to these and I don't mean any by them.**

18 **Have you ever been convicted of a  
19 crime?**

20 A. No.

21 **Q. Do you have a driver's license?**

22 A. Yes.

23 **Q. Is it issued by the State of Georgia?**

24 A. Yes.

25 **Q. How long have you had that driver's license?**



1 A. Since 1976.

2 Q. Do you have a commercial driver's license?

3 A. No.

4 Q. Have you ever had a commercial driver's  
5 license?

6 A. No.

7 Q. Has your driver's license ever been  
8 suspended or revoked for any reason?

9 A. No.

10 Q. Have you ever been involved in a motor  
11 vehicle accident?

12 A. Several.

13 Q. When is the most recent time?

14 A. 2008.

15 Q. Have you ever been involved in a motor  
16 vehicle accident while working for Roto-Rooter?

17 A. Yes.

18 Q. When was that time?

19 A. 2008.

20 Q. Is that the only time you have ever been  
21 involved in a motor vehicle accident while  
22 working for Roto-Rooter?

23 A. No.

24 Q. Can you tell me the circumstances of the  
25 2008 accident?

1 A. I was sitting in a parking lot reading a  
2 book, the parking lot is below road level. A  
3 pickup truck darted out of another parking lot  
4 and tapped the rear end of an SUV at a 45 degree  
5 angle, the SUV spun out, came off the road  
6 through the driver's side door of my vehicle.

7 **Q. Were you injured?**

8 A. Oh, yeah. That is why I am no longer on the  
9 road. I was injured. Yes.

10 **Q. How are you doing right now?**

11 A. I am fine. My left side always pains me.

12 **Q. Did you have to have any treatment? I**  
13 **assume yes.**

14 A. Always, yes. Yes, I did.

15 **Q. Did you have to have any surgeries?**

16 A. No. Just took a while to be healed.

17 **Q. Were you ever diagnosed --**

18 MR. HARRISON: Let me -- go  
19 ahead and ask your question. I am  
20 sorry to interrupt.

21 BY MR. RAFI:

22 **Q. Were you ever diagnosed by a doctor with**  
23 **specific injuries?**

24 MR. HARRISON: Let me just  
25 object to the form and I don't mean to

1 talk over you, but I am not quite sure  
2 how this has any bearing on our case.  
3 This is certainly not a fellow operated  
4 vehicle at the time, but his injuries  
5 are not in question. So I know it's a  
6 discovery deposition, I don't mean to  
7 trample over it, but can you tell me  
8 where we are going with this?

9 MR. RAFI: No. I ask that  
10 when you have an objection, you state  
11 your objection to form.

12 MR. HARRISON: Okay. Well, I  
13 am not sure I am going to let this go  
14 that much further without some  
15 discussion. We can have it off the  
16 record if you want about how it's in  
17 any way relevant, the fact what his  
18 injuries might have been in the 2000  
19 accident.

20 MR. RAFI: I would ask that  
21 you limit your objections to objection  
22 to form and say nothing else during my  
23 deposition.

24 MR. HARRISON: I understand  
25 your position. What I am trying to do

1 is figure out how we can work through  
2 this. So if you will continue to  
3 repeat that back to me, it won't be  
4 helpful.

5 MR. RAFI: Please remain on  
6 the record.

7 We are not going to go back  
8 and forth and I don't have the position  
9 -- this is the Judge's position.  
10 Excuse me my coffee stain. Someone  
11 else's, I don't drink coffee. But  
12 according to the Judge's Standing  
13 Order, which have you read this?

14 MR. HARRISON: Do you have a  
15 question or something you are going to  
16 tell me?

17 MR. RAFI: Have you read the  
18 Judge's Standing Order?

19 MR. HARRISON: I am waiting  
20 for you to tell me what you want to  
21 tell me, Mike.

22 MR. RAFI: Have you -- I want  
23 to ask you a question. You are asking  
24 me a question.

25 MR. HARRISON: I am not being

1           deposed here, so if you have a point  
2           you want to make, you can make it.

3                   MR. RAFI: I will direct you  
4           to Paragraph 6(b) of the Judge's  
5           Standing Order.

6                   MR. HARRISON: Okay.

7                   MR. RAFI: So I am not going  
8           to respond to your question. I will  
9           ask that, once again, the only thing  
10          that you say object to form and say  
11          nothing else during my deposition. You  
12          are interrupting. If you would like to  
13          continue further and you will not agree  
14          that to that in the Judge's Standing  
15          Order, then we will call the Judge.

16                   MR. HARRISON: Okay. So you  
17          are talking about what objections can  
18          be made, you are not talking about  
19          whether your questions are relevant or  
20          not, that is what you are referring to  
21          in the Order?

22                   MR. RAFI: I said what I am  
23          going to say. Do we need to call the  
24          Judge?

25                   MR. HARRISON: Sure. If you

1 want to make the call, yes, you can.

2 MR. RAFI: Well, are you going  
3 to abide by the rules of the Standing  
4 Order?

5 MR. HARRISON: Just ask your  
6 questions. Let's get to the relevant  
7 stuff.

8 MR. RAFI: You are not going  
9 to tell me not to --

10 MR. HARRISON: No, sir.

11 MR. RAFI: Are you going to  
12 abide by the Judge's Standing Order? I  
13 want a yes or no answer for the record.

14 MR. HARRISON: I am ready for  
15 you to ask your question. Move  
16 forward.

17 MR. RAFI: I will not ask a  
18 question until you agree to abide by  
19 the Judge's Standing Order because you  
20 failed to do to this point.

21 MR. HARRISON: Let's move  
22 forward. Let's go. I understand.  
23 Let's get to the relevant stuff. Ask  
24 your questions.

25 MR. RAFI: I take it from your

1 conversation right here that your  
2 answer is yes, you will abide by the  
3 Standing Order?

4 MR. HARRISON: I am going to  
5 do what it's necessary to protect my  
6 client. So ask your question.

7 MR. RAFI: Can you read back  
8 my question, please?

9 (Whereupon, the last question  
10 was read back.)

11 MR. HARRISON: Object to the  
12 form. You can answer.

13 MR. RAFI: Please don't say  
14 you can answer.

15 MR. HARRISON: Mike, you are  
16 not going to tell me how to instruct my  
17 client.

18 MR. RAFI: Yes, I am. You are  
19 going to follow the Judge's Standing  
20 Order. I already instructed the  
21 witness that if you object he can still  
22 answer. So we don't have to have this  
23 continued interruption during the  
24 deposition.

25 MR. HARRISON: There may be

1           questions when I am telling him not to  
2           answer. He can answer the question.

3 BY MR. RAFI:

4 **Q. Mr. Boland, before you answer the question,**  
5 **if counsel -- if counsel asserts an objection,**  
6 **please answer unless he tells you not to. If he**  
7 **doesn't tell you not to answer, please answer and**  
8 **I think we've already covered that.**

9                   MR. HARRISON: Joel, I am your  
10                  attorney, you listen to me.

11                   THE WITNESS: Yes, sir.

12 BY MR. RAFI:

13 **Q. Now, the question is about injuries and what**  
14 **diagnosis you had during -- as a result of this**  
15 **2008 accident. Can you tell me if the doctors**  
16 **ever diagnosed you with anything?**

17 A. No. It was just auto truck -- it was  
18 trauma. It was -- that's pretty much it,  
19 bruising and that is about it. No broken bones,  
20 no major, major injuries.

21 **Q. Did you go to a hospital to find that out?**

22 A. Yes. Yes, I did.

23 **Q. Were you on duty in any way during the time**  
24 **of this incident?**

25 A. No.



1 Q. What time of day was it?

2 A. About 6 PM.

3 Q. What kind of vehicle were you in?

4 A. I was in my personal, cab over box truck.

5 Q. When you said that this accident occurred  
6 during -- while you were working for Roto-Rooter,  
7 you just meant during the time that --

8 A. During the timeframe, yes.

9 MR. HARRISON: Let him finish  
10 his question.

11 THE WITNESS: Sorry.

12 BY MR. RAFI:

13 Q. Have you ever been in an accident in a  
14 vehicle while you were on duty in any way with  
15 Roto-Rooter?

16 A. Yes.

17 Q. Okay. When was that?

18 A. I don't know the specific date, so...

19 Q. Was it closer to 2003 or closer to now?

20 A. It was before 2008. Let's see. I got the  
21 box truck -- it would have probably also in 2008.  
22 Approximately three months prior to.

23 Q. To the accident you were just telling us  
24 about?

25 A. Yes.

1     **Q.     Can you describe for me the circumstances of**  
2     **the 2008 accident where you were on duty with**  
3     **Roto-Rooter?**

4     A.     Just left the job site, traveling down Flint  
5     River Road in Clayton County. I had a green  
6     light in front of me, there was a larger truck in  
7     the turn lane to turn left, I was passing the  
8     larger truck when a Toyota Corolla ran a red  
9     light and I T-boned him and drove him into  
10    another car in the left-hand side. I mean, the  
11    opposite side of the road that was crossing.

12    **Q.     Were you injured in that wreck?**

13    A.     No.

14    **Q.     Was the other person injured?**

15    A.     I am not privy to that information. I don't  
16    know. They didn't appear to be.

17    **Q.     Okay.**

18                   **What time of day was this accident**  
19    **at?**

20    A.     About 9 o'clock in the evening.

21    **Q.     And what vehicle were you in?**

22    A.     I was in a van cut away, a cut away Chevy  
23    van, was a specialty bed on the back of it that  
24    allowed me to walk in instead of crawl in.

25    **Q.     Did it have the Roto-Rooter logo on the**

1 **side?**

2 A. Yes, it did. I am sorry. No, it did not.

3 This one did not.

4 **Q. But it was -- who owned the vehicle?**

5 A. I did.

6 **Q. After the accident, what did you do?**

7 A. I called in, spoke to at that time the  
8 safety coordinator, told him I was involved in an  
9 auto accident, I was not ticketed, so I was not  
10 required to do anything other than that except  
11 contact my insurance company.

12 **Q. What was your position at this time in 2008?**

13 A. Service technician plumber.

14 **Q. Is that the only position you held?**

15 A. I've gone from drain cleaning technician all  
16 the way up to master plumber.

17 **Q. Was that the only position you held in 2008?**

18 **I understand now you have three different titles.**

19 **Was that the sole title in 2008?**

20 A. Certified field trainer.

21 **Q. What did you train people in in 2008?**

22 A. In 2008, they would ride with me in my  
23 vehicle during their new hire training period and  
24 I would instruct them in Roto-Rooter's work --  
25 how to work, how to sell jobs, how to do the

1 jobs, how to code the jobs out and take payment  
2 and then turn payment into Roto-Rooter.

3 **Q. Is that the 12 week program that you all do?**

4 A. Yes.

5 **Q. Who was the safety coordinator that you  
6 spoke with at that time?**

7 A. I don't see where that is relevant. He is  
8 no longer with us.

9 **Q. Who was it?**

10 MR. HARRISON: You can answer  
11 that.

12 THE WITNESS: James Trover.

13 BY MR. RAFI:

14 **Q. Can you spell James' last name for us?**

15 A. T-R-O-V-E-R, I am assuming.

16 **Q. Was there anyone else at Roto-Rooter that  
17 you spoke to regarding your accident in 2008  
18 while on duty?**

19 A. No.

20 **Q. Did your vehicle have to be repaired?**

21 A. It was totaled. Hence, I got the box truck  
22 afterwards.

23 **Q. And by box truck, you mean the box truck  
24 that you were sitting in three months later when  
25 that person came into your door?**

1 A. Yes.

2 Q. You said that you were not given a citation  
3 for the on duty accident, correct?

4 A. Correct.

5 Q. Do you know if Roto-Rooter did their own  
6 investigation concerning your accident?

7 A. No. Not required.

8 MR. HARRISON: Which accident  
9 were you speaking of?

10 MR. RAFI: The on duty  
11 accident.

12 MR. HARRISON: Okay.

13 BY MR. RAFI:

14 Q. During the on duty accident, did you fill  
15 out an accident report or incident report of any  
16 kind?

17 A. No.

18 Q. Where and when did you report the on duty  
19 2008 accident?

20 A. As soon as it happened.

21 Q. Using your Roto-Rooter phone?

22 A. Yes.

23 Q. You said it didn't look like the other  
24 driver sustained any injuries. Was an ambulance  
25 called?

1 A. No.

2 Q. Do you know if that other driver was given a  
3 ticket?

4 A. Yes. Actually, both of the other drivers  
5 were given tickets, the ones I hit and the one  
6 that ran the red light.

7 Q. I am glad that guy travelling through the  
8 red light stayed, sometimes they don't.

9 A. Didn't have a choice.

10 Q. Oh, really?

11 A. He was pinned.

12 Q. Was there anything that Roto-Rooter did  
13 concerning this 2008 on duty accident that we  
14 haven't discussed?

15 A. No.

16 Q. Prior to 2008, were you involved in any  
17 other accidents or vehicle collisions while on  
18 duty with Roto-Rooter?

19 A. Two others.

20 Q. What is the most recent one before 2008?

21 A. I can't remember which one was recent. I  
22 was rear ended.

23 Q. Let's stick with the rear ended. And when I  
24 say the rear end collision, this is what I am  
25 referring to.

1                   **This would be before 2008?**

2       A.       Yes. I am not sure what timeframe. What  
3       year it was.

4       **Q.       Well, what happened?**

5       A.       I was at a red light at Tara Boulevard and  
6       Mt. Zion. Okay? There was a car in front of me,  
7       I was stopped, there was a car behind me when a  
8       duly pickup truck slammed into the car behind me  
9       who drove him into me and I went into the guy in  
10      front of me.

11      **Q.       Were you injured in that wreck?**

12      A.       No.

13      **Q.       Was your -- what kind of vehicle were you  
14      traveling in?**

15      A.       I was in a labeled Roto-Rooter cargo van.  
16      My first one.

17      **Q.       That is a white cargo van with the logo on  
18      the side, rack on top?**

19      A.       Yes.

20      **Q.       The traditional van we are seeing with  
21      Roto-Rooter?**

22      A.       Yes.

23      **Q.       Was that van damaged?**

24      A.       No.

25      **Q.       Were the police called to that accident**

1 **scene?**

2 A. Yes.

3 **Q. And what was the first thing that you did**  
4 **after getting into the accident?**

5 A. First thing I did was to try to calm the  
6 person down in front of me who was -- who was  
7 threatening me, who was thinking that I was the  
8 one that caused the accident because the nature  
9 of the accident and the speed that the duty was  
10 traveling, the duty veered to the right into a  
11 Precision Tune open bay, the pickup truck behind  
12 me careened off the back end of my truck, flipped  
13 over, went across Tara Boulevard onto his roof  
14 and into the Duncan Donuts across the street.

15 **Q. I know exactly where that is.**

16 **Were any of the other drivers**  
17 **injured?**

18 A. I don't recall. I am not sure if an  
19 ambulance was -- I know the police were there for  
20 quite a while, but as soon as they got my  
21 deposition, I left.

22 **Q. So the police talked to you. I assume they**  
23 **talked to the drivers and then you were free to**  
24 **go?**

25 A. Yes.



1 Q. You just drive away?

2 A. Yeah.

3 Q. Did, at any point, did you notify  
4 Roto-Rooter of this accident?

5 A. Yes. As soon as I got through being  
6 threatened. She was a security guard and she had  
7 a gun and she was -- it was a brand new car.

8 Q. That beats a retired Navy I guess at that  
9 point, ha?

10 A. Exactly.

11 Q. Who did you speak to when you reported the  
12 accident?

13 A. The branch safety coordinator, James Trover.

14 Q. So the same person?

15 A. Yes, sir.

16 Q. For reference here. Do you know when James  
17 Trover started working at Roto-Rooter?

18 A. When he started working at Roto-Rooter, he  
19 was there five years approximately. He resigned  
20 the day I took his position.

21 Q. Was he there before -- when you first  
22 started at Roto-Rooter, was he already there?

23 A. No. No one has been there longer than me.

24 Q. Okay.

25 So he started at a higher

1 management position than you did and then you  
2 took his place it looks like?

3 A. Yes.

4 Q. And then he resigned probably angry?

5 A. No. No. He had a better opportunity.

6 Q. Do you remember when he started?

7 A. No. I say he was there approximately five  
8 years and I took the position of safety  
9 coordinator in December of 2000 -- I am not sure  
10 if it was '11 or '12. I think it was '11. 2011.

11 Q. So doing my math, if he was there five  
12 years, he would have started at the end of 2006  
13 beginning of 2007. Does that sound about right?

14 A. That sounds about right.

15 Q. So this accident would have been either in  
16 2007 or 2008?

17 A. It would have happened at least one year  
18 prior to the second accident I told you about,  
19 cause I had that vehicle one year and I bought it  
20 after I sold the other van. I sold it perfectly  
21 drivable. I had that van for five years, I  
22 purchased it, drove it and then turned around and  
23 sold it and bought one that had -- at my age I  
24 wanted not to crawl into a van, so I got one that  
25 I could actually step up and walk in with a six

1 foot height.

2 Q. Did Roto-Rooter do an investigation of that  
3 rear end accident?

4 A. No.

5 Q. Did you fill out an incident report or  
6 accident report of any kind?

7 A. No.

8 Q. Something I didn't ask you actually about  
9 the 2008 on duty accident.

10 Was a preventability analysis ever  
11 done? Do you know what that is?

12 A. No, I do not.

13 Q. I take it then -- I have to ask this  
14 question. I take it then that you don't know if  
15 a preventability analysis was done in what I will  
16 call the 2007 rear end accident?

17 A. No.

18 MR. HARRISON: Is that the  
19 year he said or are you just referring  
20 to earlier than 2008? I don't know if  
21 he gave a year, did he?

22 THE WITNESS: No, I didn't  
23 give a year. I don't know -- it was at  
24 least one year because I owned the  
25 other van for one year.

1 MR. HARRISON: Okay.

2 BY MR. RAFI:

3 Q. Now, you mentioned there was one other  
4 vehicle accident you have been involved in while  
5 on duty for Roto-Rooter.

6 A. Yes.

7 Q. And can you tell me about that?

8 A. Backed into a pole. Actually a mailbox.

9 Q. Was this a residential mailbox?

10 A. Yes.

11 Q. Were you at somebody's house doing work?

12 A. Yes.

13 Q. Was it the person that you just left the  
14 house from?

15 A. No. I backed out of the service area that I  
16 was working and I didn't -- didn't see the  
17 mailbox behind me and I tapped it and they called  
18 the police and I was ticketed for that, and that  
19 is on the record.

20 Q. And when you knocked over the mailbox, did  
21 you know?

22 A. I did not know. I just hit it and I got a  
23 ticket for improper backing.

24 Q. When you hit it, did you know at the time  
25 you had just hit a mailbox?

1 A. Oh, yeah. I stopped and I talked to the  
2 homeowner and they had already called the police,  
3 so I had to wait for the police to show up.

4 **Q. What was the ticket for, do you remember?**

5 A. Improper backing.

6 **Q. Did you notify Roto-Rooter of that ticket?**

7 A. Yes.

8 **Q. How did you do that?**

9 A. I called.

10 **Q. When did you call?**

11 A. As soon as it happened.

12 **Q. Do you remember who you spoke to?**

13 A. James Trover.

14 **Q. So this would have been while James Trover**  
15 **was still working?**

16 A. Yes.

17 **Q. And we've already figured out that he began**  
18 **working the end of 2006, beginning 2007; is that**  
19 **correct?**

20 A. I am assuming. Yes, sir.

21 **Q. Did you have to fill out any kind of form,**  
22 **incident report or accident report?**

23 A. No.

24 **Q. Did Roto-Rooter do an investigation?**

25 A. No. I admitted I was at fault, I paid the

1 fine myself. Roto-Rooter wasn't involved.

2 **Q. Were you given any sort of discipline or**  
3 **reprimand while at Roto-Rooter --**

4 A. No.

5 **Q. -- for that incident?**

6 A. It was a first time -- first time incident.  
7 There may have been a verbal counseling. I do  
8 not recall.

9 **Q. Are you familiar with the point system at**  
10 **Roto-Rooter when there is a vehicle accident?**

11 A. I do know that they do an MVR check yearly  
12 and that they are awarded points for any  
13 violations. Stuff like that.

14 **Q. Are you aware of what I will call it 2 point**  
15 **minor violation?**

16 A. No, I don't know the specifics. I don't get  
17 those reports. I have seen it because I have  
18 been handed up to them as a technician. This is  
19 your -- this is your Krol, K-R-O-L, that is the  
20 company that they use that does a yearly auto  
21 report, and as a technician, the manager would  
22 hand that to me every year in my evaluation.

23 **Q. Do you know if you were assessed any points,**  
24 **Roto-Rooter points for this?**

25 A. Do not recall. I would have to look at my

1 service record, but I don't believe so. It was a  
2 minor traffic accident, it was -- I don't think  
3 it's even a misdemeanor or whatever. It was  
4 just, you know -- and I was -- I paid the \$80.00  
5 commercial fee at the time being and cause --  
6 they classified my vehicle cause it was local as  
7 a commercial vehicle. That is what the policeman  
8 wrote it up by. I went in there and paid the  
9 ticket. Actually, I went online and did it.  
10 Didn't even go in.

11 **Q. Have you ever been disciplined at**  
12 **Roto-Rooter at any time for anything?**

13 A. Once, but it has no bearing in this case.

14 **Q. Can you tell me about that time?**

15 A. I was disciplined because my close rate was  
16 low.

17 **Q. You are required to wear a certain uniform**  
18 **at Roto-Rooter?**

19 A. Yes.

20 **Q. You have to wear a badge at a certain**  
21 **location?**

22 A. There is no particular location that I know  
23 of. It was either clip it to your shirt, clip it  
24 to your belt, wherever was convenient or  
25 comfortable. I don't know if there is a policy

1 on it. I do not know.

2 **Q. What was the clothes' violation that you**  
3 **had?**

4 MR. HARRISON: I don't think  
5 that is what he said.

6 THE WITNESS: Closing rate.  
7 Not clothes. A closing rate.

8 BY MR. RAFI:

9 **Q. Can you tell me what that is then? That is**  
10 **why I started asking about a badge. Can you tell**  
11 **me what that closing rate is?**

12 A. We have standards that we have to abide by.  
13 All right? One is, close rate, how well you  
14 close a job. All right? How you are selling a  
15 job -- sorry, close. Your sales rate. All  
16 right? Based on a 100 point scale, you have to  
17 sell a certain percentage of the jobs. All  
18 right? And I was disciplined because I was below  
19 that number.

20 **Q. What was the discipline?**

21 A. Verbal counseling.

22 **Q. Any other discipline at any time while at**  
23 **Roto-Rooter?**

24 A. No.

25 **Q. Have you ever had a driver's license in any**



1     **other states?**

2     A.     No.    I had -- well, does Europe count?

3     **Q.     So you had a license while you were in**  
4     **Europe for the Navy I assume?**

5     A.     A DOD license, Department of Defense  
6     driver's license and when I was stationed in  
7     Naples, Italy.

8     **Q.     Sounds like a great place.**

9     A.     No.

10                   MR. HARRISON:  He asks you a  
11                   question, you answer it.

12     BY MR. RAFI:

13     **Q.     Have you been involved in any other motor**  
14     **vehicles when not working for Roto-Rooter?  Let's**  
15     **say within the last five years.**

16     A.     No.

17     **Q.     What about the last 10 years?**

18     A.     No.    I have been with Roto-Rooter for 11.  
19     So no.

20     **Q.     Have you had any moving violations within**  
21     **the last five years?**

22     A.     No.

23     **Q.     What about moving violations in the last 11**  
24     **years since you started working at Roto-Rooter?**

25     A.     No.    Oh.

1 THE WITNESS: Does a traffic  
2 light?

3 MR. HARRISON: Sure.

4 THE WITNESS: Apparently I  
5 went through a traffic light and a red  
6 light camera caught me.

7 BY MR. RAFI:

8 **Q. When was that?**

9 A. I don't know.

10 **Q. Was that just mail in the ticket?**

11 A. Yes.

12 **Q. Go online, however you paid it?**

13 A. Yeah.

14 **Q. Was that here in Georgia?**

15 A. Yes. Top of Tara Boulevard going onto  
16 Interstate 75.

17 **Q. That is a bad street for you, ha?**

18 A. That is how I get -- that is the street I  
19 live off of. All my violations are in Clayton  
20 County.

21 **Q. Let's talk about your application with  
22 Roto-Router.**

23 **Why did you apply there?**

24 A. Cause I was dissatisfied with TSA.

25 **Q. Was there a particular draw that Roto-Router**

1 **had?**

2 A. No. My prior military service, I worked in  
3 the hospital, I was a licensed optician for the  
4 military but I was also in facility maintenance,  
5 repairing equipment. I was good with my hands.  
6 So being dissatisfied with TSA, I made  
7 applications with Mr. Sparky, Roto-Rooter,  
8 anybody -- I was wanting to get back like I was  
9 with Lucent Technologies before I was laid off  
10 because I like working with my hands.  
11 Roto-Rooter called me first.

12 **Q. That is the way it usually works.**

13 A. Yes, sir.

14 **Q. How did you apply at that time?**

15 A. I came in in person, filled out an  
16 application then they called me in for  
17 interviews.

18 **Q. Where did you apply at? Where did you go  
19 into?**

20 A. It was 6300 Jimmy Carter Boulevard,  
21 Norcross.

22 **Q. Is that still the location you work out of  
23 right now?**

24 A. No. We have moved a couple of times since  
25 then.

1 Q. When you came in for the interview, was it  
2 that same Norcross location?

3 A. Yes.

4 Q. Did you talk to anyone over the phone during  
5 your interview process?

6 A. Just to come in and talk with the different  
7 manager.

8 Q. What was the first position that you were  
9 hired at in Roto-Rooter?

10 A. Trainee.

11 Q. And is that -- how long does that go for?

12 A. 12 weeks.

13 Q. During that time you ride in someone's  
14 vehicle?

15 A. Yes, sir.

16 Q. It's the reversible you were telling me  
17 about before you were a field trainer?

18 A. Yes, sir.

19 Q. So you were with a field trainer at the  
20 time?

21 A. Yes.

22 Q. And then after you get done with your  
23 training, what do you do then?

24 A. I was a train tech. I wasn't licensed. So  
25 all I could do was clean sewer drains.

1     **Q.     Do you do that alone or do you go with**  
2     **someone?**

3     A.     Do it alone.

4     **Q.     Where was your coverage area?**

5     A.     South.

6     **Q.     South of?**

7     A.     South of -- pretty much south of 20, but  
8     dimensional area but my main area was south of  
9     20.

10    **Q.     Clayton County?**

11    A.     Clayton County, Fayette County, Noonan,  
12    Locust Grove. Anything on the southern arc  
13    because that is where I live. We work out of our  
14    homes.

15    **Q.     What was the next position after --**

16    A.     Once I got my license in 2005, I was able to  
17    do plumbing. I passed the journeyman's test and  
18    I started doing plumbing, drain cleaning. I was  
19    what they call a combo tech, doing both plumbing  
20    and drain.

21    **Q.     How long were you a combo tech for?**

22    A.     I have always been a combo tech until I went  
23    into management in 2011.

24    **Q.     Did you hold any positions after combo tech**  
25    **but before management?**

1 A. CFT.

2 **Q. What is a CFT?**

3 A. Certified Field Trainer.

4 **Q. Was that while you were a combo tech?**

5 A. Yes.

6 **Q. So that is an additional duty that you have,**  
7 **probably an honor to train people?**

8 A. Yes.

9 **Q. In 2011, why did you move to management?**

10 A. A year prior to, I was asked to be the  
11 plumbing instructor, to give knowledge to new  
12 people coming in. We have a program outside the  
13 wall plumbing to continue to educate service  
14 technicians. The program at the time being was  
15 outside the wall plumbing, working on toilets,  
16 rebuilding faucets. Anything that doesn't  
17 involve cutting the wall and going and doing pipe  
18 work. Repairing a drain under a kitchen sink,  
19 you know, replacing those, putting garbage  
20 disposals. And then once they -- at a certain  
21 level, installing water heaters. Stuff like  
22 that. Anything that doesn't involve destroying  
23 the house. It's readily accessible, get your  
24 hands on it.

25 **Q. You were asked in 2010, the year before**

1     **2011, to become an instructor?**

2     A.     Yes.    A plumbing instructor.

3     **Q.     And how does that translate to you moving to**  
4     **management?**

5     A.     Two days a week I would report to the  
6     office.    The trainees that were currently on the  
7     road with their CFTs would sit with me for two  
8     days and I would go over -- I would touch certain  
9     points involved with, you know, their training  
10    process, the 12 week training process and then I  
11    would continue to train after that point if they  
12    wanted to come in and get extra curricular stuff.  
13    So two days a week I would go into the office,  
14    three days I was on the road, two days in the  
15    office.

16    **Q.     So for three days you were working as a**  
17    **combo tech in 2010 and the other two days you**  
18    **were essentially working in the house field**  
19    **trainer?**

20    A.     Pretty much.    The plumbing instructor.

21    **Q.     And then what happened in 2011 that moved**  
22    **you completely to management?**

23    A.     Mr. Trover resigned for a better opportunity  
24    and I had my background with the military,  
25    working with safety and stuff like that, they

1 asked me to assume that position.

2 **Q. What is the actual position title? I know**  
3 **you said it earlier, but can you --**

4 A. Branch safety coordinator.

5 **Q. You just said that your military background**  
6 **was safety. Can you tell me about that?**

7 A. In my duties as an optician in the Navy and  
8 working with hospitals, we have medical waste,  
9 there was a program prior to my retirement that  
10 came out that the medical waste from hospitals or  
11 facilities dealing with that had to be cleaned  
12 before it got put into the community water. So  
13 we had to build and maintain water reclamation  
14 units. That is one of my first things I did with  
15 plumbing.

16 **Q. And what was your responsibility during that**  
17 **project?**

18 A. I built -- I assisted in building the units  
19 and then during my military duties we would test  
20 the water. We had litmus test and chemicals, we  
21 had to make sure that they met with and certainly  
22 keep a log. And then once it met those and we  
23 were given -- we submitted those, once they were  
24 approved we were allowed to release that tank  
25 into the sewer system.



1     **Q.     What specific safety responsibilities did**  
2     **you have during that project?**

3     A.     Electrical safety, plumbing safety.  You  
4     know, the military is all about safety.  We don't  
5     want to injure anybody so they go through  
6     training all the time.

7     **Q.     So you were responsible in part for the**  
8     **safety of the construction that was occurring**  
9     **regarding the project?**

10    A.     I was the NCOIC.

11    **Q.     And for those of us who don't know what that**  
12    **means, can you tell me?**

13    A.     Non-Commissioned Officer In Charge.  I was  
14    the senior man.

15    **Q.     Were you responsible for any individuals who**  
16    **operated machinery or motor vehicles?**

17    A.     Not motor vehicles but machines, yes.

18    **Q.     What kind of machines?**

19    A.     Lens grinding machines, lens sanding  
20    machines, lens polishing machines.

21                   MR. HARRISON:  You are saying  
22                   lens, L-E-N-S?

23                   THE WITNESS:  Lens as in  
24                   optical lenses.  X-ray machines, lab  
25                   machines.  In the military medicine, in

1 the Navy medicine, you are not just  
2 specialized in one position. You work  
3 them all. I would have duties as MOD,  
4 which is the Mate of the Day. All  
5 right? I was responsible for after  
6 hours operations of a hospital. There  
7 is -- and I assumed the night watch  
8 from midnight to 6 in the morning as  
9 the Mate of the Day because the chief  
10 of the day ended up until midnight. He  
11 got to sleep.

12 BY MR. RAFI:

13 **Q. Were you responsible for any machines that**  
14 **transported people and had engines and tires?**

15 A. Yes. In hospitals, ambulances.

16 **Q. What were you responsible for regarding**  
17 **ambulances?**

18 A. Dispatching them and making sure that I had  
19 coverage, that it would allow -- I had an  
20 ambulance driver attendant available, I would  
21 wake them up cause they would sleep at site while  
22 I was awake.

23 **Q. Would you agree with me that your**  
24 **responsibilities regarding ambulances was about**  
25 **coverage as you put it, rather than safety of the**

1 **drivers?**

2 A. That was not my responsibilities. No.

3 **Q. Safety was not your responsibilities, more**  
4 **dispatching?**

5 A. Yeah. Dispatching, but I -- but no, there  
6 is no safety involved in it.

7 **Q. When you worked for six months at a lumber**  
8 **yard, and forgive me, I forget the name of it --**

9 A. West Building Supply.

10 **Q. West Building Supply, did you have any**  
11 **safety responsibilities there?**

12 A. Not to get injured. Not to have wood fall  
13 on you.

14 **Q. But other than that, you weren't responsible**  
15 **for any other people besides your own safety?**

16 A. No.

17 **Q. That wasn't a management position?**

18 A. Well, I was by myself but they called me the  
19 lumber manager. You know, they would drive a  
20 forklift, deliver the lumber to the spot and then  
21 hand stack it, you know.

22 **Q. I can tell by the boat yard.**

23 A. The rest was by an individual of Home Depot.

24 **Q. When you worked at Lens Crafters, were you**  
25 **responsible for any safety component in your job?**

1 A. Yes.

2 **Q. What was that?**

3 A. I had employees that worked for me, I had to  
4 make sure that they wore their safety glasses,  
5 that they weren't wearing a cinch tie, they had  
6 to have a clip-on tie just in case they got  
7 caught in the machinery. Stuff like this. Their  
8 hair wasn't too long, if it was, they had to be  
9 in hair nets.

10 **Q. Were you responsible for any motor vehicles**  
11 **at Lens Crafters?**

12 A. No.

13 **Q. At Lucent, were you responsible for any**  
14 **motor vehicles?**

15 A. The company car that I was driving. I  
16 wasn't responsible for other vehicles, but I  
17 did -- when asked to inspect them for equipment,  
18 you know, equipment inventory and stuff like  
19 that, when asked, I would do that.

20 **Q. At Lucent, were you involved in any motor**  
21 **vehicle accidents while on duty?**

22 A. Yes.

23 **Q. Was that in a company car?**

24 A. Yes.

25 **Q. What kind of company vehicle did you have?**

1 A. I had an Intrepid.

2 **Q. Is that a car?**

3 A. A Dodge Intrepid.

4 **Q. What was the motor vehicle accident you were**  
5 **involved in while on duty?**

6 A. On Tara Boulevard, I was rear ended and that  
7 would have happened in 2000 and -- either 2000 or  
8 2001. That was the last -- that was -- I was  
9 rear ended the night before, and then the next  
10 morning getting into work I was T-boned. So two  
11 accidents within 24 hours.

12 **Q. Can you describe -- the rear end, I see**  
13 **enough of those, I understand how that works.**  
14 **The T-boned, can you describe to me what**  
15 **happened?**

16 A. Well, thank God there was a police officer  
17 in front of me and saw it happen. We had a green  
18 light, he went, I went, the person coming in the  
19 other direction decided to make a right-hand turn  
20 into me. I was turning onto Tara Boulevard and I  
21 was at a 45 degree angle and they decided they  
22 were going to go and keep on going.

23 **Q. Police response time was very quick?**

24 A. Very quick.

25 **Q. And did they issue any citations?**

1 A. To the persons involved, yes. I was not  
2 cited, I have always been the victim. Except for  
3 where I backed into the mailbox.

4 **Q. Were you injured in that T-bone?**

5 A. No. I was injured cause they took my car  
6 away from me and wouldn't give me another one  
7 back.

8 **Q. So was that a Lucent policy?**

9 A. No. Like I said, at that time being, 2001  
10 is when they started having layoffs. Me being  
11 the junior manager, I assumed that they weren't  
12 going to give me a vehicle because I was slated  
13 to go as soon as I got to the right number. When  
14 you are the hatchet man, everybody hates you, but  
15 that was just an assumption. But they were going  
16 out of business pretty much.

17 **Q. What are your duties as branch safety**  
18 **coordinator?**

19 A. My duties are to -- one of the first duties  
20 is to do the safety training, an 8-hour safety  
21 training courses involving in all aspects of  
22 safety in plumbing and Roto-Rooter standards.  
23 Safety policies.

24 **Q. So that was your first duty.**

25 **Do you have a second?**

1 A. That is one of the first things I do. When  
2 you get hired on, they sit down with me for eight  
3 hours and then there are videos, lecture,  
4 POWERPoint presentation and in some aspects there  
5 are spot quizzes. You know, there is quizzes  
6 that they would have to answer certain questions  
7 and there is no -- there is not really a pass  
8 fail, just they are required to take these  
9 courses before they go on the road.

10 **Q. I saw one of James' quizzes, so I am**  
11 **familiar with what you are talking about.**

12 **Are you the person who does the**  
13 **lectures?**

14 A. Yes.

15 **Q. Is there anyone else who does the lectures?**

16 A. Not the safety.

17 **Q. And speaking only in safety, is there anyone**  
18 **else that is involved in the safety training for**  
19 **employees that fall under your responsibility?**

20 A. There is a corporate trainer that comes down  
21 for OSHA classes. He is certified by OSHA.

22 **Q. And is that training limited to OSHA**  
23 **Standards Guidelines Rules and Regulations?**

24 A. I am assuming. Yes, sir.

25 **Q. Have you ever sat in the OSHA training?**

1 A. Yes. In both as a technician and as the  
2 branch safety coordinator.

3 **Q. Does that OSHA training involve motor  
4 vehicles in any way?**

5 A. No.

6 **Q. Other than this corporate trainer, is there  
7 anyone else who is involved in the training of  
8 motor vehicles or reporting safety accidents?**

9 A. No. It comes to me.

10 MR. HARRISON: Just make sure  
11 you let him finish. You are doing  
12 fine, but sometimes lawyers' questions  
13 go on and on. I do it, too. Just make  
14 sure he is done and then you can  
15 answer.

16 MR. RAFI: Thank you, Chris.

17 MR. HARRISON: Sure.

18 BY MR. RAFI:

19 **Q. Who is Russet Barman?**

20 A. Russ Garman.

21 **Q. Garman with a "G".**

22 **And who is that?**

23 A. He is the hiring manager.

24 **Q. Do you know when Mr. Garman started?**

25 A. No, I do not. He's the -- his official



1 title is FTM.

2 **Q. What does that stand for?**

3 A. Field Training Manager. He hires and he  
4 oversees -- he is ultimately oversees for the GM  
5 of our branch, the training of making sure the  
6 technicians get there, stuff like that. He does  
7 the employee orientation, he does all the  
8 paperwork involved in the new hire process.

9 **Q. Is he responsible for, as far as you know at  
10 least, is he responsible for making sure the new  
11 hire application process is done correctly?**

12 A. You would have to ask him that.

13 **Q. Do you know who's responsible for  
14 investigating new hires and considering whether  
15 they will be hired?**

16 A. I am not in the process of that, so I don't  
17 --

18 **Q. The new hires just show up in your classroom  
19 and you take over?**

20 A. I have been told that they have been hired.

21 **Q. Do you do this in classes or individually?**

22 A. What is that?

23 **Q. The training that you give.**

24 A. Both. I have done it individually and I  
25 have done it with classes of 10, 11 people.

1     **Q.     Does it just depend on how many new hires**  
2     **you have at any given time?**

3     A.     Yes, or when they come in and sometimes  
4     they -- one gets hired this week, one gets hired  
5     this week, so they are like a week behind. Also,  
6     I may group them all together, say, okay, we will  
7     do one hour, 8-hour safety as a group but the  
8     individual training may take place in that  
9     application because they may be a week behind.

10    **Q.     That makes sense.**

11                   **Keith Austin you mentioned general**  
12    **manager. He is the general manager, correct?**

13    A.     Yes.

14    **Q.     And what is he the general manager of?**

15    A.     Roto-Rooter Services Company, Atlanta  
16    Branch.

17    **Q.     Are you a direct report to him?**

18    A.     Yes, I am.

19    **Q.     Is Russ Garman a direct report to Keith**  
20    **Austin?**

21    A.     Yes.

22    **Q.     Who is Ken Johnson?**

23    A.     He is the plumbing manager.

24    **Q.     What about Steve Gonzalez?**

25    A.     No longer employed.

1 Q. What was --

2 A. Sorry. He was the excavation manager.

3 Q. Is he currently employed?

4 A. He is not. He is out on medical and not  
5 expected to return.

6 Q. Is he doing all right? Is everything okay?

7 A. Something I am not allowed to talk to him.  
8 He is involved with a lawyer.

9 Q. Has someone come and taken his place?

10 A. No.

11 Q. Is there anyone else in management that we  
12 haven't discussed at your specific Atlanta  
13 location?

14 MR. HARRISON: Thank you.

15 THE WITNESS: Office  
16 personnel. I don't know, they are not  
17 management, I don't think.

18 MR. HARRISON: Listen to his  
19 question.

20 THE WITNESS: Managers, no. I  
21 am actually not a manager.

22 BY MR. RAFI:

23 Q. You are in management; is that correct?

24 A. I am a salary person. I am the only salary  
25 person, I am not a manager. I am a coordinator.

1 My job is to liaison between corporate safety  
2 manager or the Region Safety Manager and branch  
3 management.

4 **Q. You also said that you are the license**  
5 **holder in Atlanta?**

6 A. Yes.

7 **Q. Does Keith Austin have a license?**

8 A. Yes.

9 **Q. Does Russ Garman?**

10 A. No.

11 **Q. Does Ken Johnson?**

12 A. Yes.

13 **Q. Why are you the license holder?**

14 A. Cause I -- you are required to have one  
15 license to run a plumbing shop. There is no  
16 reason to have another license there. I was  
17 asked and I accepted.

18 **Q. When were you asked?**

19 A. About two years ago.

20 **Q. Who were you asked by?**

21 A. Keith.

22 **Q. Do you have any idea why Keith asked you?**

23 A. Because the previous license holder decided  
24 to do -- there was an issue with a family and  
25 went to work in his family's business. So he

1 resigned and we had to have a license to continue  
2 working, they asked me, I put in the paperwork to  
3 have my license on file with the State for  
4 Roto-Rooter Atlanta. Only Roto-Rooter Atlanta,  
5 to operate.

6 **Q. Do you have any idea why Keith didn't use**  
7 **his license?**

8 A. He is a general manager. All right? It's  
9 not something I am knowledgeable about, but I  
10 don't know why but he has other responsibilities.  
11 And as the license holder, if there was an issue  
12 with the State, I am the one that they would come  
13 to. His time as general manager have other -- he  
14 has other things he has to take care of. It's  
15 just a job that would delegate. It's just like  
16 -- he is in charge of everything, but he has  
17 people that do the job for him and report to him  
18 as needed.

19 **Q. Other than what you just described which**  
20 **would be the State coming to you with a problem,**  
21 **are there any duties or responsibilities along**  
22 **with being a license holder?**

23 A. Yes, I pull permits. I am the questions  
24 person.

25 **Q. What do you mean by that?**

1 A. If they have a question, they call me.

2 **Q. Who is "they"?**

3 A. Anybody that works for Roto-Rooter Atlanta.  
4 If there is a code question, I have the code on  
5 my computer, I can look it up. That is another  
6 reason why the general manager doesn't do it, he  
7 doesn't have time to do that.

8 **Q. That makes sense.**

9 A. He is busy running the branch, you know.

10 **Q. You are busy making sure the work gets done?**

11 A. Yes.

12 **Q. I am asking you these questions genuinely.**  
13 **I don't know the answer, so I appreciate you**  
14 **bearing with me.**

15 A. I understand.

16 **Q. The only title we haven't covered is a**  
17 **plumbing -- a plumbing something, but I think we**  
18 **covered that.**

19 **What is your service -- branch**  
20 **safety --**

21 A. Plumbing instructor.

22 **Q. Plumbing instructor. And we covered that,**  
23 **you do that as part of your training in new**  
24 **hires?**

25 A. Yes. I teach them how to be a plumber,

1 after three years I work with them to get their  
2 license. And as a journeyman, we are probably  
3 one of the few that will actually bring in an  
4 apprentice to train them.

5 **Q. Do you have any other offices in or around**  
6 **Atlanta, metro Atlanta?**

7 A. We have two offices.

8 **Q. Can you give me both addresses for those?**

9 A. Yes, I can. The north office, 6356A.

10 **Q. This is in Norcross, correct?**

11 A. Yes.

12 **Q. What is the second address?**

13 A. 445 Atlanta South Parkway, College Park,  
14 30349.

15 **Q. Is that Clayton County, your home county?**

16 A. It is actually -- I am not sure. It's right  
17 there, maybe Fulton, Clayton.

18 **Q. In that in between no one knows area, right?**

19 A. 85, Highway 85, 75, in that industrial park,  
20 right in that area. It's by the airport, so it  
21 could be either way.

22 **Q. That Norcross location, is that in Gwinnett**  
23 **County?**

24 A. Yes.

25 **Q. How long have you had the College Park**

1 **location?**

2 A. I do not know.

3 **Q. Have you ever been to it?**

4 A. Yes.

5 **Q. When is the last time you were there?**

6 A. That would have been last Tuesday.

7 **Q. Do you frequent that location a lot?**

8 A. Yes. I drive by it everyday.

9 **Q. How often do you go in let's say per month?**

10 A. Not as often as I would like to, but at  
11 least once a week, if not twice, to see if there  
12 is any plumbing fixtures that need to be ordered  
13 to store down there for the southern techs to be  
14 able to get to.

15 **Q. Do you work out of an office everyday?**

16 A. I have two.

17 **Q. Are those the two we've just discussed?**

18 A. Yes. I have an office in both sites.

19 **Q. I take it if you are only at the South  
20 College Park office once or twice a week, you are  
21 at the Gwinnett office more?**

22 A. All of us are, yes. The College Park  
23 address is a satellite and it's only open two  
24 days a week.

25 **Q. And you are there one of those two days, if**



1 **not both?**

2 A. Yeah, but I go in there on my own to do  
3 inventory of water heaters, sewage pumps, drain  
4 care products, see what their stocking levels  
5 are. Because I drive by there on a daily basis,  
6 I load them up in my vehicle, take them down  
7 there, deposit them on site.

8 **Q. So you don't need the office technically to**  
9 **be open for you to do your work?**

10 A. No. I have a key.

11 **Q. And it's open to you with your key at any**  
12 **point?**

13 A. Yes, sir.

14 **Q. Assuming the same is true for the Gwinnett**  
15 **Norcross location?**

16 A. Yes.

17 **Q. Do you work specific days a week?**

18 A. Tuesday through Saturday. Actually 24/7  
19 cause we don't close, and I am the answer man.  
20 My phone is always on.

21 **Q. But according to at least your work,**  
22 **technical work schedules, it's Tuesday through**  
23 **Saturday?**

24 A. Currently it's Tuesday through Saturday.

25 **Q. What days are the -- what day is the College**

1 **Park location open?**

2 A. Tuesdays and Thursdays.

3 **Q. Can you tell me the phone number for the**  
4 **College Park location?**

5 A. If I had my cell phone I probably could.

6 **Q. Do you have that?**

7 A. It's in his office.

8 **Q. Okay.**

9 A. But I don't know if --

10 **Q. If not, once we take a break at some point**  
11 **you can get that for me?**

12 A. I don't think there was one. I don't know  
13 the number. I was seeing if I had a business  
14 card that may have it on it.

15 MR. HARRISON: We will get it  
16 for you on the break.

17 THE WITNESS: In fact, I don't  
18 have the College Park number.

19 MR. HARRISON: It's been an  
20 hour and 10. Can we just take a break?

21 MR. RAFI: Yes.

22 (Whereupon, a discussion was  
23 held off the record.)

24 (Whereupon, proceedings were  
25 reconvened with all counsel and the

1 witness present.)

2 BY MR. RAFI:

3 Q. Before we jump back into the question, Mr.  
4 Boland. Did you and your counsel discuss any  
5 question -- any of the content of my questions  
6 during the break?

7 A. No.

8 Q. Did you discuss any of the answers that you  
9 provided to me during the break?

10 A. No. Talked about the phone numbers is all.

11 Q. Okay.

12 Like you just mentioned, we were  
13 going through the phone numbers in Gwinnett and  
14 College Park. You said you knew Gwinnett off the  
15 top of your head. Can you tell that to me?

16 A. (770) 992-9422.

17 Q. Is that the only number at that location?

18 A. There are fax numbers. There may be a  
19 second line, I don't know it. There is also the  
20 1-800 number that may come to us. I don't know  
21 those numbers. I don't give those numbers out.

22 Q. That is perfectly okay.

23 Do you have an office in Dekalb  
24 County?

25 A. No.

1 Q. Do you have any training centers in Dekalb  
2 County?

3 A. No.

4 Q. Do you have any service locations in Dekalb  
5 County?

6 A. No.

7 Q. Where does six month vehicle inspections  
8 occur?

9 A. Usually six months after they are on the  
10 road.

11 Q. Where do they occur?

12 A. The Norcross office.

13 Q. Have they occurred at the College Park  
14 location?

15 A. Yes.

16 Q. Do any occur anywhere else?

17 A. On job sites. If I show up, I have the  
18 ability to do a van inspection at that location.

19 Q. You mentioned that you were a dispatcher  
20 before. Where is Roto-Rooter dispatch location?

21 A. Chicago.

22 Q. Is there a metro Atlanta dispatch location?

23 A. No.

24 Q. If I am a Roto-Rooter plumber in Macon, is  
25 there a law office close to you there?

1 A. I don't know about Macon. It's not my area.

2 **Q. Okay.**

3 MR. HARRISON: I am sorry.

4 Did you say law office?

5 MR. RAFI: The question I  
6 should have asked, I apologize.

7 BY MR. RAFI:

8 **Q. About 20 law offices if you look at the**  
9 **signs.**

10 If I was a Roto-Rooter plumber, I  
11 thought I said the word plumber, but if I was a  
12 Roto-Rooter plumber based in Macon, would I have  
13 a local office and I believe your answer was that  
14 you didn't know?

15 A. I didn't know. We are the only corporate  
16 plumbing office in the area. If there is a  
17 franchise (phon) franchise, I do not know.

18 **Q. Are there franchises within your area?**

19 A. I do not know that. I don't know if they  
20 overlap.

21 **Q. Do you know of any franchises that are in,**  
22 **let's say Gwinnett County?**

23 A. No, I don't know of any.

24 **Q. Do you know of any in any metro Atlanta**  
25 **county?**

1 A. No, I do not know.

2 **Q. Roto-Rooter, the corporate office that you**  
3 **are a part of in Atlanta services the metro**  
4 **Atlanta area, correct?**

5 A. Correct.

6 **Q. You all service Decatur for example?**

7 A. Yes.

8 MR. RAFI: Let me mark this  
9 and all my exhibits are premarked as  
10 Plaintiff's Exhibit 1.

11 -----

12 (Whereupon, Plaintiff's  
13 Exhibit 1, Roto-Rooter Plumbing &  
14 Drain Service, was marked for  
15 identification.)

16 -----

17 BY MR. RAFI:

18 **Q. I am going to give you the original, Mr.**  
19 **Boland. If you could just tell me before you**  
20 **write on it, if you do.**

21 MR. RAFI: Chris, I have a  
22 copy for you.

23 MR. HARRISON: Okay.

24 MR. RAFI: That is a two-page  
25 exhibit.

1 MR. HARRISON: Great. Take  
2 your time and make sure you look at it.

3 BY MR. RAFI:

4 Q. What I have just handed you is premarked as  
5 Plaintiff's Exhibit 1. We will call it  
6 Deposition Exhibit 1. I am sure it's in a  
7 comprehensive list. And this is something I  
8 printed off last night actually, off  
9 Roto-Rooter's website. You can see down the  
10 bottom left-hand corner it says,  
11 "Roto-Rooter.com." I then went to the location's  
12 tab and I clipped Georgia and this shows the  
13 areas that you service; is that right?

14 A. No.

15 MR. HARRISON: Object to the  
16 form.

17 THE WITNESS: Sorry.

18 BY MR. RAFI:

19 Q. No, it doesn't show the locations that you  
20 service?

21 A. No.

22 Q. Do you see where it says -- let me indicate,  
23 where it says "home"?

24 A. Uh-huh. Location Georgia.

25 Q. So I have clicked from your home page, I

1    went into locations and then I clipped on Georgia  
2    because I want to know where you serve in  
3    Georgia. This is where it brought me to, but  
4    these are not the locations that you service in  
5    Georgia, is that what you are telling me?

6    A.     Not my office.

7    Q.     Okay.

8                                What does this show?

9    A.     This shows the whole State of Georgia. We  
10   service the -- the Roto-Rooter Atlanta services  
11   the metro area.

12   Q.     And you service -- do you service Buford, is  
13   that considered metro Atlanta?

14   A.     It would have been on the zip code. It's a  
15   possibility.

16   Q.     Let me pick an easier one.

17                                Do you service Decatur?

18   A.     Yes.

19   Q.     Do you service -- do you service Kennesaw?

20   A.     Yes.

21   Q.     Now, you don't have an office in Decatur, is  
22   that what you have told me?

23   A.     No.

24                                MR. HARRISON: Correct, that  
25   is what you told him?



1 THE WITNESS: That is correct.

2 BY MR. RAFI:

3 Q. I will hand you what has been premarked as  
4 Plaintiff's Exhibit 2.

5 -----

6 (Whereupon, Plaintiff's  
7 Exhibit 2, Map, was marked for  
8 identification.)

9 -----

10 BY MR. RAFI:

11 Q. So you are looking at Plaintiff's Exhibit 2,  
12 and by Plaintiff's Exhibit 2 obviously I mean  
13 Deposition Exhibit 2. Forgive me if I go back  
14 and forth.

15 A. I can't see this.

16 Q. You can't see that.

17 A. No.

18 Q. Is that because it's too small?

19 A. Yes.

20 Q. Okay.

21 Can you make out that it's a map?

22 A. Yes.

23 Q. It's a Google Earth or a Google Map?

24 A. Yes.

25 Q. And it's of downtown Decatur, that is what

1     **that is.**

2     A.     Okay.

3     **Q.     If you are familiar with any of the**  
4     **locations there, you can see the Brickstore Pub,**  
5     **some of the restaurants, you can actually see the**  
6     **Art Institute of Atlanta, that's Decatur. And if**  
7     **you see that there is a red dot and that says**  
8     **Roto-Rooter. Do you see that?**

9     A.     Yes.

10    **Q.     Now, up at the top left-hand corner it says,**  
11    **"Roto-Rooter Decatur, Georgia, 30030." Do you**  
12    **see that?**

13    A.     Okay.

14    **Q.     Right here?**

15    A.     Okay.

16    **Q.     And it has your company website**  
17    **"Roto-Rooter.com"; is that correct? Is that the**  
18    **correct website? R-O-T-O-R-O-O-T-E-R.com.**

19    A.     That is the company's website, yes, sir.

20    **Q.     Does the phone number 404-377-4932 mean**  
21    **anything to you?**

22    A.     No.

23    **Q.     Do you have any idea how -- why Google shows**  
24    **that there is a Roto-Rooter office in Decatur?**

25    A.     That would be a question to ask to the GM.

1 That is not my job.

2 MR. RAFI: Chris, I will --

3 let me just ask this witness.

4 BY MR. RAFI:

5 Q. Do you have any role or responsibility for  
6 marketing efforts?

7 A. No.

8 Q. Do you have any role or responsibility for  
9 determining what phone numbers the company uses?

10 A. No.

11 Q. Do you have any say in the locations of the  
12 company that the company chooses?

13 A. No.

14 Q. Do you believe that Keith Austin is the  
15 person who would make that decision?

16 A. Correct.

17 MR. RAFI: Chris, I won't ask  
18 this question with him, but I ask Keith  
19 later tells us that he is not the  
20 person, that we go and find the person  
21 if that is okay with you.

22 MR. HARRISON: Let's see what  
23 Keith says. I don't have a particular  
24 problem with that. I think part of the  
25 discrepancy might be that there are

1 franchisees out there. I am happy for  
2 Joel to talk to you about that if you  
3 want to ask him, but some of these are  
4 separate entities. You have  
5 Roto-Rooter Services Company which is  
6 who you see and who he works for.

7 MR. RAFI: The witness had  
8 testified that he didn't know of any  
9 franchises -- franchisees in the metro  
10 Atlanta area. Are you aware of any?

11 MR. HARRISON: I am not being  
12 deposed, so you can ask Keith that as a  
13 GM and then I think what we can agree  
14 to do is reevaluate and you can tell me  
15 what you think you need at the end if  
16 you don't have it.

17 MR. RAFI: Are you okay with  
18 me recalling this witness should I need  
19 to concerning this limited topic?

20 MR. HARRISON: I am not right  
21 now. I can't agree to that. Again, if  
22 we want to have a discussion about that  
23 later, that is fine. You can ask him  
24 anything you want. I appreciate you  
25 trying to narrow it to what he knows.

1 I don't think he knows anything about  
2 marketing or phone numbers like he told  
3 you, but --

4 MR. RAFI: That is fine. I  
5 understand.

6 BY MR. RAFI:

7 Q. Mr. Boland, I am going to hand you what has  
8 been premarked as Plaintiff's Exhibit 3. I am  
9 giving you the copy that doesn't have the staple.  
10 I will give you the paperclip.

11 -----  
12 (Whereupon, Plaintiff's  
13 Exhibit 3, Roto-Rooter, Dekalb GA,  
14 Google Search, was marked for  
15 identification.)

16 -----

17 BY MR. RAFI:

18 Q. This is another Google search that we  
19 printed out yesterday. What we searched, you can  
20 see at the top it says "Roto-Rooter, Dekalb  
21 Georgia." That was our search on Google. Do you  
22 see that?

23 A. Yes.

24 Q. And you are familiar with Google and the  
25 search?

1 A. Oh, yes.

2 Q. This looks to be, and it is, I am telling  
3 you a search result. About 2/3rds of the way  
4 down there is a Roto-Rooter, and I have  
5 highlighted it for you, Roto-Rooter location that  
6 says, it is at 647 North Indian Creek Drive in  
7 Clarkston, Georgia.

8 A. Yes.

9 Q. Are you familiar with that location?

10 A. No.

11 Q. Do you know if there is a location for  
12 Roto-Rooter at that address?

13 A. No.

14 Q. Does the phone number 404-297-6408 mean  
15 anything to you?

16 A. No.

17 Q. The second address there is a Decatur,  
18 Georgia address.

19 A. I understand what these are.

20 MR. HARRISON: Answer his  
21 questions, Joel.

22 THE WITNESS: No.

23 MR. HARRISON: Listen to his  
24 question and answer.

25 THE WITNESS: No.

1 BY MR. RAFI:

2 Q. No, you don't know of that Decatur, Georgia  
3 location?

4 A. No.

5 Q. And the phone number is the same as the  
6 Exhibit 1 that I showed you, which you told me  
7 you already don't know that number.

8 The third address is Lithonia,  
9 Georgia. Are you familiar with the location  
10 there?

11 A. No.

12 Q. And phone number 770-482-5335 which is  
13 indicated as the phone number for that Lithonia  
14 address?

15 A. Okay. No, I am not privy to that  
16 information.

17 Q. And you can see on the right side where it  
18 has Google drops the pins to show you where those  
19 places are located A, B and C?

20 A. I see that. Yes, sir.

21 Q. And those are labeled according to Google;  
22 is that right?

23 A. Yes. I see an A, B and C.

24 Q. Now, I want to show you what has been  
25 premarked as Plaintiff's Exhibit 4.

1

-----

2

(Whereupon, Plaintiff's

3

Exhibit 4, Google Map, was marked

4

for identification.)

5

-----

6

BY MR. RAFI:

7

Q. And this one is fuzzy, I will give you that.

8

If you can bear with me, we will try to explain

9

it. It's the best we can do printing wise.

10

This is a Google search and see at

11

the top left corner we searched Roto-Rooter. I

12

am speaking of Plaintiff's Exhibit 4.

13

A. Okay.

14

Q. I am hoping you can identify the 285

15

perimeter around Atlanta?

16

A. Yes, I can.

17

Q. I count 10 Roto-Rooter locations, or what

18

appears to be Roto-Rooter locations on that map.

19

Those are the red dots. Do you see those?

20

A. Yes, I do.

21

Q. Do you know of any of these locations

22

because none of them appear to be in Norcross? I

23

don't know if any of them appear in College Park,

24

but do you know of any of these locations?

25

A. No.



1 Q. Is this location in terms of where it is on  
2 a map, does that look to be your College Park  
3 location? Looks -- there is one a little south  
4 of the airport and then there is one a little  
5 east of the airport.

6 A. No.

7 Q. So in addition to the 10, by my count, red  
8 locations on this map, there is also the Norcross  
9 location and also the College Park location.

10 MR. HARRISON: Object to form.

11 THE WITNESS: Yes, I would  
12 assume.

13 BY MR. RAFI:

14 Q. I am handing you what has been premarked as  
15 Plaintiff's Exhibit 5. This is a printout that I  
16 did this morning of the Better Business Bureau's  
17 website.

18 -----  
19 (Whereupon, Plaintiff's  
20 Exhibit 5, Search, was marked for  
21 identification.)

22 -----

23 BY MR. RAFI:

24 Q. Are you familiar with the Better Business  
25 Bureau?

1 A. I know of it. Yes.

2 Q. It's a company or an organization that rates  
3 businesses and it's the precursor to Angie's List  
4 and those kind of services?

5 A. I understand.

6 Q. Does that sound right to your understanding  
7 of what it does?

8 A. Yes, sir.

9 Q. People can call the Better Business Bureau  
10 and find out if they need help and can you  
11 pinpoint me to a plumber, a technician, whatever.  
12 Is that your understanding?

13 A. Okay. Yes.

14 Q. On Page 2, I searched for -- it says, "you  
15 searched for businesses," so I searched in  
16 businesses, and I searched for, what is in bold  
17 italics what I searched for, Roto-Rooter Services  
18 Company.

19 A. Okay.

20 Q. Do you see that?

21 A. Yes.

22 Q. The first result that came up was  
23 Roto-Rooter Services Company at 2968 North  
24 Decatur Road, suite or site A, Decatur, Georgia,  
25 30033 and then goes on to give the other four of

1 the zip code 5900. Do you see where I am reading  
2 from?

3 A. Yes.

4 Q. You work for Roto-Rooter Services Company,  
5 correct?

6 A. Yes.

7 Q. Are you familiar with the Roto-Rooter  
8 Services Company listed on the Better Business  
9 website that -- Better Business Bureau website  
10 that I just read to you?

11 A. I am not familiar with that address. No.

12 Q. Do you have any idea why this address is on  
13 the Better Business Bureau website?

14 A. Probably before my time. Could have been an  
15 address, previous location. I don't know.

16 Q. Okay.

17 In the 11 years, going on 12  
18 years --

19 A. Yes.

20 Q. -- that you worked at Roto-Rooter, have you  
21 ever known of this location?

22 A. No.

23 Q. Have you ever known of any other locations  
24 besides the two that we discussed, confirmed  
25 locations, meaning the Norcross location and the

1 **College Park location?**

2 A. Yes.

3 **Q. Where were those locations? Were those all**  
4 **in Norcross?**

5 A. No.

6 **Q. Where were those locations?**

7 A. The two in Norcross is Jimmy Carter  
8 Boulevard, 6300 Jimmy Carter Boulevard where I  
9 first hired on. Their current location in  
10 Norcross at 6356A Corley Road, and then Sandy  
11 Springs' office that was in between the two.

12 **Q. When did that Sandy Springs' office stop**  
13 **being an office?**

14 A. When we moved to the Corley Road office.

15 **Q. When did the College Park location become up**  
16 **and running?**

17 A. Five, six, seven years ago. Do not know.  
18 And technically, it's not a functioning office.

19 **Q. Okay.**

20 **And what you mean by that is --**

21 A. It's a storage depot for plumbing fixtures  
22 and it opens up to allow the southern techs,  
23 instead of facing traffic, to have a location  
24 where they can meet with a manager to turn in  
25 their paperwork before the paperwork is brought

1 to the north office. And that is its sole  
2 function.

3 **Q. And not to rehash what we talked about, but**  
4 **there are other functions and that is you were**  
5 **able to go there and reorder supplies?**

6 A. It's a storage depot, yes.

7 **Q. And it's open two days a week, on Tuesdays**  
8 **and Thursdays?**

9 A. Yes.

10 **Q. And it is a Roto-Rooter location?**

11 A. Yes. We pay for that site, yes.

12 **Q. And you have an office there?**

13 A. Yes.

14 **Q. Does anyone else have an office there?**

15 A. Any manager can use that office.

16 **Q. Do you have an actual --**

17 MR. HARRISON: Were you  
18 finished with your answer? I think you  
19 got cut off.

20 THE WITNESS: I am sorry.

21 Now, I am not sure where we were at.

22 MR. HARRISON: Go ahead.

23 BY MR. RAFI:

24 **Q. Do you have a specified office there with a**  
25 **computer terminal, a desk, something like that?**

1 A. I can plug my laptop in. There is a desk  
2 available for me to plug my laptop into, yes.

3 **Q. Do any other managers, you are not a**  
4 **manager, anyone else in management or that**  
5 **category ever go there?**

6 A. Yes.

7 **Q. Who goes there?**

8 A. All of the managers.

9 **Q. Everyone we discussed?**

10 A. Yes.

11 **Q. Do you know how often they go there?**

12 A. Russ Garman twice a week, he opens it up,  
13 turns in the southern techs Tuesdays and  
14 Thursdays. If he goes any other time, I don't  
15 know of, but we may sometimes have meetings down  
16 there, or training down there or whatever. It  
17 depends on whether or not the situation for the  
18 day.

19 **Q. So in addition to being a supply depot --**  
20 **what was the term you used?**

21 A. Supply depot.

22 **Q. In addition to being a supply depot, it's**  
23 **also a place where you have an office, correct?**

24 A. There is an office available for me, yes.

25 **Q. It's also a place where training occurs?**

1 A. It can, yes.

2 Q. And it has?

3 A. Yes, it has.

4 Q. And it's also a place where meetings can  
5 occur?

6 A. Yes.

7 Q. And meetings have occurred?

8 A. Yes.

9 Q. And those trainings and meetings are related  
10 to Roto-Rooter?

11 A. Correct.

12 Q. Is there anything else that happens at that  
13 location that we have not discussed, cause I will  
14 ask Mr. Austin the same question and I am  
15 assuming your answers are going to be the same,  
16 but is there anybody that we -- and I am not  
17 saying -- I want you to think very hard back to  
18 everything that goes on there. Do you service  
19 vehicles there?

20 A. Service? We don't service vehicles.

21 Q. Do you load vehicles up with supplies?

22 A. Water heaters.

23 Q. Okay.

24 So you do load things into  
25 vehicles?

1 A. Yes. Water heaters.

2 **Q. Is there anything else that you do down at**  
3 **that College Park location?**

4 A. Paperwork, computer work if needed, the  
5 techs can use it with management on site for  
6 internet access, for like benefits or whatever  
7 they want to do online through the website. Our  
8 corporate website.

9 **Q. So technicians can log into your website**  
10 **from that location and they can do things that**  
11 **are -- that are benefits related?**

12 A. Yes.

13 **Q. Job related?**

14 A. Yes, sir.

15 **Q. Is there anything else that we haven't**  
16 **covered?**

17 A. I am not sure what you are looking for, but  
18 there is all-- there is possibilities that  
19 anything can be, you know --

20 **Q. Is it fair to say, you can do everything in**  
21 **that office that you can in Norcross?**

22 A. No, sir.

23 **Q. And I've got to ask you. I have to go until**  
24 **you give me a no. There is nothing else that you**  
25 **do down there. What else do you do?**



1 A. I don't know. I can do things at the  
2 Norcross office that I can't do at the south  
3 office.

4 **Q. So what things that we haven't covered that**  
5 **you do at College Park that we haven't talked**  
6 **about?**

7 A. No.

8 MR. HARRISON: It might be  
9 easier to have him tell you what he can  
10 do at the north office that he can't do  
11 at the south. I am not trying to  
12 streamline the question.

13 THE WITNESS: Everything I  
14 mentioned about the south office has  
15 been covered, but I can do things at  
16 the north office that I cannot do at  
17 the south office.

18 BY MR. RAFI:

19 **Q. Is there anything that we haven't discussed**  
20 **that you can do and do do in College Park?**

21 MR. HARRISON: Object to the  
22 form.

23 THE WITNESS: I dispatch parts  
24 out of it if need be. That is the only  
25 thing that I do at both offices. Water

1 heaters. If they need a water heater  
2 at 2 o'clock in the morning, I can go  
3 open it up, give him a water heater and  
4 close the shop back up.

5 BY MR. RAFI:

6 Q. Is there anything else that we have not  
7 discussed that you can do in College Park?

8 A. No. None that I can think of.

9 Q. Okay. That is fair.

10 What kind of training did you have,  
11 if any, in 2011 or 2010 before you took the  
12 management position? I keep saying management  
13 position. Before you took the position of branch  
14 safety -- branch safety --

15 A. Coordinator.

16 Q. -- coordinator? So what training did you  
17 receive, and you can strike all that because I  
18 will say it all again.

19 What training, if any, did you  
20 receive that enabled you to hold the position of  
21 branch training coordinator?

22 A. Certified field training.

23 Q. Was there any additional training --

24 A. Sorry. Say that question again. Misheard.

25 Q. I think I had it perfect.

1 MR. RAFI: Will you read it  
2 back?

3 (Whereupon, the last question  
4 was read back at this time.)

5 THE WITNESS: Branch training  
6 coordinator. I attended certified  
7 field trainer to train trainees in my  
8 vehicle and that is as far as I have  
9 been trained, and for Roto-Rooter.

10 BY MR. RAFI:

11 **Q. What new responsibilities did you take on**  
12 **when you became the branch training coordinator?**

13 A. Oh, I am not the branch training  
14 coordinator.

15 **Q. Branch safety coordinator.**

16 A. Ordering and dispensing of safety personal  
17 protective equipment. PPE. Safety glasses, hard  
18 hats, stuff like this. The safety observations.  
19 Go to a job site to make sure that they are  
20 wearing their PPE on the job site. Make sure  
21 they are putting shoe covers on their feet to  
22 protect customer property -- the customer's home.  
23 And I am not just the only one that does that.  
24 Anybody in management can do this. Most likely  
25 it is me because the managers are busy, but I am

1 ultimately responsible and to ensure that so many  
2 inspections, so many van inspections get done on  
3 a monthly basis. It was a requirement that I had  
4 to set by guidance that was set by me -- not by  
5 me, by my superiors as to, I had to do a minimum  
6 but there was no maximum.

7 **Q. Are you responsible for ensuring that**  
8 **employees comply with State laws?**

9 A. No.

10 **Q. Are you responsible with ensuring that**  
11 **employees comply with safety rules promulgated by**  
12 **Roto-Rooter?**

13 A. No.

14 **Q. Who is?**

15 A. The general manager is ultimately  
16 responsible in the Atlanta branch, but there are  
17 people above him in the safety department that  
18 will probably fit that bill. I do not know.

19 **Q. Are you responsible for disciplining**  
20 **employees in any regard?**

21 A. I am not a manager. I cannot discipline.

22 **Q. Are you responsible for investigating**  
23 **possible safety violations of Roto-Rooter policy?**

24 A. Yes.

25 **Q. What kind of violations would you**

1 **investigate?**

2 A. Property damage, workmen's comp, company  
3 owned vehicle accidents, job site violations.

4 **Q. Do you investigate when an employee, a**  
5 **Roto-Rooter employee is involved in a motor**  
6 **vehicle accident while on a work time?**

7 A. Depends on the situation.

8 **Q. Have you investigated in that situation**  
9 **before?**

10 A. When they filed workmen's comp, yes.

11 **Q. Have you ever investigated a situation where**  
12 **an employee was on company time and involved in a**  
13 **motor vehicle accident and not filed a workers'**  
14 **comp claim?**

15 A. Yes.

16 **Q. Is this one of those cases?**

17 A. Yes. He was not injured. He was not in the  
18 vehicle.

19 **Q. How many of those investigations, like this**  
20 **one where you just told me someone was on company**  
21 **time and did not file a workers' comp claim, how**  
22 **many of those have you investigated?**

23 A. Three that I know of that paperwork are  
24 involved, but they were workmen's comp. One  
25 where they hit a car and they failed the drug

1 test.

2 **Q. When you say "they," you mean the driver,**  
3 **the Roto-Rooter employee hit a car and he or she**  
4 **failed the drug test?**

5 A. Correct, and I had to investigate that for  
6 termination purposes. Company policy.

7 **Q. Are there any others besides the incident we**  
8 **are here today?**

9 A. Not employee owned vehicles.

10 **Q. Have you investigated motor vehicle**  
11 **accidents involving company owned vehicles?**

12 A. Yes.

13 **Q. Is your investigation different if it's a**  
14 **company owned vehicle or if it's an employee**  
15 **owned vehicle?**

16 A. Oh, yes, sir.

17 **Q. How does it differ?**

18 A. Because we have -- it being a company  
19 vehicle, we are liable for and we have to do a  
20 thorough investigation, that there are things  
21 that we do, that the employee must do because  
22 it's our vehicle versus their vehicle.

23 **Q. So you do a thorough investigations when**  
24 **it's a company owned vehicle?**

25 A. Yes.

1 MR. HARRISON: Objection to  
2 form.

3 MR. RAFI: What is your  
4 objection?

5 MR. HARRISON: You told me  
6 earlier that I couldn't say anything  
7 other than to form.

8 MR. RAFI: You could if I ask  
9 you.

10 MR. HARRISON: We will go by  
11 the Standing Order, so.

12 MR. RAFI: The Standing Order  
13 says that if I ask you, you could --

14 MR. HARRISON: It  
15 mischaracterizes testimony.

16 MR. RAFI: How so?

17 MR. HARRISON: Because you  
18 inferred that he did a thorough  
19 investigation sometimes and not others,  
20 and that is why I objected to it.

21 MR. RAFI: I have a right to  
22 know what your objections are.

23 MR. HARRISON: Then I have a  
24 right to make them in full if are going  
25 to ask me --

1 MR. RAFI: Not according to  
2 the Judge's statement.

3 MR. HARRISON: You can --

4 MR. RAFI: Sure. Here it is.  
5 Read it.

6 MR. HARRISON: You can have  
7 it. I appreciate it.

8 BY MR. RAFI:

9 **Q. Do you always do a thorough investigation?**

10 A. If the case warrants.

11 **Q. So sometimes?**

12 A. No, I don't always do it because the case  
13 may not warrant it.

14 **Q. So sometimes you do not do a thorough  
15 investigation?**

16 A. No. If it's our insurance, yes.

17 **Q. Okay.**

18 **When it is your insurance?**

19 **Meaning, when it is Roto-Rooter Services  
20 Company's insurance, you always do a thorough  
21 investigation?**

22 A. That is required. Yes.

23 **Q. Is that -- are you saying that is required  
24 because it is not required for you to do a  
25 thorough investigation when it is not Roto-Rooter**



1     **Services Company's insurance?**

2                     MR. HARRISON: Object to the  
3                     form answer. You can answer.

4                     THE WITNESS: It is an auto  
5                     accident, the technicians carry their  
6                     own insurance, I am not part of the  
7                     insurance claim process. So, no, I am  
8                     not required to do that.

9                     Now, if the technician is  
10                    ticketed, I am required by my Safety  
11                    Manager that I report to for safety  
12                    related issues, if the technician is  
13                    ticketed to perform a drug test and  
14                    that is just to cover all bases on that  
15                    aspect. But they have their own  
16                    insurance, their van, their insurance,  
17                    their maintenance, they are required,  
18                    they follow the State law in that  
19                    aspect. All right?

20                    Roto-Rooter vehicles, our  
21                    insurance, we follow the State laws for  
22                    following our insurance and that is  
23                    what I do, I file the insurance claims  
24                    for our vehicles. So, yes, I do an  
25                    investigation on that aspect.

1 BY MR. RAFI:

2 Q. You just told me a lot there. I want you to  
3 unpack some of that.

4 It's your understanding that  
5 company policy -- well, let me back up.

6 Who is your Safety Manager?

7 A. He is out of Ohio.

8 Q. What is his name?

9 A. Walter Tinsley.

10 Q. T-I-N-S --

11 A. -- L-E-Y.

12 Q. And he is with Roto-Rooter Services Company?

13 A. Yes.

14 Q. What is his official title?

15 A. Regional Safety Manager.

16 Q. Do you know how many Regional Safety  
17 Managers there are?

18 A. Four.

19 Q. Do you know where Mr. Tinsley's region is?

20 A. Central region.

21 Q. And central includes Atlanta?

22 A. Yes.

23 Q. Does he include all of Georgia, do you know?

24 A. No. Just the Atlanta -- the corporate  
25 offices. He is the corporate office's Regional

1 Safety Manager.

2 **Q. And it's your understanding that under**  
3 **company policy, you're only required to drug test**  
4 **an employee who has been involved in a motor**  
5 **vehicle accident while on work time when a ticket**  
6 **has been issued to that employee?**

7 A. Okay.

8 **Q. You can answer yes or no.**

9 A. Yes.

10 MR. HARRISON: Well, and then  
11 you can explain your answer, too.

12 BY MR. RAFI:

13 **Q. Now you can explain but I needed that yes.**

14 A. Okay.

15 My Regional Safety Manager, all  
16 right, when an accident is reported to, all  
17 accidents earlier will get reported to me,  
18 whether it is via a manager or via the  
19 technician, they all get reported to me. I call  
20 my Safety Manager, all right -- who I do not  
21 report to him. I just that he is the regional  
22 person -- there is one of me in every one of the  
23 branches in the central region. They call him,  
24 he relays to the regional manager which I believe  
25 Keith reports to, okay? So in safety related

1 issues, whenever there is anything related to  
2 safety wise that is an accident, a damage or  
3 whatever, I must contact this person. He makes  
4 the determination and gives guidance. Okay? And  
5 in this situation, I did call him. All right.  
6 The next morning because it was at 1 -- before 1  
7 o'clock in the morning. All right. He was not  
8 injured on the job, he was not even in the  
9 vehicle when it occurred, but he was ticketed and  
10 I was instructed by him to perform a drug test.  
11 Okay? And then -- then to instruct the  
12 technician to file with his insurance company.  
13 The insurance company is responsible after that  
14 between him -- it's between him and his insurance  
15 company. Now, I hope that answers your question.

16 **Q. It answers a lot of questions and I will**  
17 **have a lot of follow up questions and**  
18 **unfortunately, better or worse, I will have a lot**  
19 **more questions about this incident.**

20 **My question to you, and I believe**  
21 **your answer was yes but I want to confirm. My**  
22 **answer to you was when a -- it's your**  
23 **understanding that company policy only requires a**  
24 **driver to be drug tested when they are ticketed**  
25 **in a motor vehicle accident?**

1 A. Yes.

2 Q. And it's your understanding that the  
3 Regional Safety Manager named Walter Tinsley, he  
4 is the one who decides or instructs you when a  
5 drug test should be given?

6 A. Yes.

7 Q. Have you ever given a drug test without  
8 being ordered to do so by Walter Tinsley?

9 A. Yes.

10 Q. Do you give alcohol tests?

11 A. No. I am not a professional lab person.

12 Q. Do you instruct employees or require  
13 employees to take alcohol tests at any point?

14 A. No, I am not a manager.

15 Q. Have employees ever -- in addition to a drug  
16 test, do employees ever have to get alcohol  
17 tested?

18 A. I don't know. I know that is part of the  
19 drug test.

20 Q. It is part of the drug test?

21 A. I am assuming.

22 Q. Sometimes they are separate. Do you know if  
23 alcohol testing is included in your drug testing?

24 A. When I have a drug test, I ask Mr. Garman,  
25 who does the new hire, who does the drug testing

1 for new hire, he orders it through our system.

2 And then -- but DOT stuff I order locally. One

3 is paid one way, one is paid another way. So

4 it's --

5 **Q. Are you responsible in any way for ensuring**  
6 **that Roto-Rooter employees comply with State law**  
7 **regarding safety?**

8 A. No, I am not a police officer.

9 MR. HARRISON: You've already  
10 asked him that question.

11 BY MR. RAFI:

12 **Q. Well, it seems like the answer is yes**  
13 **because you do make sure that they get drug**  
14 **tested when they have to. You just mentioned DOT**  
15 **guidelines, correct?**

16 A. DOT physicals.

17 **Q. Okay.**

18 So maybe my question is, do you  
19 have any role in ensuring that Roto-Rooter  
20 employees comply with Federal regulations  
21 concerning safety?

22 A. Say that again, please.

23 **Q. In your role with Roto-Rooter, do you have**  
24 **anything to do with ensuring that employees**  
25 **comply with Federal safety rules?**

1 MR. HARRISON: Object to form.

2 THE WITNESS: I do paperwork.

3 I am not responsible, I just do  
4 paperwork as directed. I do order DOT  
5 physicals. I fill out the form and  
6 it's all handled elsewhere.

7 BY MR. RAFI:

8 **Q. Do you give safety training regarding motor**  
9 **vehicle driving, motor vehicle accident reporting**  
10 **or anything involving motor vehicles to**  
11 **Roto-Rooter employees?**

12 A. Yes.

13 **Q. Are you familiar yourself with State rules**  
14 **and laws governing motor vehicles?**

15 MR. HARRISON: Object to form.

16 THE WITNESS: I know the rules  
17 of the road.

18 BY MR. RAFI:

19 **Q. How do you know them?**

20 A. Almost 40 years or better driving on the  
21 roads here in Georgia.

22 **Q. Have you ever received formal training**  
23 **regarding motor vehicle operation?**

24 A. Formal training besides driver's ed?

25 **Q. Correct. Any from Roto-Rooter?**

1 A. There is rules of the road, a Smith driving  
2 video.

3 **Q. Can you tell me the five or six keys of the**  
4 **Smith System?**

5 A. Oh, God. Lord. Aim high. As just -- no, I  
6 can't give them verbatim.

7 **Q. Do you lecture --**

8 A. My memory is not the best.

9 **Q. Do you lecture employees on the Smith**  
10 **System?**

11 A. No. They watch the video.

12 **Q. Do you watch the video with them?**

13 A. I have watched it, but there is so much you  
14 can take. So I leave that to the -- I put it on  
15 the system, I allow them to watch. There is --  
16 and then I can step out and use the rest room or  
17 what not while they are watching the video.

18 **Q. You are a Roto-Rooter employee, correct?**

19 A. Yes.

20 **Q. Do you drive a Roto-Rooter vehicle?**

21 A. Yes, I do.

22 **Q. Are you required to follow the Smith System?**

23 A. Yeah. I am assuming. Yeah.

24 **Q. And you also instruct. At least in part,**  
25 **your courses deal with the Smith System?**



1 A. Yeah.

2 **Q. Correct?**

3 A. This is a video that they watch. I don't  
4 instruct them, no. Their video -- is just a  
5 video that they watch.

6 **Q. After this conversation, are you willing to  
7 go watch the video?**

8 A. No.

9 **Q. Why not?**

10 A. Cause why should I?

11 **Q. Because you don't know the Smith System and  
12 you are required to.**

13 MR. HARRISON: Object to form.

14 THE WITNESS: No, I am not  
15 required to.

16 MR. HARRISON: Listen, you are  
17 not going to argue with him. You are  
18 here to ask questions and we will stop  
19 the deposition if you are going to get  
20 argumentative with him, so. By the  
21 way, the Smith System has to do with  
22 backing. What does it have to do with  
23 this case?

24 MR. RAFI: The Smith System  
25 has more to do with backing.

1 MR. HARRISON: Well, let's  
2 keep going.

3 THE WITNESS: You can't stop  
4 the driver.

5 MR. HARRISON: I think a lot  
6 of these questions would be geared  
7 towards the driver.

8 MR. RAFI: He trains the  
9 drivers.

10 MR. HARRISON: Understood.  
11 Keep going.

12 BY MR. RAFI:

13 **Q. My point about it -- I didn't mean to argue.**  
14 **My point about you going to watch the Smith**  
15 **System is you train people on the Smith System**  
16 **and you are required -- you told me you were**  
17 **required to follow the Smith System, correct?**

18 A. Not at all. I am not required. I did not  
19 say that.

20 **Q. Tell me how the Smith System works with your**  
21 **company.**

22 A. It is a video that I have that I show them  
23 as to get them aware, get them safety aware of,  
24 you know, just get them involved in the safety  
25 aspect of paying attention to the road.

1 Q. Okay.

2 So it's your testimony that  
3 Roto-Rooter employees do not need to follow the  
4 Smith System?

5 MR. HARRISON: Object to the  
6 form.

7 THE WITNESS: No, that is not  
8 my rule.

9 BY MR. RAFI:

10 Q. Okay.

11 What do Roto-Rooter employees need  
12 to do concerning the Smith System if they don't  
13 have to follow it and they -- what is the purpose  
14 of it?

15 MR. HARRISON: Same objection.

16 BY MR. RAFI:

17 Q. It's part of their training, correct?

18 A. It's part of the training that I give them,  
19 yes.

20 Q. Were you told by anyone to use the Smith  
21 System?

22 A. No. It was a video available to me when I  
23 took the job.

24 Q. Do you tell employees this is how you should  
25 drive, according to the Smith System?

1 A. Do I say those words exactly?

2 Q. No. Do you say any concept that, employees,  
3 you should follow the Smith System?

4 A. No, I don't.

5 Q. Then why do you show the video?

6 A. Because it's available to me to show. I am  
7 not required to show the video.

8 Q. Okay.

9 A. I show it to them. I am not required to  
10 show them.

11 Q. How often do you show the video?

12 A. I have shown it to every new hire that has  
13 come in to Roto-Rooter under my --

14 Q. When is the last time that you saw the video  
15 or you presented the video to an employee?

16 A. I would say about a month ago.

17 Q. Have you had any new hires within that  
18 month?

19 A. No.

20 Q. How did you first find out about the Smith  
21 System? You say it's been available to you. How  
22 so?

23 A. It was available for me to show them --

24 Q. By whom?

25 MR. HARRISON: Let him finish.

1                   THE WITNESS: Okay. It was --  
2                   when I opened the doors to the safety  
3                   office, there is a stack of videos  
4                   there or DVDs there, I went through  
5                   them, they are in my -- and you  
6                   probably already have this, from  
7                   corporate, the training -- safety  
8                   training, that is not one of the videos  
9                   that I am required to show.

10                  BY MR. RAFI:

11                  **Q.        So the video is located at a Roto-Rooter**  
12                  **storage --**

13                  A.        No. It was in the safety office when I  
14                  opened the door and I took over.

15                  **Q.        And you mentioned that I might have a**  
16                  **Roto-Rooter safety something. What were you**  
17                  **referring to?**

18                  A.        The emails that -- for discovery. Just  
19                  policies and procedures and stuff like that.

20                  **Q.        Okay. We will talk about those in just a**  
21                  **few minutes.**

22                                **Is there anything else that you**  
23                  **show or instruct regarding motor vehicle safety**  
24                  **that you do, but you are not required to?**

25                  A.        That is the only video that I do on the

1 driving. No, I don't have anything else that I  
2 show.

3 **Q. Do you intend after this conversation to**  
4 **continue showing the Smith System video to the**  
5 **next employee that you have?**

6 A. It's an interesting video. Yes.

7 **Q. I am sure I watched the video and it's**  
8 **interesting, one word, but it's instructive,**  
9 **correct?**

10 A. Yes. It is instructive. Now --

11 MR. HARRISON: Just answer his  
12 question, Joel.

13 THE WITNESS: Yes, it is  
14 instructive.

15 BY MR. RAFI:

16 **Q. If employees aren't supposed to follow the**  
17 **Smith System or don't have to, how --**

18 A. Okay. Correct. I am sorry.

19 **Q. -- what are they supposed to follow**  
20 **concerning motor vehicle operation?**

21 MR. HARRISON: Objection to  
22 form.

23 THE WITNESS: There is a  
24 POWERPoint presentation that I am  
25 required to give on accident reporting,

1           who to report to, what to do in the  
2           case of the accident, stuff like this.

3           All right?

4                         Now, the operations of the  
5           vehicle, all right? We -- management  
6           will sometimes get into what they call  
7           a-ride-along, okay, and that's just to,  
8           you know, ride with the technician,  
9           talk, make them feel comfortable in  
10          doing the stuff. But for driving  
11          instruction, how to operate a motor  
12          vehicle or how to pass the motor  
13          vehicle test, no. That is done prior  
14          to us hiring them. They have a  
15          license, they are required to have a  
16          license, the State training or high  
17          school training, that is before I am  
18          involved. I am not required to teach  
19          somebody how to drive a vehicle.

20         BY MR. RAFI:

21         **Q.       The POWERPoint that you mentioned, is that**  
22         **something that you can send to your lawyer who**  
23         **then can send to me?**

24         A.       I would have to -- it would have to come  
25         from corporate.

1     **Q.     If you were instructed to -- if it's**  
2     **physically possible technology wise, you can**  
3     **email it I am assuming?**

4     A.     I don't know. I am not a computer whiz.

5     **Q.     Okay.**

6     A.     There may be -- most likely somebody who  
7     could. But me, no.

8                     MR. HARRISON: What is it  
9     called? Do you know the name?

10                    THE WITNESS: Accident  
11     reporting.

12                    MR. HARRISON: We will be glad  
13     to get the video. I am sure it can in  
14     some form. It may be paper but it's  
15     called accident reporting?

16                    THE WITNESS: Yeah.

17                    MR. HARRISON: Got it.

18                    THE WITNESS: I believe that  
19     is the name of it.

20     BY MR. RAFI:

21     **Q.     It's my understanding from what you just**  
22     **told me, that that's the only instruction that**  
23     **employees must follow regarding motor vehicle**  
24     **operation or reporting accidents involving motor**  
25     **vehicles?**



1 MR. HARRISON: Objection to  
2 form.

3 BY MR. RAFI:

4 **Q. Is that true?**

5 MR. HARRISON: Same objection.

6 THE WITNESS: Yes. Okay.

7 BY MR. RAFI:

8 **Q. I will ask you about State laws. Do you**  
9 **have something else to say?**

10 A. I don't know State laws.

11 MR. HARRISON: Were you trying  
12 to explain something?

13 THE WITNESS: Yes, I was.

14 MR. HARRISON: Thought so.

15 THE WITNESS: They report with  
16 a driver's license, that is all part of  
17 the background. It's not my area. I  
18 am not required to train people how to  
19 drive vehicles.

20 BY MR. RAFI:

21 **Q. And I think this was -- I think I was going**  
22 **to sum up what you were about to say hopefully.**

23 **It's Roto-Rooter policy that you**  
24 **have to follow the rules of the road as per State**  
25 **law; is that safe to say?**

1 A. Yes.

2 Q. Are you involved with investigating driving  
3 backgrounds of perspective employees?

4 A. No.

5 Q. Are you involved with inspecting vehicle  
6 records while someone is an employee?

7 A. No.

8 Q. Who does those two things?

9 A. I don't know.

10 Q. To your knowledge, does Roto-Rooter check --  
11 does Roto-Rooter check on employees' driving  
12 records before hiring?

13 A. Yes.

14 Q. Do you do that after someone is hired at  
15 certain points?

16 A. Don't know.

17 Q. Do you know who would know that?

18 A. That would be Russ Garman, the hiring  
19 manager, or the Field Training Manager.

20 MR. HARRISON: Just out of  
21 clarification. It's been testified for  
22 a long time, you talked about MVRs that  
23 are pulled periodically on employees.  
24 I think that would be the correct  
25 answer.

1 MR. RAFI: Yeah, that's fine.

2 MR. HARRISON: Again, he  
3 testified a couple hours ago. If you  
4 want to clarify that, feel free. If  
5 not.

6 MR. RAFI: That is fine. I  
7 just need to understand that.

8 MR. HARRISON: Understood.

9 BY MR. RAFI:

10 **Q. Were you involved in the hiring of Daniel**  
11 **James?**

12 A. No.

13 **Q. Who was? Would that be Russ Garman?**

14 A. Yes.

15 **Q. When is the first time that you became**  
16 **acquainted with Mr. James?**

17 A. I am not sure.

18 **Q. Did you train him?**

19 A. I trained him in a classroom setting. Yes.

20 **Q. Is that typically when you first meet new**  
21 **employees?**

22 A. Not typically. Sometimes I meet them in  
23 the -- you know, while they are interviewing for  
24 the job, beforehand, during. But my first actual  
25 sit down with them is usually when they are,

1 first day in my class I get to know them  
2 somewhat, like any good teacher would.

3 **Q. Did Daniel James have any training prior to**  
4 **your training with him? Were you the first**  
5 **trainer?**

6 MR. HARRISON: With  
7 Roto-Rooter.

8 BY MR. RAFI:

9 **Q. With Roto-Rooter. And all my questions are**  
10 **limited to your interaction with him as per**  
11 **Roto-Rooter.**

12 A. Okay. I don't know what day he was actually  
13 hired on. I have particular days that I do  
14 in-house classroom training. Where I hold  
15 classroom training. He may have rode with his  
16 field trainer in the vehicle, okay. I do not  
17 know the answer.

18 **Q. Okay.**

19 A. So yes or no. It could be either way.

20 **Q. I understand exactly what you are saying.**

21 **What areas -- can you list for me**  
22 **what areas of training you trained him**  
23 **concerning?**

24 A. Phone usage.

25 **Q. What else?**

1 A. Documentation of invoicing. Invoices.  
2 Documentation of the job, coding out process.  
3 The coding as, we have the codes for different  
4 particular things we do. Parts and entry, safety  
5 and just general plumbing knowledge. But the  
6 main thing I teach is paperwork.

7 **Q. So paperwork is the focus of your training?**

8 A. That is a good portion of it. Yes, sir.

9 **Q. How much of your -- and what do you include**  
10 **in paperwork? What does that mean?**

11 A. Just what I said, invoice writing. Okay.

12 **Q. Coding?**

13 A. Coding out. All of these things that when  
14 they turn in the paperwork is correct. So I am  
15 responsible to make sure the paperwork -- they  
16 know the paperwork or when they go to turn in  
17 with the manager, which at that time being I  
18 wasn't turning people in, when they turn in their  
19 paperwork is in order so the manager can look at  
20 it, review it with the technician, turn it in and  
21 send him back out to the job.

22 **Q. You gave me six categories, phone usage,**  
23 **document invoicing, coding, parts safety and**  
24 **general plumbing knowledge. Is safety included**  
25 **in paperwork, the paperwork category you spoke**

1 **of, or focus?**

2 A. Yes.

3 **Q. So you consider safety paperwork?**

4 A. Part of it is, yes. Okay.

5 **Q. Other than safety paperwork, what else did**  
6 **you teach Mr. James?**

7 A. How to build a toilet, how to diagnose an  
8 electric water heater, how to take apart a faucet  
9 system and rebuild it, how to install toilets,  
10 how to install faucets.

11 **Q. And that is under safety?**

12 A. No.

13 **Q. I am sorry. Maybe my question wasn't clear.**  
14 **What things did you teach Mr. James**  
15 **that were under safety but not paperwork?**

16 A. Okay. Well, let me step back for a second.  
17 Any plumbing I teach when they are doing the job,  
18 to be safe in all steps of it of course. That is  
19 what -- that is safety, yes. Don't want to flood  
20 a house out, don't want to solder a pipe and burn  
21 your hands. You know, wear your safety glasses,  
22 wear your hearing protection doing the plumbing  
23 jobs. Yes, the plumbing part does involve safety  
24 and that is my -- one of my main concerns is to  
25 keep the employees safe while doing plumbing

1 because plumbing is a dangerous job.

2 **Q. Do you train -- did you train Mr. James in**  
3 **Roto-Rooter driver safety policy?**

4 A. He has -- he has read the policy, he has  
5 been given the driver's safety courses in 8-hour  
6 safety, and he was shown the Smith video. I did  
7 ride with him one day. All right? And he drove  
8 according to what I consider State policy, State  
9 laws. Now, what they do when I am not in their  
10 vehicle.

11 **Q. You said you trained him in driver safety.**  
12 **What does that mean? You said you gave him a**  
13 **driver safety course I believe.**

14 A. No, there is no driver safety course.

15 **Q. That is what I am confused about.**

16 A. No. I teach him 8-hour safety course and  
17 part of that is driver -- driver safety policy.  
18 Okay?

19 **Q. What kind of things do you cover in the**  
20 **driving safety portion of that 8-hour course?**

21 A. Accident reporting, stuff like that. There  
22 is actually no -- I don't get behind. I show  
23 them the video.

24 **Q. What video is that?**

25 A. The Smith video. That is the only video

1 available to me.

2 Q. Is the Smith video part of the 8-hour  
3 course?

4 A. No.

5 Q. But you do it during the 8-hour course?

6 A. Yes, I do.

7 Q. Is there anything besides the accident  
8 reporting POWERPoint and giving the Smith video,  
9 making the employee watch that, is there anything  
10 else that you do during the 8-hour training  
11 session related to driver safety?

12 A. No.

13 Q. You also do a ride along with the person?

14 A. Yes.

15 Q. And in this case you said you rode along  
16 with Mr. James --

17 A. Yes.

18 Q. -- for a day?

19 A. Yes.

20 Q. How long is a day, what are the shifts?

21 A. It can be four hours, eight hours, 10 hours,  
22 depending on what his shift and how long -- how  
23 long the jobs go. But part of that was not just  
24 riding along with him, part of that was making  
25 sure the paperwork was done right, how you greet



1 the customer, stuff like this. It's all part of  
2 my training.

3 MR. RAFI: Anybody need to  
4 take to a break? It feels like it's  
5 been a little while.

6 MR. HARRISON: It's been about  
7 another hour.

8 MS. DOBUR: I am good with  
9 keep going, but whatever.

10 (Whereupon, a discussion was  
11 held off the record.)

12 (Whereupon, proceedings were  
13 reconvened with all counsel and the  
14 witness present.)

15 BY MR. RAFI:

16 **Q. Mr. Boland, are you ready to continue?**

17 A. Yes.

18 **Q. I will ask the same questions I asked you  
19 before.**

20 **Did any you and your attorney talk  
21 about any of the questions that asked you?**

22 A. No.

23 **Q. Did you talk about any answers that you  
24 gave?**

25 A. No.

1 Q. We were talking about safety and before we  
2 jump back into it, let me ask you.

3 Who is Greg Faulkner?

4 A. Greg Faulkner is the CFT.

5 Q. He is another -- what is a CFT?

6 A. Certified Field Trainer.

7 Q. How many of those do you have in metro  
8 Atlanta?

9 A. I am not sure of the exact count.

10 Q. I will not hold you to this number, but are  
11 we talking single digits people, are we talking  
12 hundreds?

13 A. No. There is maybe 10.

14 Q. You were telling me what you and Mr. James  
15 did for training and I believe we had just  
16 covered the 8-hour safety program you do which  
17 covers a lot of different safety aspects,  
18 including accident reporting and watching the  
19 Smith video?

20 A. Yes, sir.

21 Q. Was that 8-hour safety class, is that the  
22 one day of training? The one day of classroom  
23 training?

24 A. It is not one day. It can be done in one  
25 day. At the time being I am not sure if it was a

1 one day course or it was the two day course.

2 They have changed it to a two day course.

3 **Q. It's my understanding that you trained Mr.**  
4 **James March 16th, 2012. Does that sound right to**  
5 **you?**

6 **A. Yes.**

7 **Q. I will hand you what has been premarked as**  
8 **Plaintiff's Exhibit 6. Deposition Exhibit 6.**

9 -----

10 (Whereupon, Plaintiff's  
11 Exhibit 6, Roto-Rooter Services  
12 Company, Safety Training Program  
13 Attendance Sheet, was marked for  
14 identification.)

15 -----

16 BY MR. RAFI:

17 **Q. This is a Safety Training Program Attendance**  
18 **Sheet 3/16/12.**

19 **A. Uh-huh.**

20 **Q. And this -- one of the days when or at least**  
21 **one of the days when Daniel James trained under**  
22 **you -- he is the third name on the list.**

23 **A. Yes.**

24 **Q. Do you remember if his training was**  
25 **completed in one day?**

1 A. This is the one day course, yes. This is  
2 the one day.

3 Q. So his training was completed in one day?

4 A. Yes.

5 Q. And when I say "training," I mean classroom  
6 training.

7 A. Safety.

8 Q. Safety training was done in one day?

9 A. Yes.

10 Q. Okay.

11 It says here that the topics  
12 covered, among the other ones, accident reporting  
13 like you told us and safe work practices.

14 A. Yes.

15 Q. Safe work practices includes motor vehicle  
16 training to some degree; is that right?

17 A. No. This is safe work practices in  
18 plumbing.

19 Q. Okay.

20 Accident reporting, that involves  
21 motor vehicles?

22 A. Yes.

23 Q. Do any of the other categories include  
24 anything to do with motor vehicle safety?

25 A. No.

1

-----

2

(Whereupon, Plaintiff's

3

Exhibit 7, Roto-Rooter Safety

4

Training &amp; Policy Review, was

5

marked for identification.)

6

-----

7

BY MR. RAFI:

8

**Q. This is Exhibit 7 and this is a Safety**

9

**Training and Policy Review. Are you familiar**

10

**with this document?**

11

A. Yes.

12

**Q. This is Daniel James' Safety Training and**

13

**Policy Review for March 16th, 2012, correct?**

14

A. Yes.

15

**Q. Whose handwriting is that on the page? Is**

16

**that yours?**

17

A. That would be -- that is not my handwriting.

18

No. That would probably be the Field Training

19

Manager.

20

**Q. Did you write your name George Boland on**

21

**this?**

22

A. He did that.

23

**Q. "He" being who?**

24

A. That would be Russ Garman.

25

**Q. So you think Russ Garman was the one who**

1     **filled out this form?**

2     A.     Yeah.  He sometimes fills them out and they  
3     are in there and they are given to the trainees  
4     while we are going through these processes.

5     **Q.     Do you have any reason to doubt that there**  
6     **is anything that is written incorrectly on this**  
7     **sheet?**

8     A.     No.

9     **Q.     Do you agree that everything is correctly**  
10    **written on this sheet?**

11    A.     Yes.

12    **Q.     So all the checkmarks next to the training,**  
13    **you agree that those were actually completed?  I**  
14    **assume checks marks means completed?**

15    A.     Yes, sir.

16    **Q.     Can you tell me what Driving Safety Policy**  
17    **#058 is?**

18                   MR. HARRISON:  It's right  
19                   here.

20                   THE WITNESS:  That is  
21                   Roto-Rooter's safety -- Driving Safety  
22                   Policy that they are given at the time  
23                   of new hire paperwork.  They have to  
24                   read it and sign off that they  
25                   understand our policy.

1 BY MR. RAFI:

2 **Q. Did you have to do that when you were first**  
3 **hired?**

4 A. Yes.

5 **Q. Are you familiar with that policy?**

6 A. Not word for word, but I am familiar with  
7 safe driving. Yes.

8 **Q. You are familiar with that policy that**  
9 **Roto-Rooter makes?**

10 A. Yes, and I have read the policy to the  
11 technicians, all right, as part of this. I read  
12 all these policies to the technicians just to  
13 make sure that they didn't just look at it and  
14 sign off on it.

15 **Q. Are Roto-Rooter numbered policies, are they**  
16 **contained in a Roto-Rooter employee handbook or**  
17 **are they separate?**

18 A. They are part of their service record.

19 **Q. What do you mean by that?**

20 A. The new hire paperwork.

21 MR. HARRISON: I am not sure  
22 -- I think I know what you are asking.

23 MR. RAFI: I am asking if I  
24 have this policy number, whatever it  
25 is.

1 THE WITNESS: I don't know if  
2 you do or not.

3 MR. HARRISON: 58?

4 MR. RAFI: Yes.

5 MR. HARRISON: I think you do.  
6 I think that was produced to you. I  
7 don't have all my production in front  
8 of me.

9 MR. RAFI: What I am looking  
10 at is a lot of the Roto-Rooter handbook  
11 will say, see Roto Rooter Service  
12 Company policies manual and give  
13 additional policies and see, which  
14 seems to indicate they are somewhere  
15 else. They are probably included in a  
16 policy book or something.

17 MR. HARRISON: Yeah. I think  
18 we -- I think we gave you 58. I don't  
19 know about those other numbers.

20 MR. RAFI: I have the  
21 acknowledgment form, I have the new  
22 hire checklist, I have the rules and  
23 regulations and conduct. I am not -- I  
24 don't believe that I have it or got it.  
25 That is my concern here. If we don't,



1 is that something that you all can send  
2 us? I have the drive safety policy.

3 Is that Policy # --

4 MR. HARRISON: Flip over.

5 MR. RAFI: -- 56?

6 MR. HARRISON: I don't see a  
7 number, but it refers --

8 THE WITNESS: That is 58  
9 Driving Safety Policy.

10 MR. HARRISON: You hold on  
11 just a second. Let us do this. That  
12 refers 58. So that may be a separate  
13 document. I can go look now and try to  
14 figure out everything I produced or I  
15 can do it later.

16 MR. RAFI: I think this is  
17 very important. I don't mean to stop,  
18 but I think this is something we need  
19 to have if it's out there. If it's out  
20 there for us to bring in the room right  
21 now.

22 MR. HARRISON: Yeah, yeah.  
23 Absolutely. Let's see here. Let me  
24 just -- give me just a minute and I  
25 will check.

1                   (Whereupon, a discussion was  
2                   held off the record.)

3                   (Whereupon, proceedings were  
4                   reconvened with all counsel and the  
5                   witness present.)

6                   -----  
7                   (Whereupon, Plaintiff's  
8                   Exhibit 8, Roto-Rooter Services  
9                   Company Policy and Procedure  
10                  Manual, was marked for  
11                  identification.)

12                  -----

13 BY MR. RAFI:

14 **Q.     Mr. Boland, we are continuing. We were**  
15 **talking about Policy #58. I asked you if you**  
16 **were familiar with that policy, you told me you**  
17 **were, not word for word, but you were familiar**  
18 **with it?**

19 A.     Yes, I am.

20 **Q.     I don't believe we have Policy #58, but can**  
21 **you tell me generally what it says? Maybe the**  
22 **areas that instructs or provides guidance**  
23 **regarding.**

24 A.     Yeah. You have to follow the rules of the  
25 rode by State law, Federal law. Just, you know,

1     courtesy driving, you know, stuff like that.

2     Just general road -- you know -- you know, you  
3     have -- they have a State issued driver's license  
4     and they must obey the law.

5     **Q.     If you were to see Policy 58, would you be  
6     able to identify it?**

7     A.     Yes.

8     **Q.     I am going to hand you what has been marked  
9     as Exhibit 8. That has been told to me it's  
10    Policy 56.**

11    A.     Yes. Says substates.

12    **Q.     Is this the form that Policy 58 would have  
13    looked like?**

14    A.     Yes, sir.

15    **Q.     Are all the policies that you know of  
16    formatted in such a way with this heading and  
17    then looks to be a word document or a text below  
18    it?**

19    A.     Yes.

20    **Q.     And on each additional page that heading  
21    remains. Is that standard of all policy numbers?**

22    A.     My understanding, yes.

23    **Q.     And this is what Policy 058 looks like?**

24                           MR. HARRISON: The form.

25    BY MR. RAFI:

1     **Q.     What I mean by the format. We are just**  
2     **trying to identify.**

3                     MR. HARRISON: As far as you  
4     know.

5                     THE WITNESS: As far as I  
6     know, yes, sir.

7     BY MR. RAFI:

8     **Q.     When is the last time you looked at Policy**  
9     **#58?**

10    A.     Last time I looked at it, I read it about a  
11    month ago to the technician. But, I am sorry,  
12    what I did yesterday, I don't remember sometimes.  
13    I go through this all the time but I just kind of  
14    phase it out.

15    **Q.     Does your memory affect any of the answers**  
16    **or the ability to answer any of my questions**  
17    **today?**

18    A.     No. Just that actual -- you know, `the  
19    wording and stuff like that, you know, names and  
20    things and stuff like that, no, but I have a real  
21    good memory on incidences and occurrences and  
22    stuff like that. But if you put it in front of  
23    me, it's not a problem.

24    **Q.     And if your memory does -- and if your**  
25    **memory does affect any of the answers to my**

1 questions, will you make sure to tell me that you  
2 feel like your memory is playing a role or  
3 contributing as to why you are not able to fully  
4 answer my question?

5 A. Yes, sir.

6 Q. And if you do answer my question, I will  
7 assume that you don't have a problem with your  
8 memory; is that fair?

9 A. Uh-huh.

10 Q. Is that a yes?

11 A. Yes.

12 Q. You're not involved in the hiring and I know  
13 I've asked you that, but I want to make sure  
14 before I move on to this document. You are not  
15 involved in hiring or screening candidates?

16 A. No.

17 Q. Are you responsible in any way with Policy  
18 #056?

19 A. No. Am I allowed to ask him questions?

20 Q. No.

21 MR. HARRISON: No.

22 THE WITNESS: I just wanted to  
23 re-go over this that you asked me  
24 earlier.

25 BY MR. RAFI:

1     **Q.     Okay. Tell me what -- you're pointing to**  
2     **Exhibit 7.**

3     A.     Exhibit 7. I am looking at the handwriting  
4     here and where the technician signed his name.  
5     Looks like Daniel may have filled this out, not  
6     Russ. Russ does help me, but Daniel filled that  
7     in, which they do that. I hand it to them and  
8     they fill them out.

9     **Q.     That is something I like to know and thank**  
10    **you very much.**

11    A.     All right. But it looks like Daniel's hand  
12    writing or what he signed here because they fill  
13    this out, too.

14    **Q.     Okay.**

15    A.     I may have misquoted that. Misstated that  
16    one, you know.

17    **Q.     That is no worries.**

18    A.     Russ does help me with the paperwork because  
19    he is better at it than I am.

20    **Q.     Let's talk about accident reporting. Well,**  
21    **before we get there.**

22                    **You said you did the ride along --**

23    A.     Yes.

24    **Q.     -- with Mr. Daniels. Are you sure of that?**

25    A.     I ride along with a lot of people. I do --

1 I ride along with a lot of people.

2 **Q. Do multiple --**

3 A. Multiple.

4 **Q. -- CFTs do ride alongs with the same**  
5 **employee?**

6 A. Yes. They have been known to do -- broaden  
7 their -- their experience of different jobs.

8 Some do -- some are specialized in commercial  
9 plumbing, residential plumbing, sewer and drain  
10 work or selling of the job. We try to give them  
11 an idea of all we encompass with different CFTs.

12 No, I am talking about I got in the van and rode  
13 with him one day, just to sit down talk with him,  
14 see how things were going, make sure he is  
15 comfortable.

16 **Q. And you said paperwork is a large part of**  
17 **what you do, correct?**

18 A. Yes.

19 **Q. And you have to document the training that**  
20 **you give to Roto-Rooter employees?**

21 A. Yes.

22 **Q. Like Exhibit 7, or you do the checklist and**  
23 **say we gave them everything and it was there?**

24 A. Yes.

25 **Q. When you do a ride along, you do a form,**

1     **correct?**

2     A.     That was just me getting in the van and  
3     riding with him. I just -- there was no form  
4     involved in that.

5     **Q.     Are you familiar with the CFT Test Ride  
6     Evaluation Form?**

7     A.     Yes. I have done those.

8     **Q.     Do you do them every time?**

9     A.     When I was a trainer, CFT, I did those. My  
10    current job, no.

11    **Q.     Do you know what the policy is about when a  
12    CFT Test Ride Evaluation should be done?**

13    A.     It is before hiring.

14    **Q.     Okay.**

15                    **Every time that someone does a ride  
16    along, should there be a completed form?**

17    A.     My understanding that it is policy. Yes,  
18    sir.

19    **Q.     But when you did your ride along, you didn't  
20    complete a form?**

21    A.     I wasn't a CFT doing the job. I was riding  
22    along as a plumber, helping another technician.  
23    I wasn't in my -- it was -- I get into -- I  
24    spread my services out. If I have a day  
25    available, I ride with the technician to give



1    them the benefit of 12 years' experience.

2    **Q.     I will hand you --**

3                   MR. RAFI:   An additional  
4                   exhibit sticker on this one, Page 2,  
5                   just because I put one on already.  
6                   Blank.  I only did one copy because  
7                   it's large.

8                   MR. HARRISON:  This is all one  
9                   document?

10                  MR. RAFI:  Yes.

11                  MR. HARRISON:  Okay.  Do you  
12                  want to just look through that,  
13                  familiarize yourself.

14                                    -----  
15                                    (Whereupon, Plaintiff's  
16                                    Exhibit 9, CFT Test Ride Evaluation  
17                                    Form, was marked for  
18                                    identification.)

19                                    -----

20    BY MR. RAFI:

21    **Q.     Mr. Boland, I just handed you Plaintiff's**  
22    **Exhibit 9 which is some documents that came out**  
23    **of the personnel file of Daniel James and were**  
24    **produced to us by your attorney.  Take a look at**  
25    **all those and look back up at me when you are**

1     **done.**

2     A.     (Witness reviews document.) Okay. I know  
3     all these forms. Most of them.

4     **Q.     It's a number of forms that are stapled**  
5     **together.**

6                     MR. RAFI: We can call it  
7     compiled Exhibit 9 or just Exhibit 9.

8                     MR. HARRISON: Go ahead.

9                     MR. RAFI: I will direct him  
10    on the page when you are ready.

11                    MR. HARRISON: Sure.

12    BY MR. RAFI:

13    **Q.     On the first page, this is the CFT test ride**  
14    **along evaluation form we were just talking about?**

15    A.     Yes.

16    **Q.     And of this exhibit, it is Page 1 and Page 2**  
17    **of the first two pages.**

18    A.     Yes.

19    **Q.     In the first box it says, the Certified**  
20    **Field Train, CFT, should complete this form after**  
21    **completion of a test drive with the candidate for**  
22    **employment and should not be prepared -- or,**  
23    **excuse me, should not be completed in the**  
24    **presence of the candidate. All feedback should**  
25    **be based upon observation of the candidate,**

1 behaviors and/or discussions during the test  
2 ride.

3 A. Yes.

4 Q. So you do a test ride, you complete the  
5 form, you don't do -- you go with the person that  
6 you just rode with and you are supposed to record  
7 everything. Is that the basic?

8 A. Yes.

9 Q. Is that what you did when you were a CFT?

10 A. No, but I did. Yes, I did do it. And this  
11 was prior to being hired.

12 Q. Okay. Yeah. It says in here, a candidate.  
13 "With a candidate for employment."

14 A. Yes.

15 Q. This is Greg Faulkner, this document shows  
16 that he was the CFT who did a ride along?

17 A. Yes, sir.

18 Q. Do you have any idea why this form was even  
19 completed?

20 A. No, I do not.

21 Q. The next document, Page 1 and 2 again. This  
22 is a structured interview guide, and I am  
23 referring to Page 3 and 4 of Exhibit 9. This is  
24 a Service Technician Structured Interview Guide.

25 A. Uh-huh.

1 Q. Russ Garman, looks like he was the field  
2 trainer who did this interview.

3 A. Yes.

4 Q. It has a date of 2/17/12 maybe --

5 A. Looks that way.

6 Q. Somewhere in February of 2012.

7 A. Uh-huh.

8 Q. This isn't completed either; is that  
9 correct?

10 A. Looks that way.

11 Q. The next document which is contained in  
12 Exhibit 9, Pages 5 and 6, this is a Service  
13 Technician Structured Interview Guide, another  
14 one. This is later in February of 2012,  
15 2/20/2012. This was completed by Keith Austin,  
16 the general manager of the Atlanta location.

17 A. Yes.

18 Q. And when I say completed, he filled out the  
19 top and it's not completed anywhere else; is that  
20 right?

21 A. Not that I see. No.

22 Q. Do you have any idea why this isn't  
23 completed?

24 A. No.

25 Q. Ultimately, all of these documents are

1     **training forms that Roto-Rooter uses when**  
2     **training employees; is that right?**

3     A.     These are not training forms.

4     **Q.     These are evaluation forms --**

5     A.     These are interview forms.

6     **Q.     These are interview forms.  The Test Ride**  
7     **Evaluation Form is an interview form?**

8     A.     It's an interview, yes.  It is an interview.

9     **Q.     Who is it an interview of?**

10    A.     The train -- the potential candidate to be  
11    hired.

12    **Q.     And these are important for evaluating a**  
13    **candidate?**

14    A.     Yes.  For hiring.

15    **Q.     And it's important to, as the first page**  
16    **says, it is positive to provide all feedback so**  
17    **that you can accurately and appropriately**  
18    **evaluate a candidate and decide if they should**  
19    **work for Roto-Rooter?**

20    A.     Yes.

21    **Q.     Okay.**

22                    **If you flip from the back, the**  
23    **fourth page from the end.  It says Page 3 at the**  
24    **bottom and August 29th, 2005.  Whose signature is**  
25    **that as Field Training Manager?  Is that Russ**

1 **Garman?**

2 A. I don't see it.

3 **Q. Just the form date. Is that Russ Garman?**

4 A. That is Russ Garman. Yes.

5 **Q. And he also signed the last page, which is a**  
6 **monthly progress report?**

7 MR. HARRISON: The very last  
8 page of the exhibit?

9 MR. RAFI: Yes, sir.

10 THE WITNESS: Yes. Looks like  
11 his signature.

12 BY MR. RAFI:

13 **Q. Mr. Boland, I appreciate you waiting for a**  
14 **second while we get this squared away.**

15 A. No problem.

16 **Q. I want to talk to you now about the Driving**  
17 **Safety Policy.**

18 -----  
19 (Whereupon, Plaintiff's  
20 Exhibit 10, Driving Safety Policy,  
21 was marked for identification.)

22 -----

23 BY MR. RAFI:

24 **Q. I just handed you Plaintiff's Exhibit 10.**

25 MR. HARRISON: I am sorry. It

1           hasn't been marked.

2                       MR. RAFI: I actually -- I  
3           outsmarted myself in marking things.

4 BY MR. RAFI:

5 **Q. This is the Roto-Rooter Employee Handbook.**  
6 **It's from the handbook and it's the Driving**  
7 **Safety Policy as revised on February 1st, 2012.**  
8 **Is that what Exhibit 10 is, Mr. Boland?**

9 A. Yes. This is out of the handbook. I can  
10 tell.

11 **Q. You can actually see --**

12 A. It's out of the handbook. This is the --  
13 what is printed for the technician when they get  
14 the handbook.

15 **Q. To your knowledge, was this the appropriate**  
16 **Driving Safety Policy that was applicable when**  
17 **Mr. James was being trained and when he worked at**  
18 **Roto-Rooter? Have there been any new revisions**  
19 **is really my question, that happened?**

20 A. If there has been a revision, I don't know.  
21 I don't --

22 **Q. We will assume for the time being that this**  
23 **is the applicable policy since the lawyers gave**  
24 **this to us and let's operate under that**  
25 **assumption.**

1                   **And you're familiar with this**  
2                   **document?**

3           A.       I have seen it and I have read my own and I  
4           signed my own acknowledgment.  But normally what  
5           I do is, I will read off of -- what I can print  
6           down off my web page as the actual policy or the  
7           -- I don't actually do -- I don't use the  
8           handbooks.  The handbooks are issued by another  
9           department.

10          **Q.       So you don't use the handbook, the**  
11          **Roto-Rooter handbook in your training?**

12         A.       That is this technicians, that is given to  
13         them by the Field Training Manager and that is  
14         their copy available.  As to the headers and all  
15         that stuff.

16          **Q.       Okay.**

17                   **So this is not part of your**  
18                   **training, this Driving Safety Policy from the**  
19                   **handbook?**

20         A.       No.  No, I don't read that.  I don't teach  
21         out of the handbook.  That is their guide, that  
22         is their hands on if they want to review which is  
23         now -- you know, they are given that book and  
24         they sign for the book.

25          **Q.       So you say trainees and employees are given**



1 a handbook, they have to sign and acknowledgment  
2 it, and I will show you Mr. James' acknowledgment  
3 form. But you will agree with me that they are  
4 required, they being Roto-Rooter employees, are  
5 required to follow the Drivers Safety Policy that  
6 you have in front of you?

7 A. Yes, sir.

8 Q. And you're required to follow it as you  
9 mentioned?

10 A. Yes, sir.

11 Q. Do you see where it says driving record  
12 requirements?

13 A. Yes, sir.

14 Q. It says, "As each state assigns points  
15 differently," meaning moving violations points,  
16 "Roto-Rooter will use its own point system to  
17 determine an employee's eligibility to drive."  
18 Do you see that?

19 A. Yes.

20 Q. And that is true from the time of hiring all  
21 the way through someone's employment?

22 A. Yes.

23 Q. And below it are the minor and major  
24 violations that the point assignments are?

25 A. Okay. Yes.

1 Q. I asked you earlier about minor violations  
2 and two points and I don't think you knew what it  
3 meant, right?

4 A. Cause I never got them.

5 Q. Cause you never got them.

6 And then on the second page there  
7 is major violations in addition to the minor  
8 violations, right?

9 A. Okay.

10 Q. And those are just violations that are,  
11 let's say, more serious than the minor  
12 violations?

13 A. Yes, sir. I assume that. Yes, sir.

14 Q. What I want to ask you about is, under this  
15 policy, if someone was to leave their vehicle in  
16 the middle of the road and another person was to  
17 hit that vehicle, under this policy it seems that  
18 if the Roto-Rooter employee left his vehicle in  
19 the road, is determined to be at fault, he would  
20 get a two point minor violation on Page 1?

21 MR. HARRISON: Object to the  
22 form.

23 THE WITNESS: I can't answer  
24 that.

25 BY MR. RAFI:

1 Q. Okay.

2 If there was an out fault accident  
3 involving a Roto-Rooter employee, he would be  
4 assigned two points for a minor violation  
5 according to the Driving Safety Policy?

6 A. I see it. Okay.

7 MR. HARRISON: You need to  
8 answer that.

9 THE WITNESS: At fault  
10 accident. Okay, I see it now.

11 BY MR. RAFI:

12 Q. So you agree that a Roto-Rooter employee who  
13 gets an at fault accident would get a minor  
14 violation of two points?

15 A. That is what it says here. Yes, sir.

16 Q. And now on the next page are major  
17 violations. Under the second bullet point, "A  
18 negligent homicide arising out of the use of a  
19 motor vehicle is a major violation of six  
20 points."

21 A. Yes.

22 Q. Would you agree with me that someone can be  
23 -- strike that. Okay.

24 Mr. Boland, are you familiar with a  
25 green hiring and training folder?

1 A. Yes.

2 Q. It's a service technician green hiring and  
3 training folder?

4 A. Yes.

5 Q. Tell me about it.

6 A. Anything dealing with training goes in that  
7 folder as the training folder.

8 Q. Is that training folder also referred to as  
9 "a personnel file"?

10 A. No.

11 Q. So the personnel file is different than a  
12 green hiring and training folder?

13 A. Yes.

14 Q. Who is possible responsible for the service  
15 technician green hiring and training folder?

16 A. The Field Training Manager.

17 Q. Who is that?

18 A. Mr. Garman.

19 Q. He is responsible with making sure documents  
20 get in the green folder?

21 A. Yes.

22 Q. Would some documents be in the green  
23 training folder and also in a personnel file, do  
24 you know?

25 A. No.

1     **Q.     No.**

2     A.     But they will be in together when sent off  
3     to corporate.

4     **Q.     Okay.**

5     A.     As far as I know.

6

-----

7                   (Whereupon, Plaintiff's  
8     Exhibit 11, Service Technician  
9     Green Hiring and Training Folder,  
10    was marked for identification.)

11

-----

12    BY MR. RAFI:

13    **Q.     Okay.**

14                   **Here is Exhibit 11, which is the**  
15    **Service Technician Green Hiring and Training**  
16    **Folder. It's a document that says that at the**  
17    **top. It says last revised on the bottom March**  
18    **16th, 2013.**

19    A.     Yes.

20    **Q.     This says that a green manila folder is**  
21    **basically kept for every service technician.**

22    A.     Yes.

23    **Q.     And it includes all the things that are**  
24    **bullet points down the list.**

25    A.     This is the checklist that is supposed to be

1 in there, yes.

2 Q. And that includes signed record of trainee  
3 issued safety equipment.

4 A. Yes.

5 Q. Signed copy -- excuse me. "Copies of all  
6 signed rosters including attendance at Safety  
7 Training sessions."

8 A. Yes.

9 Q. We have seen one of those earlier.

10 A. Yeah.

11 Q. And "Copies of certificates of completion  
12 for training sessions conducted inside or outside  
13 of Roto-Rooter."

14 A. Yes.

15 Q. What outside training regarding safety, if  
16 any, driving motor vehicle safety, if any, is  
17 available to employees?

18 A. None.

19 Q. Now, it says in the last paragraph, last  
20 sentence of the first paragraph, "If an employee  
21 leaves the company before completion of one year,  
22 the file should be sent to the Home Office with  
23 the personnel file," and that is what you were  
24 referencing earlier, right?

25 A. Yes.

1 Q. They get combined and they get sent off?

2 A. Yes.

3 Q. Thank you very much.

4 -----

5 (Whereupon, Plaintiff's

6 Exhibit 13, RRSC Service

7 Technician's Regulations, Rules of

8 Conduct & Liabilities (230G), was

9 marked for identification.)

10 -----

11 BY MR. RAFI:

12 Q. I am handing you Exhibit 12, which is the

13 Driving Safety Policy Acknowledgment Form of

14 Daniel James.

15 A. Uh-huh.

16 Q. He signed this on March 2nd, 2012 and he

17 understands that he has a responsibility to

18 maintain a good driving record and that a driving

19 record will be used to determine his eligibility

20 -- his employment eligibility?

21 A. Yes.

22 Q. And you signed this same form at some point,

23 right?

24 A. That's right.

25 Q. All employees do?

1 A. Uh-huh.

2 Q. I am dumping all these documents on you and  
3 Mr. Austin will have it a little bit easier, not  
4 to go through this process. But this is Exhibit  
5 13 and this is the RRSC Service Technician's  
6 Regulations, Rules of Conduct and Liability. In  
7 parenthesis 230G.

8 Are you familiar with this  
9 document?

10 A. Yes.

11 Q. How are you familiar with it?

12 A. All service technicians have to sign it.  
13 This is sort of a noncompete and general rules of  
14 Roto-Rooter, you know, for gainful employment.

15 Q. I noticed this is Page 1 of 2. Do you see  
16 that down at the bottom right corner?

17 A. Yes.

18 Q. Do you know what the second page looks like  
19 or what --

20 A. No, I do not. I am not sure.

21 Q. Let me point you to Point #6. You have to  
22 maintain your van according to the van standards.

23 A. Yes.

24 Q. What are "van standards"?

25 A. If you have a safety checklist, those are



1 the van standards.

2 **Q. What does a safety checklist look like?**

3 A. I thought it was forwarded to you from  
4 corporate --

5 **Q. Have you seen it today so far?**

6 A. No, I haven't seen it today. No.

7 **Q. So there is a van standard. What is in that**  
8 **document?**

9 A. At this time, there was a written -- there  
10 was a piece of paper that you filled out that you  
11 had to run by to check.

12 **Q. When you say "at this time," what do you**  
13 **mean by that?**

14 A. Now we use a computer program.

15 **Q. What were you using in March of 2012 and**  
16 **during Mr. James' employment?**

17 A. Paper.

18 **Q. Can you just tell me about the van**  
19 **standards? What are some things that an employee**  
20 **has to do in van standards, maintaining --**

21 A. You have to be clean, neat in appearance,  
22 trash on the dash, stuff like that. You know,  
23 setting your appearance. They are to -- we are  
24 to check the tires, make sure that they have  
25 tread on the tires, look at them, there is no

1 wear spots, stuff like that. The general  
2 appearance on the outside, no major damages, no  
3 inappropriate logos, stuff like that. Then they  
4 are to crank them up, make sure that the lights  
5 work, turn signals, emergency hazards, all that  
6 stuff. All right? They have a barrier between  
7 the driving compartment and the cargo  
8 compartment.

9 **Q. Behind them?**

10 A. A headache rack. What we call a headache  
11 rack. To check to see if they are leaking oil  
12 because we do not want them to driving onto a  
13 customer's driveway and leak oil because then it  
14 becomes a damage claim. Make sure that they have  
15 a spare tie and a jack. And then there are  
16 neatness -- you know, the van is neat and  
17 organized inside. There is nothing that is  
18 sharp, readily accessible. You know, reach in,  
19 there is a knife sticking out, you can slice your  
20 hand, you know, stuff like this. Fire  
21 extinguisher and it is properly charged. There  
22 is a winch on their truck to haul the sewer  
23 machine in with because it weighs 300 pounds, get  
24 their backs. There is just a whole list of  
25 things, also including they have their PPE.

1 Q. What is a PPE?

2 A. Personal Protection Equipment.

3 Q. And what is included in the PPE?

4 A. There is a whole list of them. When they  
5 are trainees, they get safety glasses, hearing  
6 protection, dust mask, a safety vest, a hard hat,  
7 rubber -- I mean nitrile gloves and leather  
8 gloves.

9 Q. Is there anything in the PP -- that is given  
10 as part of the PPE that is related to motor  
11 vehicle safety?

12 A. No. This is personal protective, that is  
13 why it is PPE, Personal Protective Equipment.

14 Q. And none of that will be used when operating  
15 a motor vehicle, that PPEs is used otherwise?

16 A. You are absolutely right.

17 Q. All right.

18 So you gave me a list of things  
19 that are required of a van that is operating  
20 under the Roto-Rooter name and in service during  
21 worker hours. That is what you just gave me,  
22 right?

23 A. Uh-huh.

24 MR. HARRISON: Yes?

25 THE WITNESS: Yes.

1 BY MR. RAFI:

2 **Q. That is the first time.**

3 A. Yes.

4 **Q. If it's not clean or neat or the appearance**  
5 **isn't proper, appropriate, what happens?**

6 A. I tell them clean it up.

7 **Q. If a driver doesn't have good tires, whether**  
8 **it is low air pressure or poor tread, what**  
9 **happens then?**

10 A. Depends on the severity of it and I use a --  
11 it's a penny test. If it's bad enough, we take  
12 them off the road until they get it fixed. If  
13 it's marginal, I give them 10 days or so, I will  
14 reinspect within 10 to 30 days, all right.  
15 Now -- and stuff like that, you know.

16 **Q. Is that the same true with lights? If**  
17 **lights on the vehicle don't work, you take them**  
18 **off the road?**

19 A. Yes.

20 **Q. Is there any 10 day grace period for --**  
21 **concerning lights?**

22 A. Not for headlights, no. Your headlights,  
23 no. If they can't see at nighttime -- no, there  
24 are -- you know, if it's a blinker, I tell them  
25 go get it right now. I put it in and I verify

1 that they did it.

2 **Q. If a driver said I can't get my blinker**  
3 **today but I can do it in 10 days, what would you**  
4 **tell them?**

5 A. If it's a blinker, I've never had that issue  
6 so I really can't say. Normally they go get it  
7 fixed.

8 **Q. Would you feel comfortable with a driver**  
9 **being on the road if their blinker does not work**  
10 **for a period of nine days?**

11 A. Like I said, I never experienced it. As my  
12 personal feeling, I would say no. My personal  
13 feeling.

14 **Q. As a Roto-Rooter management manager, I keep**  
15 **saying manager -- as a Roto-Rooter employee**  
16 **responsible for training and vehicle maintenance,**  
17 **would you be okay with a driver driving a**  
18 **Roto-Rooter van for nine days without a blinker?**

19 MR. HARRISON: Objection to  
20 the form.

21 THE WITNESS: It's not a  
22 Roto-Rooter van.

23 BY MR. RAFI:

24 **Q. You have Roto-Rooter vans.**

25 A. No, we don't.

1 Q. You don't have any company owned Roto-Rooter  
2 van?

3 A. No.

4 Q. When I say a Roto-Rooter van, I mean a van  
5 with the logo on the outside.

6 A. It's their personal van.

7 Q. Would you be comfortable with a driver  
8 driving for nine days without a blinker?

9 A. Me personally, no.

10 Q. I am not asking personally. I am asking you  
11 as with your role as Roto-Rooter, would you ever  
12 would you feel comfortable?

13 A. I report it to management.

14 Q. If you knew that person was going to wait  
15 for nine days, would you tell them not to drive?

16 A. I myself, yes. I would say go fix it now.

17 Q. Is the same true for brake lights?

18 A. Yes.

19 Q. Meaning that you would tell them to go fix  
20 it right now?

21 A. Go fix it. Go get the lights and put it in.

22 Q. And you would not feel comfortable with a  
23 Roto-Rooter van on the road if it did not have  
24 proper brake lights?

25 A. You're absolutely right.

1     **Q.     Same with hazards?**

2     A.     Yes.

3     **Q.     Same if it was leaking oil?**

4     A.     Leaking oil, we tell them don't drive in the  
5     driveway. You know, depends on -- if it's a  
6     major leak, yes, but all vehicles leak. If it  
7     leaks, go get it fixed. We do give grace periods  
8     on leaking oil, cannot drive on the customer's  
9     property.

10    **Q.     So if it's a minor leak, you tell them don't  
11    park in the drive or somewhere else?**

12    A.     Park on the road.

13    **Q.     Excuse me. I meant road. Park on the road  
14    somewhere else and get it fixed?**

15    A.     Yeah. And this is a residential home, that  
16    you can park on the side streets and stuff like  
17    that.

18    **Q.     What if the employee doesn't have his PPE,  
19    Personal Protection Equipment?**

20    A.     I reissue it to them.

21    **Q.     Does he have to pay for that?**

22    A.     No. It's free.

23    **Q.     What happens if an employee is found not  
24    having his PPE on him?**

25    A.     On the job site?

1     **Q.     Yes.   While he is working.**

2     A.     It depends on -- usually it's verbal  
3     counseling, it gets written down and then if it's  
4     -- we see a habit of it then they get written up  
5     for it.

6     **Q.     What is -- what is Roto-Rooter's Hazard**  
7     **Communication Policy?  Do you know what that**  
8     **means?**

9     A.     Hazard policy is chemicals.

10    **Q.     So it has nothing to do when you are in a**  
11    **dangerous or hazardous condition on a roadway?**

12    A.     No.  Hazardous communication is  
13    communicating about chemicals.

14    **Q.     Can you tell me what the Safety Meetings**  
15    **Policy is?**

16    A.     Safety meetings is once a month, we have a  
17    general meeting with all technicians.  They are  
18    required to show and part of the general  
19    dissemination of information by the branch  
20    management, there is -- at the very beginning a  
21    safety review of different topics that we get on  
22    a month -- we give on a monthly basis, different  
23    topics and there is no set scale as to when those  
24    topics are given.

25    **Q.     What is the Coaching the Van Driver Safety**



1     **Training?**

2     A.     That is -- that was a video a long time ago.  
3     It was a VHS video a long time ago before my  
4     time.  So I don't know anything about that.  I  
5     don't know if anybody has that video anymore.  It  
6     was a VHS video.

7     **Q.     I am looking at Policy #056 which --**

8                     MR. HARRISON:  Can we go off  
9     for just one second?

10                    (Whereupon, a discussion was  
11     held off the record.)

12                    (Whereupon, proceedings were  
13     reconvened with all counsel and the  
14     witness present.)

15     BY MR. RAFI:

16     **Q.     Mr. Boland, forgive me.  We have to**  
17     **backtrack for one second.  I just wonder if this**  
18     **policy is the Vehicle Accident Prevention**  
19     **Program, that is document 8.  So let's look at**  
20     **that a little bit more closely.**

21                    **You said you were familiar with**  
22     **this policy?**

23     A.     Yes.  I have reviewed it as to what -- I am  
24     familiar with a lot of policies but, you know, if  
25     I have to -- if I need to talk about it, I

1 usually have it in front of me so I can read from  
2 it.

3 Q. You agree safety policies are very  
4 important?

5 A. Yes.

6 Q. You have to protect the public at large?

7 A. Uh-huh.

8 Q. You have to protect your employees?

9 A. You are absolutely right, sir.

10 Q. Would you agree with me that the most  
11 important policies that a company have are safety  
12 policies?

13 A. Yes, sir.

14 Q. I want you to go to Page 2 of this document.

15 A. Okay.

16 Q. You would agree this is a safety policy,  
17 there is no disagreement there, right? It says  
18 up at the top left section "safety"?

19 A. Yes.

20 Q. Where it says in bold, "Driver Training -  
21 Each Branch will be responsible for training all  
22 new employee drivers and providing periodic  
23 safety training." Then says, "All new employee  
24 drivers will be required to complete the Coaching  
25 the Van Driver Safety Training." And you say

1 that doesn't exist anymore?

2 A. I have not done this one. No.

3 Q. Have you ever done the Coaching the Van  
4 Driver Safety Training?

5 A. No.

6 Q. What I mean by that --

7 A. In the last three years I have been a Safety  
8 Manager, no.

9 Q. When you -- before you were Safety Manager,  
10 did you ever have any interaction with that  
11 video?

12 A. Not that I recall. I don't know.

13 Q. But since you have been training, you have  
14 not?

15 A. Used this video?

16 Q. Used the Coaching the Van Driver Safety  
17 video?

18 A. No. I used the Smith DVD because it's what  
19 I had available.

20 Q. Do you know if the Coaching the Van Driver  
21 Safety Training video is available to you?

22 A. No.

23 Q. Have you ever asked for it?

24 A. The -- when -- I have asked the Safety  
25 Manager, the Corporate Manager and it's not a

1 video that anybody has anymore is what I have  
2 been told, but that's what he's told me.

3 **Q. Is that Mr. Tinsley?**

4 A. Mr. Tinsley. And whether or not -- I don't  
5 know if this has been updated since. I am  
6 assuming this is the latest update.

7 **Q. And the next page, Page 3 of this document**  
8 **has Vehicle Inspection and it's actually what we**  
9 **were just talking about.**

10 A. Yes.

11 **Q. You have to do a daily quarterly inspection.**  
12 **Daily and quarterly, one and two?**

13 A. Well, no. That is employees now.

14 MR. HARRISON: Yeah.

15 THE WITNESS: Employee does a  
16 daily walk through.

17 BY MR. RAFI:

18 **Q. The employee has to do a daily walk ground**  
19 **inspection of their vehicle. Make sure it's road**  
20 **worthy.**

21 A. Yes.

22 **Q. If that's not it, tell me. I am assuming.**

23 A. I am assuming it happens, yes.

24 **Q. But they are supposed to do it, we know**  
25 **that. We know they are supposed to do that, that**

1     **daily inspection. Quarterly you are supposed to**  
2     **do a safety -- excuse me, a quarterly. "The**  
3     **vehicles are supposed to be inspected by safety**  
4     **or general manager to ensure that they are in**  
5     **good working condition." Did I read that**  
6     **correctly?**

7     A.     Yeah. That's what it says here.

8     **Q.     Does Roto Rooter Services Company, the metro**  
9     **Atlanta branch, follow that policy?**

10    A.     They do now. Currently, yes. As to when --

11    **Q.     At any point did you all do six month,**  
12    **meaning semiannually inspections?**

13    A.     Yes. I did do six months. It was -- I was  
14    given a number to hit every month, like I said,  
15    and when I got to that number I will stop and  
16    move on to the next group of people. Sometimes  
17    they were -- they were, you know, different  
18    managers were supposed to, you know, and there  
19    are occasions that a technician is missed, but I  
20    myself, I try to ensure that every technician was  
21    given a van inspection every six months.

22    **Q.     In 2012, which is when Mr. James was**  
23    **employed by Roto-Rooter, was Roto-Rooter Atlanta,**  
24    **your office, doing quarterly or semiannually**  
25    **inspections? Semiannual inspections?**

1 A. We were doing quarterly, all right? We were  
2 doing quarterly by the policy. As to whether or  
3 not I got them every quarter, I may not have. I  
4 can't recall.

5 Q. Do you see a point 3 where it says,  
6 "Completion of quarterly vehicle inspection form  
7 by the Safety or General Manager to be maintained  
8 at the branch"?

9 A. Yes.

10 Q. So if you did a quarterly inspection, you  
11 would have the form and it would be completed?

12 A. It would be on the computer.

13 Q. Okay. But it would exist?

14 A. This was -- this was actually during the  
15 time -- we have had our computer program for the  
16 last since 2012. Yes.

17 Q. And point number 6 it says, "Substandard  
18 conditions must be corrected before the vehicle  
19 is allowed back on the road," and that is what  
20 you and I were just talking about?

21 A. Yes.

22 Q. And you have some discretion as to how  
23 quickly they have to -- the violations have to be  
24 corrected?

25 A. It depends major or main /ER. If it's a

1 major they have to get it fixed or they are not  
2 allowed back on the road for Roto-Rooter. And  
3 what they do with their own vehicle.

4 Q. Under safety requirements on that same page,  
5 number 1 is, "An employee has to use a seat  
6 belt." That is a State law, right?

7 A. Yes.

8 Q. Number 2 is, "An employee driver may not  
9 operate a motor vehicle in the course of  
10 employment while under the influence of alcohol,  
11 illegal drugs or medications that impair the  
12 driving abilities."

13 A. Correct.

14 Q. Does Roto-Rooter in any way monitor the  
15 medications that employees take?

16 A. I am not a doctor.

17 Q. But you don't -- you have no idea what  
18 employees are taking medication wise on their  
19 own?

20 A. No, sir.

21 Q. Do you know if your drug test tests for any  
22 medications that could impair driving abilities  
23 besides illegal drugs?

24 MR. HARRISON: Did you say  
25 legal or illegal?

1 MR. RAFI: Illegal.

2 BY MR. RAFI:

3 Q. Illegal drugs.

4 A. No, I am not aware. That is not my job. I  
5 don't do those.

6 Q. That is what we were talking about before,  
7 it says, "Employee drivers must obey Federal,  
8 State and local traffic regulation."

9 A. Yes.

10 Q. Can't pick up hitch hikers.

11 Then there is an annual motor  
12 vehicle report check.

13 A. Yes.

14 Q. And that sees if the driver has been  
15 involved in any accidents or given any citations  
16 during that time?

17 A. No.

18 Q. What does that do?

19 A. It is -- and all employees are supposed to  
20 get -- and this is done by corporate. Every year  
21 on the day -- on the anniversary of their hire,  
22 they are supposed to go through -- the corporate  
23 does an MVR check through Krol, I believe I  
24 mentioned that word before, okay, and then the  
25 Krol form is sent to us at the branch, it is



1 received by the General Manager and handed off to  
2 the Field Training Manager. All right? And  
3 those forms are put in their personnel file. And  
4 any points, any points that corporate has  
5 accessed based on their driving record for that  
6 year, and that is those points that Roto-Rooter  
7 sets, are spelled out in a letter that is then  
8 given to the technician during their yearly  
9 review and their performance review --

10 **Q. Right.**

11 A. -- that they get. And then that is part of  
12 it -- and then, you know, it's -- and this is  
13 based on me getting them myself. I myself, I  
14 have got plenty of those Krols and also I have  
15 gotten plenty of outstanding driving from them  
16 because I don't have any points against me for  
17 three years. But you do -- you know, it can be  
18 up to termination. If they get so many points  
19 they are terminated or they have to -- a 10 day  
20 go driving safety course because their points are  
21 high.

22 **Q. So if your points, I believe it exceeds six,**  
23 **then one option is termination, another option is**  
24 **a driver safety course?**

25 A. I am not sure what the total number of

1 points is against you.

2 Q. But once you get -- reach whatever that  
3 threshold is, you can be terminated or you could  
4 be required to go to a driver safety test or  
5 course?

6 A. Yes, and that is you pay for it yourself.

7 Q. Okay. But you can't work until you get it?

8 A. That is right.

9 Q. You also have a cell phone policy regarding  
10 motor vehicles?

11 A. Yes.

12 Q. That says that an employee can't use  
13 anything unless it's hands free.

14 A. Correct.

15 Q. Roto-Rooter issues phones to employees,  
16 correct?

17 A. Correct.

18 Q. You have one?

19 A. Yes.

20 Q. They issued a phone to Mr. James?

21 A. Correct.

22 Q. Do you have any idea what that phone number  
23 was?

24 A. No.

25 Q. Would you still have his number in your cell



1 to you, Roto-Rooter Services Company is outlining  
2 the safety policy which we talked about. Takes  
3 its responsibility seriously with regard to safe  
4 vehicle operating procedures and you agreed with  
5 that, correct?

6 A. Yes.

7 Q. If an accident occurs, this is what a driver  
8 is supposed to do. First, employee must notify  
9 his or her Supervisor or General Manager  
10 immediately of an accident. You talk about some  
11 of your accidents that you have done that.

12 Second, the Supervisor must notify  
13 the General Manager immediately; is that correct?

14 A. Yes.

15 Q. There looks to be in bullet point 2 a policy  
16 60, quote, auto accident reporting. Are you  
17 familiar with that?

18 A. I have read it most likely. I am not sure.  
19 I read a lot of policies. You know, the numbers,  
20 you know.

21 MR. HARRISON: We will get  
22 that for you as well. I have 58 and 60  
23 on policies; is that correct?

24 MR. RAFI: Yes.

25 BY MR. RAFI:

1 Q. You said Roto Rooter has a lot of policies.  
2 Does it make difficult to keep track of all the  
3 policies?

4 MR. HARRISON: Objection to  
5 form.

6 THE WITNESS: There is a  
7 database. We are allowed to go into,  
8 we have access to.

9 BY MR. RAFI:

10 Q. Point three, bullet point three on  
11 deposition Exhibit 14 says that an employee must  
12 complete an accident investigation form within 24  
13 hours of an accident. Agreed?

14 A. Agree.

15 Q. And these requirements up at the top, bold  
16 and underlined, up top of that section, are for  
17 technician owned vehicles. Required accident  
18 reporting procedure for service technician owned  
19 vehicles. Right here, sir.

20 A. Okay.

21 Q. So the three policies that we just talked  
22 about, one, must report to a supervisor.  
23 Supervisor must notify the General Manager.

24 Two, this auto accident reporting.  
25 And three, an accident

1 investigation form within 24 hours must be  
2 completed. Those are requirements for technician  
3 owned vehicle operators. Is that a yes?

4 A. That is correct. That is what it says here.

5 Q. Right. And this is your policy. This is  
6 Roto-Rooter's policy, correct?

7 A. Yes, sir, I am assuming that is what it is  
8 as -- yes. It looks to be.

9 Q. The fourth bullet point under technician  
10 owned vehicle procedure, is that the Supervisor  
11 must investigate the accident to determine if it  
12 was preventable and take appropriate action  
13 according to Policy 56, which we've talked about  
14 and that is the vehicle accident prevention  
15 program. Did I read that right?

16 A. I believe so. Yes, sir.

17 Q. And that is a policy that is followed for  
18 service technician owned vehicles?

19 A. Yes, sir.

20 Q. The second half of this page is required  
21 accident reporting procedure, company owned  
22 vehicles?

23 A. Yes, sir.

24 Q. Can you tell me the difference between  
25 bullet point one in technician owned vehicle and

1 **bullet point one in company owned vehicle?**

2 A. The only differences, I believe do not give  
3 an opinion as to the cause of the accident nor  
4 admit guilt or liability.

5 **Q. Bullet point one is, would you agree that**  
6 **it's rephrased -- bullet point one in the**  
7 **technician owned vehicle is rephrased in bullet**  
8 **point one of the company owned vehicle. You have**  
9 **to notify a supervisor?**

10 A. That is policy. Yes, notify a supervisor.

11 **Q. Then you take names, addresses, license and**  
12 **insurance companies for all parties involved?**

13 A. They are not really required to do that  
14 because the policeman do that in the accident  
15 reporting and we get a --

16 **Q. Are they required to call the police when an**  
17 **accident occurred?**

18 A. Yes, they are required to call the police  
19 when a accident occurs.

20 **Q. That is a requirement regardless of --**

21 A. That is what I instruct them.

22 MR. HARRISON: Let him finish.

23 He will ask you a specific question.

24 BY MR. RAFI:

25 **Q. Is that a requirement that is a Roto-Rooter**

1 requirement, or is that a your employment  
2 requirement?

3 MR. HARRISON: I am sorry.

4 BY MR. RAFI:

5 Q. Let me do that again.

6 Is it required by Roto-Rooter that  
7 employees involved in vehicle collisions notify  
8 the police, and call the police at the scene?

9 A. I have been instructed by my Safety Manager  
10 to have them call the police in any accident.

11 Q. And an accident is any time -- would you  
12 agree it's any time that two vehicles make  
13 contact?

14 A. Yes.

15 Q. So getting back to the first bullet points  
16 in these two sections, technician owned vehicle,  
17 company owned vehicle being the second. You told  
18 me the only difference really, in substance, was  
19 this last line. Under company owned vehicles,  
20 Roto-Rooter tells employees, do not give an  
21 opinion as to the cause of the accident nor admit  
22 guilt or liability.

23 A. Yes.

24 Q. And they don't tell technician owned drivers  
25 to do that.



1 A. Cause they own their vehicles. That is  
2 their vehicle.

3 **Q. So Roto-Rooter is worried about their**  
4 **company owned vehicles and the liability**  
5 **associated with those, correct?**

6 MR. HARRISON: Objection.

7 THE WITNESS: I can't say  
8 whether it is or not.

9 BY MR. RAFI:

10 **Q. And Roto-Rooter seems to be less worried**  
11 **about technician owned vehicles?**

12 MR. HARRISON: Same objection.

13 BY MR. RAFI:

14 **Q. What is your opinion on that?**

15 A. Don't have an opinion to give.

16 **Q. Is there anything about the technician owned**  
17 **vehicle bullet points here that is incorrect?**

18 A. Well, the accident investigation form, that  
19 is, like I said earlier in my testimony, that I  
20 call my Safety Manager, Regional Manager and he  
21 gives me guidance. All right? If they are not  
22 at fault, if they are not at fault, all right, we  
23 don't do the drug test. All right? And the only  
24 time the investigation program is done is if  
25 there is -- where we are at that time being

1 paying out a damage claim is the only time an  
2 accident investigation is done per what I have  
3 been instructed.

4 Q. I believe that your answer indicates that  
5 you are disputing two bullet points. Let me take  
6 you through each one.

7 A. Okay.

8 Q. You are disputing under the reporting  
9 procedure for service technician owned vehicles,  
10 you are disputing bullet point two, that  
11 employees involved in the accident must submit to  
12 a post-accident drug screen. And you say that is  
13 only if they are at fault.

14 A. If they are given a citation by the police.

15 Q. Correct.

16 And when you say -- you have been  
17 using "at fault" earlier. Is that the same as  
18 given a citation by the police?

19 A. Yes.

20 Q. Can someone be "at fault" under Roto-Rooter  
21 terminology and not be given a citation?

22 A. If they are not given a citation, no  
23 citation issued, they will get a drug test.

24 Q. Would you agree with me that drivers of  
25 motor vehicle accidents can be at fault even if

1 **the police don't give a citation to them?**

2 MR. HARRISON: Objection to  
3 the form.

4 THE WITNESS: I am not a law  
5 official. I don't know the answer to  
6 that. That calls for speculation.

7 BY MR. RAFI:

8 **Q. Okay. So you don't know?**

9 A. I don't know.

10 **Q. Speculation is a fancy way of saying I don't**  
11 **know.**

12 A. I don't know.

13 **Q. For the third bullet point, you also**  
14 **disagree with that I believe. That the employee**  
15 **must complete an accident investigation form**  
16 **within 24 hours of the accident. You say that**  
17 **that's only true if it's an "at fault" accident?**

18 A. What I was saying is, per the guidance of my  
19 Safety Manager, all right, this is what I do. He  
20 is the one that makes the determination as to  
21 whether or not -- okay, that was -- you know,  
22 that he is the one that tells me to do the drug  
23 test, all right, because I am not a safety  
24 expert, he is. He is also trained --

25 **Q. Let me take you back to my question, though,**

1 because I understand. I want to take it down so  
2 I am crystal clear.

3 You dispute bullet point 3, that  
4 the employee, Roto-Rooter employee must complete  
5 an accident investigation form within 24 hours of  
6 the accident because you say you only do it if  
7 instructed.

8 MR. HARRISON: Objection to  
9 the form.

10 THE WITNESS: I don't dispute  
11 anything that Roto-Rooter says.

12 BY MR. RAFI:

13 Q. You don't dispute --

14 A. What I am telling you is, what I obtain  
15 guidance from my manager, my Safety Manager, all  
16 right? I am a coordinator, I am not a manager.

17 Q. I understand and, sir, I am not attempting  
18 to blame you. You specifically --

19 A. I understand.

20 Q. I want to understand what policies are  
21 followed and maybe let me phrase it differently  
22 instead of what policies do you dispute. Let me  
23 ask it this way.

24 Do you agree with me that sometimes  
25 your office doesn't follow bullet point number

1     **two --**

2                             MR. HARRISON:  Objection to  
3             form.

4     **Q.     -- under technician owned vehicle?**

5                             MR. HARRISON:  Objection.

6                             THE WITNESS:  If instructed.

7     BY MR. RAFI:

8     **Q.     So that is a yes.  Sometimes you don't**  
9     **follow bullet point two?**

10    A.     If instructed, yes.

11    **Q.     So sometimes when you are instructed not to**  
12    **follow it, you don't do that?**

13    A.     Yes, sir.

14    **Q.     As well as bullet point number 3 under**  
15    **technician owned vehicle, when instructed, you do**  
16    **not follow that policy?**

17    A.     Correct.

18    **Q.     Thank you.**

19                             **When is the decision made whether**  
20    **to drug test an employee after an accident?**

21    A.     When I call the Safety Manager.

22    **Q.     When do you do that?**

23    A.     Usually if it's during normal working hours  
24    or non-sleeping hours.  All right?  First off,  
25    there is no drug testing that have to be done

1 within eight hours. So they have an accident  
2 like midnight, I call as reasonably, all right,  
3 and I get guidance and we have the service  
4 technician report to a drug testing facility that  
5 has been assigned by -- I don't know the program  
6 we use.

7 **Q. They have to report to a center to get drug**  
8 **tested?**

9 A. Yes, and we try to get it within eight  
10 hours, if applicable. If it's after hours and  
11 nothing is available, we have sent them to Urgent  
12 Care Clinics for this. If -- the emergency rooms  
13 will sometimes do it, this will sometimes do them  
14 if it's a serious enough injuries, we haven't had  
15 any, thank you.

16 **Q. What do you mean by that last statement, if**  
17 **it's a serious enough injury?**

18 A. Life or death.

19 **Q. Whose life or death?**

20 A. The technician's. If he is taken by  
21 ambulance because of an auto accident.

22 **Q. Then you will do a drug test?**

23 MR. HARRISON: Objection to  
24 form.

25 THE WITNESS: No, I didn't say

1           that. I just said that they will do --  
2           if the emergency room can do them, if  
3           it's -- if he is unable to get out of  
4           the bed, we have to send -- we ask the  
5           hospital to go ahead and do one. If  
6           it's -- you know, if it's feasible.

7   BY MR. RAFI:

8   **Q.     Why do you call Mr. Tinsley rather than**  
9   **following these bullet points?**

10  A.     That is what I am instructed to do.

11  **Q.     By whom?**

12  A.     By Mr. Tinsley.

13  **Q.     So Mr. Tinsley has told you to call him**  
14  **every time there is a motor vehicle accident?**

15  A.     Any time anything happens safety related.

16  **Q.     Have you ever asked Mr. Tinsley why he**  
17  **sometimes instructs you to violate Roto-Rooter**  
18  **policy?**

19                   MR. HARRISON:  Objection to  
20           the form.

21                   THE WITNESS:  No.

22                   -----

23                   (Whereupon, Plaintiff's  
24           Exhibit 15, Incident Review Date,  
25           was marked for identification.)

1

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2 BY MR. RAFI:

3 Q. I will hand you what has been premarked as  
4 Deposition Exhibit 15. This is a Roto-Rooter  
5 Services Company Incident Investigation Report.

6 A. Yes.

7 Q. Are you familiar with this?

8 A. Yes. I believe I printed this out.

9 Q. Okay.

10 Is this the form that will be  
11 filled out in the event of a motor vehicle  
12 accident and a form is required?

13 A. This is not a form this is a computer data  
14 entry.

15 Q. Is this -- are these the questions on the  
16 piece of paper that you would answer when a motor  
17 vehicle accident occurs and you are told by Mr.  
18 Tinsley to fill such a thing out?

19 A. Yes.

20 Q. Who is Kimberly Ohl?

21 A. Director of Safety.

22 Q. Director of Safety for whom?

23 A. Roto-Rooter Services Company.

24 Q. Is she above Mr. Tinsley?

25 A. She is -- as there is a term, in the chain



1 of command.

2 **Q. Is she above or below Mr. Tinsley in the**  
3 **chain of command, above being the president of --**

4 A. I am not sure. You would have to ask that  
5 of the General Manager. She is the one -- she is  
6 the director of safety policy. Mr. Tinsley  
7 reports to the Regional VP.

8 **Q. Have you ever talked to Ms. Ohl?**

9 A. I have gone to classes with her. Yes.

10 **Q. What kind of classes?**

11 A. She has issued OSHA classes to me.

12 **Q. She is the --**

13 A. She has trained me.

14 **Q. She is the OSHA trainer that you referenced**  
15 **earlier?**

16 A. No. Her and Walter are both OSHA trained.  
17 Both of them gave me a class at the same time.

18 **Q. And Walter is Mr. Tinsley, correct?**

19 A. Yes.

20 **Q. Under the bullet point of procedure for**  
21 **technician owned vehicle is the requirement of**  
22 **the 24 hour --**

23 MR. HARRISON: Back to 14?

24 BY MR. RAFI:

25 **Q. Yes. The completion of the 24 hour --**

1 completion of the accident report within 24  
2 hours. Would you agree with me that this is  
3 important because it makes sure that an  
4 investigation is done?

5 MR. HARRISON: Objection to  
6 form.

7 THE WITNESS: I don't have an  
8 answer.

9 BY MR. RAFI:

10 Q. Would you agree with me that it would -- in  
11 order to answer the question on the piece of  
12 paper, you would have to do some sort of  
13 investigation?

14 A. The accident was reported to me and I do a  
15 verbal -- I talk with the customer -- not  
16 customer, the technician at that time. All  
17 right? Whether it is written down on paper, is,  
18 you know, but there is a verbal, you know, what  
19 happened, are you okay, you know, you go to the  
20 hospital, what were you doing at the time being,  
21 why did it -- you know, I ask those questions,  
22 you know.

23 Q. Would you agree with me that it's important  
24 that this form is filled out because it ensures  
25 that information is gathered about the accident?

1 MR. HARRISON: Object to the  
2 form.

3 THE WITNESS: Like I said,  
4 this is --

5 BY MR. RAFI:

6 **Q. Sir, you agree or disagree?**

7 A. You're -- you're making me set Roto-Rooter  
8 policies and --

9 **Q. Sir, I am asking you is it important that**  
10 **accidents are investigated within 24 hours? What**  
11 **about that one.**

12 A. Well, they usually are by the police. Okay.

13 **Q. Is it important to make sure that an**  
14 **accident investigation for Roto-Rooter is done**  
15 **quickly?**

16 A. Yes.

17 **Q. Is it important that an accident**  
18 **investigation for Roto-Rooter is done thoroughly?**

19 A. Yes.

20 **Q. And in doing a quick but thorough**  
21 **investigation will help identify the cause of**  
22 **danger or the cause of the accident?**

23 MR. HARRISON: Object to form.

24 THE WITNESS: I can't say.

25 BY MR. RAFI:

1     **Q.     It will also make sure that a quick and**  
2     **thorough investigation will make sure that**  
3     **appropriate measures can be taken to ensure that**  
4     **that same accident doesn't happen again, right?**

5     A.     Accidents happen.  Whether or not if I had,  
6     you know, done anything in particular with this  
7     gentleman, leaving it in, would stop somebody  
8     else from parking in the middle of the road.  
9     Common sense says no, it doesn't -- no, I can't  
10    make you follow the rules of the road and I can't  
11    make him follow the rules of the road.

12    **Q.     You can make your employees follow the rules**  
13    **of the road.  You can fire them if they don't,**  
14    **right?**

15                   MR. HARRISON:  Objection.

16                   THE WITNESS:  Yes.  If they  
17                   are found to be in a problem.  And in  
18                   this situation, you know --

19    BY MR. RAFI:

20    **Q.     I am not talking about this situation.**

21                   MR. HARRISON:  Wait.  Wait.  
22                   He is answering.

23                   THE WITNESS:  This is the  
24                   situation we are talking.

25    BY MR. RAFI:

1 Q. What situation?

2 A. This accident.

3 Q. I haven't brought up the accident, sir.

4 A. Okay. Never mind then.

5 MR. HARRISON: Well, you have  
6 and he was going to answer that. It's  
7 okay.

8 BY MR. RAFI:

9 Q. Let me ask you. You gave me a long answer  
10 but I will go back to my question.

11 It is important that a quick but  
12 thorough investigation is done so that  
13 appropriate measures can be taken to ensure --  
14 try to ensure that accidents of that kind don't  
15 happen again. Do you agree with that?

16 A. I rely on the police department to do the  
17 investigating because they are the investigators.  
18 I am not.

19 Q. Sir, I am not asking about the  
20 investigation. I am asking you, is important  
21 that an investigation gets done quickly and  
22 thoroughly so that Roto-Rooter can try their best  
23 to ensure that accidents of that same type do not  
24 happen again. Do you agree or disagree?

25 A. As quickly as possible, yes, sir.

1 Q. And as thoroughly as possible?

2 A. Yes, sir.

3 Q. And this makes sure that the public is safe?

4 MR. HARRISON: Object to form.

5 BY MR. RAFI:

6 Q. By doing a quick and a thorough  
7 investigation, you're trying to make sure that  
8 the public is safe, correct?

9 MR. HARRISON: Same objection.

10 THE WITNESS: Yes.

11 BY MR. RAFI:

12 Q. That is why we investigate a crime or  
13 investigate things, right?

14 MR. HARRISON: I am clear  
15 there is no crime involved.

16 THE WITNESS: Yeah.

17 BY MR. RAFI:

18 Q. Does Roto-Rooter ever investigate above and  
19 beyond what the police do?

20 MR. HARRISON: Object to the  
21 form.

22 BY MR. RAFI:

23 Q. By above and beyond, I mean does Roto-Rooter  
24 ever do a more thorough investigation than the  
25 police?

1 MR. HARRISON: Same objection.

2 THE WITNESS: I don't know.

3 BY MR. RAFI:

4 **Q. Okay.**

5 **Does Roto-Rooter ever do an**  
6 **investigation of auto accidents apart from the**  
7 **police?**

8 A. Pictures are taken, we rely on the -- we get  
9 the police reports and then we, you know, if the  
10 technician is at fault. Then if it was not at  
11 fault, there is no punishment for the technician.  
12 But if they are at fault, they are reprimanded in  
13 some form or another based on our progressive  
14 disciplinary action. All right? And it could  
15 lead up to termination.

16 **Q. Does Roto-Rooter only find drivers at fault**  
17 **when they are given a citation by a police**  
18 **officer?**

19 MR. HARRISON: Object to the  
20 form. I don't know how you determine  
21 fault.

22 THE WITNESS: I don't know if  
23 they -- how other people think.

24 BY MR. RAFI:

25 **Q. Would you agree with me that it's**

1 **Roto-Rooter policy that a preventability analysis**  
2 **must be done after every vehicle accident?**

3 A. I have no idea.

4 MR. RAFI: Can we take a  
5 break, please, while I find that  
6 requirement?

7 MR. HARRISON: Yeah.

8 (Whereupon, a discussion was  
9 held off the record.)

10 (Whereupon, proceedings were  
11 reconvened with all counsel and the  
12 witness present.)

13 BY MR. RAFI:

14 Q. Mr. Boland, when we left, I said that I was  
15 going to look. However, I was asking you about  
16 preventability analysis and I forget what your  
17 answer was. **What did you tell me that**

18 **Roto-Rooter does with preventability analyses?**

19 A. **I don't know anything about analysis and**  
20 **stuff like that.**

21 Q. I have this in front of you already. This  
22 is Exhibit 14. One bullet point I failed to  
23 address and we will come back to, is the fourth  
24 bullet point under the service technician owned  
25 vehicle.



1 A. Yes.

2 Q. It says, "The Supervisor must investigate  
3 the accident."

4 A. Which?

5 Q. Number 4.

6 A. Okay.

7 Q. The supervisor must investigate the accident  
8 to determine if it was preventable and take  
9 appropriate action according to Policy 56. And I  
10 paraphrased there at the end.

11 In that bullet point, does the  
12 phrase "determine it was preventable" mean  
13 anything in particular to you?

14 A. Whether or not the accident could have been  
15 prevented or not.

16 Q. Are you the supervisor --

17 A. No.

18 Q. -- of employees? Who is? And it says, "the  
19 supervisor must investigate the accident to  
20 determine if it was preventable." Who was that  
21 in Atlanta in 2012 when this accident occurred,  
22 and I do mean the one with Daniel James?

23 A. Okay. If they are less than one year of  
24 service, their direct supervisor is Russ Garman,  
25 the Field Training Manager.

1 Q. So according to this policy, it was Mr.  
2 Garman's responsibility to investigate the  
3 accident to determine if it was preventable?

4 A. According to policy, yes, sir.

5 Q. Are you familiar with Federal motor care  
6 safety regulations?

7 A. No.

8 Q. I am going to ask this and I know your  
9 answer.

10 Are you familiar about what the  
11 term preventability or preventability analysis  
12 means with regard to the Federal motor care  
13 safety regulations?

14 A. No.

15 Q. Do you know have any idea if Mr. Garman is  
16 familiar with either of those topics, the Federal  
17 regulations or preventability?

18 A. No.

19 Q. Do you know if bullet point four, the  
20 preventability analysis, if that's followed by  
21 Roto-Rooter in Atlanta?

22 A. I don't know.

23 Q. Who would be the person that would know? Is  
24 it Mr. Garman?

25 A. I don't have an answer. I don't know. You

1 have to ask them if they know.

2 **Q. How did you find out about the August 23rd,**  
3 **2012 vehicle collision involving Daniel James?**

4 A. I was called by Mr. James.

5 **Q. What time were you called?**

6 A. I want to say probably around 12:30, right  
7 after the accident. He called and reported that  
8 he was walking back to the accident scene with a  
9 can of gas when he noticed there was police  
10 lights in that area. He didn't know it was an  
11 accident until he got on scene. All right? And  
12 that's when he informed me as to what happened.

13 **Q. When you say 12:30, roughly, you mean in the**  
14 **morning?**

15 A. Yes.

16 **Q. Someone called late night?**

17 A. After midnight, yes.

18 **Q. What was the first thing that Mr. James told**  
19 **you on the phone?**

20 A. That somebody hit his van.

21 **Q. Let me take you back further.**

22 **Were you asleep or awake when you**  
23 **got the call?**

24 A. Probably asleep.

25 **Q. And when you pick up the phone, what did he**

1 tell you?

2 A. Ha?

3 Q. When you picked up the phone, what did he  
4 tell you?

5 A. Word for word?

6 Q. As best you can remember.

7 MR. HARRISON: Just do your  
8 best.

9 THE WITNESS: That he ran out  
10 of gas, tried to pull it off the side  
11 of the road as best possible, there was  
12 a guardrail, that he couldn't pull his  
13 van completely off the road and he left  
14 to go get gas. He was right there at  
15 the accident, he ran out of gas at the  
16 accident, and he went up and got gas  
17 and was returning back and that when he  
18 got on scene he realized that somebody  
19 had struck his van from the rear.  
20 Okay. And then I asked him if he was  
21 okay. Was anybody injured. He said he  
22 didn't know. And then he was to call  
23 me back after, cause the policeman  
24 wanted to speak to him at that time  
25 being and that he was supposed to call

1 me back and let me know what happened  
2 further on. And I was awake for the  
3 rest of the night.

4 BY MR. RAFI:

5 Q. Let me take you back to when he first called  
6 you.

7 He said he had ran out of gas.

8 A. Yes.

9 Q. Did he tell you where he was coming from?

10 A. No.

11 Q. Did he tell you he was in his Roto-Rooter  
12 labeled van?

13 A. Yes.

14 Q. Did you know if he was working at the time?

15 A. He was -- based on the schedule -- at the  
16 time being, I don't know.

17 MR. HARRISON: You are asking  
18 at the time that he got called?

19 MR. RAFI: Yes.

20 MR. HARRISON: I want to  
21 clarify.

22 MR. RAFI: I will ask both  
23 questions.

24 MR. HARRISON: I figured that  
25 you would.

1 BY MR. RAFI:

2 Q. At the time -- strike that.

3 At the time of Mr. James running  
4 out of gas, do you know if he was working for  
5 Roto-Rooter at that time?

6 A. I don't know.

7 Q. At the time --

8 A. At that time, I didn't know.

9 Q. Did you later find that out?

10 A. I found out he was on call that evening.

11 Q. And do you know sitting here today where Mr.  
12 James was coming from or going when he ran out of  
13 gas?

14 A. He told me he was going home.

15 Q. Did you ever learn where from?

16 A. No. I can -- it would be on -- there is a  
17 ticket number associated and it would probably  
18 give me an address where he was coming from. But  
19 if he was coming from that address, I couldn't  
20 tell you.

21 Q. Okay.

22 Defendant James has said through  
23 written discovery, which are answers that he  
24 gives us, that he was coming home from a job in  
25 Conyers at the time of the collision.

1 A. That is a possibility.

2 Q. Assuming that is -- what I just told you is  
3 true, do you have any reason to dispute that?

4 A. If that's what he said, no.

5 Q. And you told me he was on call at the time?

6 A. Yes.

7 Q. And he told you he was driving home from  
8 somewhere and he ran out of gas?

9 A. Yes.

10 Q. Did he tell you where he ran out of gas?

11 A. Right in front of an exit. I don't remember  
12 what exit number.

13 Q. Do you know what road he was on?

14 A. He was on I-20.

15 Q. And what did you tell him when -- how did  
16 you respond when he told you this? When he told  
17 you he ran out of gas on I-20 going home, what  
18 did you say?

19 A. He didn't tell me that at the time. He told  
20 me after the accident. Okay. You know, I don't  
21 know if I asked him why he ran out of gas or not,  
22 I can't tell you that. Why didn't he have enough  
23 gas in his vehicle.

24 Q. Did Mr. James ever tell you that there was a  
25 mechanical failure with his vehicle?

1 A. No.

2 Q. Mr. James then walked to a gas station was  
3 what he told you?

4 A. Is what he told me.

5 Q. And he told you I guess that he purchased --  
6 did he have to purchase --

7 A. He didn't say.

8 Q. What I am getting at is a gas --

9 A. Can?

10 Q. -- canister? Yes.

11 A. He didn't tell me.

12 Q. Roto-Rooter employees, are Roto-Rooter  
13 employees equipped with a gas canister?

14 A. No.

15 Q. And he told you he was walking back down  
16 I-20 to his vehicle?

17 A. Back down the ramp.

18 Q. And he saw police?

19 A. Police lights.

20 Q. Lights.

21 A. Right.

22 Q. At that point, did you know what collision  
23 had occurred?

24 A. Yes.

25 Q. What did he tell you about the collision?



1 A. He said that an SUV hit the back of his van.

2 **Q. And what did you say?**

3 A. All right. I said was anybody injured. I  
4 probably asked him where -- I don't know the  
5 exact words, but whether or not anybody was  
6 injured. He said he didn't know, the police were  
7 there, they wanted to speak to him.

8 **Q. So he didn't know because he was on the ramp**  
9 **I guess?**

10 A. I don't know if he had already made it to  
11 his van. He was just telling me what occurred up  
12 to getting to the accident site.

13 **Q. In the background, did you hear police**  
14 **sirens?**

15 A. I heard voices. I didn't hear police  
16 sirens, no.

17 **Q. Could you make out what any of those voices**  
18 **were saying?**

19 A. No.

20 **Q. Had you talked to Mr. James a lot on the**  
21 **phone during the course of his employment?**

22 A. Yes. On statuses of job, you know, stuff  
23 like that.

24 **Q. How frequently would you all talk?**

25 A. I couldn't say.

1 Q. Weekly?

2 A. Once or twice a day while he was working.  
3 You know, a lot of technicians do that. They  
4 have questions on plumbing, all right? And me  
5 being the plumbing instructor, I ask -- if they  
6 ask, I try to answer as best as possible.

7 Q. How did he sound on the phone? Did he sound  
8 normal, like a regular conversation?

9 A. Yeah.

10 Q. Did he sound worried?

11 A. No. Not that I recall.

12 Q. How did that conversation end? What did he  
13 tell you?

14 A. That the police wanted to speak to him and  
15 he hung up.

16 Q. What did you do at that point?

17 A. I notified -- or actually -- I notified the  
18 MOD I believe, which would have been -- I believe  
19 it was Steve Gonzalez.

20 Q. MOD is Manager On Duty?

21 A. Yes.

22 Q. And Steve Gonzalez works where?

23 A. He was with the excavation department.

24 Q. In Atlanta?

25 A. Yes.

1 Q. For Roto-Rooter --

2 A. Atlanta.

3 Q. -- Atlanta.

4 A. Roto-Rooter Services Company Atlanta, yes.

5 Q. Did you ever call Mr. Tinsley who we have  
6 spoken about?

7 A. Not at 12:30 at night. No.

8 Q. Why not?

9 A. Why not? You know, it's 12:30 at night,  
10 there was nothing we could do at the time being.  
11 I called him the first thing in the morning.  
12 There was no -- there was no fatality. We are  
13 not required to call him if there is no fatality.  
14 At the time being, I was told there was no  
15 fatality.

16 Q. So Mr. James told you the driver, which is  
17 my client, Mr. Spencer, that he was alive. He  
18 did tell you that on the phone?

19 A. Yes.

20 Q. What else did he tell you about Mr. Spencer?

21 A. I don't recall.

22 Q. Are you sure he told you that Mr. Spencer  
23 was alive, cause a moment ago you just told me  
24 you didn't know anything about the injuries?

25 A. I don't know anything about the injuries,

1 but he told me there was no fatalities -- I think  
2 -- I don't know. I don't know.

3 **Q. So you don't know if Mr. James, Defendant**  
4 **James told you if Mr. Spencer was injured?**

5 A. No.

6 **Q. You said you thought you asked Mr. James if**  
7 **Mr. Spencer was injured or the other driver was**  
8 **injured?**

9 A. Yeah, I may have asked him. Those are  
10 questions I normally ask. Whether or not I asked  
11 that night, I can't recall. That was two years  
12 ago. Two and a half years ago.

13 **Q. Is the reason you did not call Mr. Tinsley**  
14 **because it was 12:30 at night, or because there**  
15 **was not a fatality? Let me say that again. That**  
16 **didn't come out right. What is the reason you**  
17 **didn't call Mr. Tinsley?**

18 A. Cause it was in the middle of the night.  
19 There was no reason to call him. There is  
20 nothing -- when the accident occurred, it was an  
21 employee owned vehicle and the police were  
22 involved, I have no particular information that I  
23 can give Mr. Tinsley at the time being.

24 **Q. If it was a company vehicle, would you have**  
25 **called Mr. Tinsley?**

1 A. Yes.

2 Q. Why?

3 A. Cause it would have been a company owned  
4 vehicle.

5 Q. Why is that different? Why is it different  
6 that it's company owned and then you decide to  
7 call the Safety Director too?

8 A. Because Roto-Rooter doesn't own the van. It  
9 is not our property.

10 Q. So you are more worried about the van than  
11 the person who hit the van?

12 MR. HARRISON: Objection.

13 THE WITNESS: That is not what  
14 I said.

15 BY MR. RAFI:

16 Q. Well, I don't understand. What is so  
17 different about a Roto-Rooter employee being in  
18 an accident in his van or her van and being in a  
19 company owned van? It seems like you are putting  
20 property damage ahead of person injuries.

21 A. No.

22 MR. HARRISON: Objection to  
23 form.

24 THE WITNESS: No.

25 BY MR. RAFI:

1 Q. So explain it to me. In fact, it makes me  
2 frustrated because that's what it looks like to  
3 me.

4 MR. HARRISON: Ask your  
5 questions. You don't need to yell and  
6 argue with him.

7 MR. RAFI: I am not yelling.

8 MR. HARRISON: Yes, you are.

9 If you can't do --

10 THE WITNESS: I am feeling  
11 intimidated right now.

12 BY MR. RAFI:

13 Q. I am so sorry that I am intimidating. I  
14 will ask you questions.

15 MR. HARRISON: You are good.  
16 He will ask the questions in a polite  
17 way. Trust me.

18 MR. RAFI: As I have been.

19 BY MR. RAFI:

20 Q. Why is it different when a Roto-Rooter  
21 employee who owns his vehicle is in an accident,  
22 why is that different than when a Roto-Rooter  
23 employee is in a company owned vehicle, why does  
24 that dictate whether or not you call Mr. Tinsley?

25 MR. HARRISON: Object to the

1 form. Mischaracterizes his testimony.  
2 He calls at all times. But subject to  
3 that, you can answer.

4 MR. RAFI: Let me rephrase my  
5 question then. Thank you for  
6 explaining.

7 MR. HARRISON: Uh-huh.

8 BY MR. RAFI:

9 **Q. You said you did not call Mr. Tinsley**  
10 **because it was 12:30 AM in this accident,**  
11 **correct?**

12 A. Correct.

13 **Q. You said you would have called Mr. Tinsley**  
14 **if it was a company owned vehicle at 12:30 in the**  
15 **morning?**

16 A. I would have called and left a message and  
17 whether he answered or not is another question.

18 **Q. I am not worried about whether or not he**  
19 **answered.**

20 MR. HARRISON: Let him finish  
21 his answer.

22 MR. RAFI: He needs to respond  
23 to my questions. I have been extremely  
24 lenient.

25 MR. HARRISON: You cut him off

1 a number of times.

2 MR. RAFI: I have been  
3 extremely lenient.

4 BY MR. RAFI:

5 **Q. You talked for seven minutes at a time, sir.**

6 MR. HARRISON: Don't you want  
7 answers to your questions.

8 MR. RAFI: I want direct  
9 answers. I don't need a whole story.  
10 I asked why he didn't call. It didn't  
11 have anything to do with whether or not  
12 the person is going to answer on the  
13 other end.

14 MR. HARRISON: I appreciate  
15 it, but he is allowed to finish the  
16 answer.

17 BY MR. RAFI:

18 **Q. Sir, if you can tailor your answers to the**  
19 **questions, if you can. And if there is something**  
20 **that you want to tell me that you didn't cover, I**  
21 **will ask you at the end of the deposition and I**  
22 **will be sure to do that.**

23 **So you just told me that you would**

24 **call Mr. Tinsley if there was a company owned**

25 **vehicle involved in an accident at 12:30 in the**



1 morning, correct?

2 A. Yes.

3 Q. Why?

4 A. Cause he instructed me to.

5 Q. Do you know why he did that?

6 MR. HARRISON: Object to form.

7 THE WITNESS: No, I don't. I  
8 don't have the answer why he instructed  
9 me. He instructed me that if it's a  
10 Roto-Rooter involved vehicle, it is our  
11 vehicle, that I am to notify him  
12 immediately.

13 BY MR. RAFI:

14 Q. No matter what time or day?

15 A. No matter what time of day.

16 Q. No matter what injuries or non-injuries are  
17 involved?

18 A. It doesn't matter. He instructed if it's a  
19 Roto-Rooter vehicle, I have been instructed to  
20 call him immediately. If it's an employee owned  
21 vehicle, all right --

22 Q. I didn't ask you about an employee owned  
23 vehicle.

24 A. Then I will stop.

25 Q. Mr. Tinsley instructed you to notify him of

1 any Roto-Rooter company owned vehicles involved  
2 in accidents of any kind?

3 A. Yes.

4 Q. Does that include fender benders?

5 A. Yes.

6 Q. Does that include if you hit a mailbox when  
7 you are pulling out of someone's driveway?

8 A. Yes.

9 Q. But he instructed you do not call him late  
10 at night if it's an employee owned vehicle?

11 A. No.

12 Q. What did he instruct you regarding the  
13 employee owned vehicles?

14 A. I can use my own judgment.

15 Q. Okay.

16 So if an employee in a company  
17 owned vehicle hits a mailbox you call, right?

18 A. Yes.

19 Q. If an employee leaves his car on Interstate  
20 20 and it's hit by another vehicle, you do not  
21 call because it's late at night and it's not a  
22 company owned vehicle. Is that your  
23 determination?

24 MR. HARRISON: Object to the  
25 form.

1 MR. RAFI: What is your  
2 objection to that one. Those facts are  
3 undisputed.

4 MR. HARRISON: I don't have to  
5 explain my objection. You asked me  
6 earlier about objection --

7 MR. RAFI: Yes, you do.

8 MR. HARRISON: Go ahead and  
9 ask your question. You misstate facts  
10 in evidence. The vehicle was not left  
11 in the middle of the road. You said  
12 that several times. I tried to move  
13 this along, I objected to the form.  
14 You misstated facts.

15 MR. RAFI: What exactly did I  
16 misstate? I have a right to know as  
17 per the Order.

18 MR. HARRISON: The vehicle is  
19 not in the middle of the road.

20 BY MR. RAFI:

21 **Q. Okay.**

22 **So it was your determination not to**  
23 **call Mr. Tinsley when a Roto-Rooter vehicle was**  
24 **left in a travel lane on Interstate 20 and hit by**  
25 **another vehicle?**

1 MR. HARRISON: Objection to  
2 form.

3 MR. RAFI: What is your  
4 objection?

5 MR. HARRISON: Wasn't in the  
6 travel lane.

7 MR. RAFI: What lane was it  
8 in?

9 MR. HARRISON: As close to the  
10 shoulder, as far as he could get it.  
11 You are misstating the facts. Have you  
12 looked to the accident report?

13 MR. RAFI: The fact that he  
14 was in the third lane to the right? Is  
15 that not a travel lane? Are you going  
16 to keep objecting because it wasn't a  
17 travel lane, because it clearly was.

18 MR. HARRISON: Ask your  
19 question.

20 MR. RAFI: Do you withdraw  
21 your objection?

22 MR. HARRISON: Ask your  
23 question.

24 MR. RAFI: Do you withdraw  
25 your objection?

1 MR. HARRISON: I have an  
2 objection. He pulled it over as far as  
3 he could --

4 MR. RAFI: I am not asking if  
5 he pulled it over as far as he could.

6 MR. HARRISON: Rephrase your  
7 question a little bit better then.

8 MR. RAFI: Okay.

9 MR. HARRISON: Okay.

10 BY MR. RAFI:

11 **Q. What would have had to have happened in this**  
12 **accident for you to wake Mr. Tinsley up 12:30 at**  
13 **night?**

14 MR. HARRISON: Object to form.

15 THE WITNESS: We are to notify  
16 immediately on fatalities, and that is  
17 about it. Okay? But if it's a  
18 Roto-Rooter vehicle, all right, he  
19 wants to know immediately. That is his  
20 communication to me.

21 Now, you keep saying it's a  
22 Roto-Rooter vehicle, it is not. It is  
23 a personal vehicle labeled with  
24 Roto-Rooter labels. It is not our  
25 vehicle, we don't own it, we don't have

1 no responsibility for it except to make  
2 sure that it is drivable, it has good  
3 tires and they have the equipment that  
4 we issued to him on the vehicle. It is  
5 a personal vehicle. I don't tell you  
6 how to drive your vehicle and park it.

7 All right?

8 BY MR. RAFI:

9 **Q. So Roto-Rooter does not tell employee owned**  
10 **operators how to drive their vehicle?**

11 A. As far as I know, no. They are -- it is  
12 assumed, and I don't want to use that word, it is  
13 assumed that they are properly trained cause they  
14 have the driver's license issued by the State.  
15 The State has approved them to drive. We don't  
16 question that.

17 **Q. Sir, then why do you give them the Smith**  
18 **System if you don't train them?**

19 A. I show them a video. It is a video  
20 available to me to show them. It is not required  
21 by Roto-Rooter policies for me to show the video.  
22 I show the video because it talks about paying  
23 attention while driving. And my understanding in  
24 this situation, he wasn't driving, he was  
25 parking. And the Smith video doesn't say

1 anything about parking.

2 **Q. It doesn't?**

3 A. Not that I know of. Not that I know of.  
4 Doesn't say a thing about parking.

5 **Q. If you knew the five keys, those reference**  
6 **parking.**

7 A. Okay. You will have to show me in writing.

8 MR. HARRISON: That wasn't the  
9 question. So what is the answer?

10 BY MR. RAFI:

11 **Q. So you should watch your own video.**

12 A. Okay. I have watched it. Now, do I recall  
13 it word for word, verbatim. I don't have a  
14 memory like that.

15 **Q. So there is five keys. You know one of**  
16 **them, correct?**

17 A. If I see it, I can probably recall it as  
18 when I watch -- recall it. But as recalling it  
19 now, no, I don't recall it.

20 **Q. You will recall it when you get in your**  
21 **vehicle when you drive away today?**

22 MR. HARRISON: Objection.

23 THE WITNESS: Do you recall  
24 everything?

25 MR. HARRISON: Take a breath.

1           You are close to done. It's been a  
2           long day. Just answer his questions.

3 BY MR. RAFI:

4 **Q.       These are important.**

5 A.       Do I recall every Roto-Rooter, no, I don't.

6                       MR. HARRISON: Stop it.

7 BY MR. RAFI:

8 **Q.       I didn't ask you -- this video seems to be**  
9 **important to you, that is why you chose to play**  
10 **it and why you do that above and beyond**  
11 **Roto-Rooter. I would say that is commendable.**  
12 **Clearly it's important to you. I just think you**  
13 **should know the material that you train your**  
14 **employees on. And I think that is very fair to**  
15 **ask, especially when I am talking about things**  
16 **when people can get seriously injured like my**  
17 **client.**

18                       MR. HARRISON: That is not a  
19           question, so you wait for a question.

20 BY MR. RAFI:

21 **Q.       My question to you, and we have to go back**  
22 **through a list now because you gave contradicting**  
23 **testimony. You said the only thing that you have**  
24 **to do, you don't have any responsibility for the**  
25 **vehicle other than tires, and making sure that**



1 the things -- the PPE are on board, and we've  
2 already said that is not true. You would agree  
3 with me, employees need to keep their vehicle  
4 clean neat in appearance on the inside and  
5 outside, correct?

6 A. Yes.

7 Q. You agree that they have to check the tires,  
8 correct?

9 A. Yes.

10 Q. You agree with me that they cannot have any  
11 other logos on the vehicle, correct?

12 A. Correct.

13 Q. You agree with me that they have to crank up  
14 the vehicle in front of you to show it works,  
15 correct?

16 A. Correct.

17 Q. You would agree with me that the lights have  
18 to be working?

19 A. Yes.

20 Q. The blinkers?

21 A. Yes.

22 Q. The parking lights?

23 A. Yes.

24 Q. The brake lights?

25 A. Okay. Yes.

1 Q. The hazard lights?

2 A. Uh-huh.

3 Q. The vehicle cannot leak too much oil,  
4 correct?

5 A. Correct.

6 Q. The vehicle has to have a spare tire?

7 A. Yes.

8 Q. The vehicle has to have a jack?

9 A. Yes.

10 Q. And that is a yes?

11 A. Yes.

12 Q. The vehicle has to have nothing sharp  
13 protruding that is dangerous for someone?

14 A. Correct.

15 Q. The vehicle has to have a winch?

16 A. Uh-huh.

17 Q. The vehicle has to have a fire extinguisher?

18 A. Yes.

19 Q. And the vehicle has to have all the PPE?

20 A. Yes.

21 Q. So you all do a lot with what is required in  
22 that video -- excuse me, in that vehicle,  
23 wouldn't you agree?

24 A. Doesn't say anything about driving. It  
25 doesn't. It doesn't -- my vehicle inspection, it

1 is a vehicle inspection.

2 **Q. So do Roto-Rooter vehicles, whether owned by**  
3 **an employee or owned by a company, have to be**  
4 **filled with gas while driving down the road?**

5 **A. That is common sense. Yes, sir. But --**

6 **Q. You would agree with me that was violated**  
7 **here, in this case, involving Daniel James? He**  
8 **ran out of gas, correct?**

9 **A. It's not a violation of policy, not to have**  
10 **gas in the car. He is required to --**

11 **Q. You just told me it was.**

12 MR. HARRISON: Let him finish  
13 his answer.

14 THE WITNESS: Okay.

15 BY MR. RAFI:

16 **Q. What question are you answering, sir?**

17 MR. HARRISON: Let him ask you  
18 a question.

19 THE WITNESS: About the gas.

20 BY MR. RAFI:

21 **Q. You just told me -- I am going to speak.**

22 MR. HARRISON: Hold on. Easy.  
23 Let's just get through everything.  
24 Just ask your question. All I want you  
25 to do is answer the questions. You are

1 almost done. You had a long day, okay?

2 THE WITNESS: Yes, sir.

3 MR. HARRISON: Take a deep  
4 breath.

5 THE WITNESS: I am fine.

6 MR. HARRISON: Good.

7 BY MR. RAFI:

8 **Q. You just agreed with me it is common sense**  
9 **that Roto-Rooter employees, regardless of the**  
10 **vehicle that they are driving while they are**  
11 **working, that they need to have gas in their**  
12 **vehicle so it doesn't run out?**

13 **A. Yes, sir.**

14 **Q. Mr. James ran out of gas in this case**  
15 **according to you, correct?**

16 **A. Yes, sir.**

17 **Q. Okay.**

18 **Mr. James was given three**  
19 **citations, correct?**

20 **A. I have no idea.**

21 **Q. Why not?**

22 **A. I am not privy to what citations that he**  
23 **got.**

24 **Q. Didn't you explain to me earlier that**  
25 **Roto-Rooter determines whether a driver is at**

1 **fault?**

2 MR. HARRISON: Object to the  
3 form.

4 THE WITNESS: I never said --

5 MR. HARRISON: He will  
6 rephrase the question.

7 BY MR. RAFI:

8 Q. He objected so I want to make sure my  
9 question is proper.

10 **Roto-Rooter determines that drivers**  
11 **are at fault if citations are given in motor**  
12 **vehicle accidents by the police?**

13 A. Yes.

14 Q. **Does Roto-Rooter speak to the police or**  
15 **someone else to find out if a driver has been**  
16 **given a citation in an accident?**

17 A. I ask the technician if they got a ticket.

18 Q. Did you ask Mr. James in this case?

19 A. I don't recall if I asked that question, but  
20 we do know that there was a citation issued. How  
21 many, I don't know.

22 Q. There were three citations issued. So let's  
23 work under that premise.

24 A. Okay.

25 Q. You would agree with me that under

1 **Roto-Rooter policy, Mr. James was at fault?**

2 MR. HARRISON: Object to the  
3 form.

4 THE WITNESS: I am not an  
5 expert on auto accidents.

6 BY MR. RAFI:

7 **Q. I am not asking --**

8 A. The police officer assessed blame and the  
9 court determines that.

10 **Q. So I am asking about Roto-Rooter policy.**  
11 **You just told me that Roto-Rooter determines**  
12 **drivers are at fault when they are given a**  
13 **citation by the police?**

14 A. No. What I stated was, if they are given a  
15 citation they receive a drug test.

16 **Q. Sir, we haven't mentioned drug test in two**  
17 **hours.**

18 **You just agreed with me that if a**  
19 **Roto-Rooter employee receives a citation in a**  
20 **motor vehicle accident from a police officer,**  
21 **they are at fault. You just told me that,**  
22 **correct?**

23 MR. HARRISON: Object to form.

24 THE WITNESS: Based on --  
25 based on receiving a citation.

1 BY MR. RAFI:

2 Q. And my next question is, Mr. James received  
3 at least one citation that you know about,  
4 correct?

5 A. As far as I know, yes, sir.

6 Q. Under Roto-Rooter policy which you just  
7 articulated to me, Mr. James was at fault because  
8 he received at least one citation from the police  
9 in a motor vehicle accident?

10 A. I am not sure --

11 Q. Are you not sure or you just don't want to  
12 agree with me?

13 MR. HARRISON: Object to form.

14 THE WITNESS: I am not sure  
15 who is at fault.

16 BY MR. RAFI:

17 Q. I am not asking you who is at fault. I will  
18 ask my question again.

19 MR. HARRISON: That is the  
20 problem.

21 THE WITNESS: Roto-Rooter  
22 policy sales who is at fault and I  
23 don't set policy.

24 BY MR. RAFI:

25 Q. Sir, I am not asking you to set policy. I

1 am not asking you to give me your personal  
2 opinion. I am saying, under the policy as you  
3 understand it and have articulated it numerous  
4 times to me, wouldn't you agree that Mr. James  
5 was given a citation by a police officer? Yes?

6 A. Yes.

7 Q. And if you are given a citation by a police  
8 officer under Roto-Rooter policy, you are  
9 therefore at fault to Roto-Rooter?

10 A. No, not Roto-Rooter.

11 Q. What do you mean?

12 A. The technician is at fault.

13 Q. Okay.

14 The Roto-Rooter employee is at  
15 fault when he is given a citation by a police  
16 officer in a motor vehicle accident?

17 MR. HARRISON: Objection to  
18 form.

19 THE WITNESS: If that's what  
20 is determined by the citation. All  
21 right?

22 BY MR. RAFI:

23 Q. What do you mean by that?

24 A. What I am trying to say and you may be  
25 putting words in my mouth, that's what it feels



1 like. What I am trying to you say is, if they  
2 are given a citation, all right, Roto-Rooter  
3 performs a drug test. That is the only thing I  
4 am trying to say here. I don't assess blame. I  
5 don't lay blame. I leave that to the legal  
6 system to determine who is at fault.

7 **Q. So Roto-Rooter --**

8 A. I don't set policy. I forward the  
9 information on and they determine.

10 **Q. I am not asking you about setting policy. I**  
11 **am not asking you about your personal**  
12 **interpretation. I am asking you to apply the**  
13 **policy as you understand it and I can't get a**  
14 **straight answer what the policy is. So let me**  
15 **try one more time.**

16 MR. HARRISON: That is not a  
17 question, so let me object. He is  
18 doing the best he can do and I think  
19 the probably, Mike, is, you use the  
20 word fault and blame and the evidence  
21 of liability --

22 MR. RAFI: I can use the word  
23 negligence.

24 MR. HARRISON: It is  
25 determined, so he has given you your

1           answer, let me finish. He has given  
2           you his answer and he is doing the best  
3           he can do and we have been here a long  
4           time, so let's keep moving.

5                           MR. RAFI: Okay.

6           BY MR. RAFI:

7           **Q. Does Roto-Rooter ever investigate drivers to**  
8           **determine if they were at fault in a collision?**

9           A. I don't know. I don't know if they ever do  
10          it or not. I can't say Roto-Rooter yes or no.

11          Okay. Do I do investigations --

12          **Q. Sir, I am not asking you if you do**  
13          **investigations. I appreciate your answer and I**  
14          **appreciate that you are willing to give me more**  
15          **information but, unfortunately, that hurts the**  
16          **process that we have here.**

17          A. Okay.

18          **Q. So I will bring you back to Exhibit 10 and I**  
19          **want you to -- I want you to look under Minor**  
20          **Violations 2 points.**

21          A. Okay.

22          **Q. Do you see where I am looking at?**

23          A. Okay.

24          **Q. Yes?**

25          A. Yes. There is two of them. I am sorry. 2

1 points, sorry.

2 Q. So Minor Violations 2 points, first thing  
3 under that is "speeding." Agreed?

4 A. Yes.

5 Q. Second thing under that is, "other moving  
6 violations"?

7 A. Okay.

8 Q. The third thing is "at fault accident"?

9 A. Okay.

10 Q. Did I read that correctly?

11 A. Correct.

12 Q. Is this a Roto-Rooter document?

13 A. Yes.

14 Q. Would you agree with me then that in order  
15 for this policy to make any assemblance of sense,  
16 Roto-Rooter would have to determine, somehow,  
17 somehow, that a driver was at fault in an  
18 accident. Yes or no, sir?

19 A. Yes. Roto-Rooter has to determine that.

20 Q. So now that we have agreed that Roto-Rooter  
21 determines whether drivers are at fault or not,  
22 can you articulate to me how Roto-Rooter does  
23 that?

24 A. By their MVR.

25 Q. Okay.

1                   **What do you mean by that?**

2       A.       They pull a current MVR and anything listed  
3       on the MVR they assess our personal point system  
4       to it. Not what the State decides or anything  
5       like that. Okay? If they have a speeding ticket  
6       during this timeframe, all right, or I am not  
7       even sure if this is this year over three years,  
8       I don't know how far back, but if they have --  
9       based on a certain timeframe, and I don't know  
10      what that is, all right, based on the MVR report,  
11      the points, these are our points, doesn't affect  
12      anybody else. These are our points.

13      **Q.       Explain to me how an MVR, motor vehicle**  
14      **record shows whether an accident was at fault or**  
15      **not?**

16      A.       Usually, only MVR -- isn't there a  
17      disposition of the case? Whether they plead nolo  
18      contende, citation paid, fine paid?

19      **Q.       Okay. So --**

20      A.       Do they not do that? I am asking. I don't  
21      know.

22      **Q.       If you don't know, you should say you don't**  
23      **know, sir.**

24                   MR. HARRISON: That is exactly  
25                   what it says.

1 MR. RAFI: Please don't give  
2 the witness information that the  
3 witness doesn't know.

4 MR. HARRISON: Got it.

5 BY MR. RAFI:

6 **Q. Who makes the determination of whether**  
7 **someone is at fault by looking at their motor**  
8 **vehicle report?**

9 A. The legal system. Oh, by looking at the  
10 MVR.

11 **Q. Yes.**

12 A. The MVR is pulled by corporate. Roto-Rooter  
13 Services Company Corporate.

14 **Q. Do you have any idea, is it Mr. Tinsley and**  
15 **Ms. Ohl?**

16 A. No. It is our human resources department.  
17 HR department.

18 **Q. So human resources decides if employees are**  
19 **at fault in motor vehicle accidents according to**  
20 **--**

21 A. No. They assess points.

22 MR. HARRISON: Hold on. You  
23 have to let him finish.

24 THE WITNESS: Sorry.

25 MR. HARRISON: We are having a

1           tough time. Let him finish his  
2           question.

3                         THE WITNESS: I am sorry. Go  
4           ahead.

5   BY MR. RAFI:

6   **Q.     So human resources decides if drivers for**  
7   **Roto-Rooter are at fault in accidents by looking**  
8   **at the MVR? That's literally what you just told**  
9   **me. I just said it over.**

10  A.     They pull the MVR.

11  **Q.     I understand that. Sir, I don't want you --**

12  A.     I can't say yes or no.

13  **Q.     Why not?**

14  A.     Because I don't know what they think. I am  
15  not in their heads. I don't communicate to them.  
16  This is not in my department. I don't know -- I  
17  don't pull these. I don't know. I don't receive  
18  these. All right? How they determine it is  
19  their --

20  **Q.     I didn't ask you how they determine it.**

21                         MR. HARRISON: Stop cutting  
22           him off.

23                         MR. RAFI: He keeps talking  
24           outside the box.

25                         MR. HARRISON: You don't

1           determine that, when he is done talking  
2           or not.

3                           MR. RAFI: We will sit here  
4           longer.

5   BY MR. RAFI:

6   **Q.     My question to you was, it was human**  
7   **resources who determines if a Roto-Rooter**  
8   **employee was at fault in an accident. Yes or no?**

9   A.     Yes. They submit the Krol report to us.  
10   They pull it and they send it to us.

11   **Q.     Who assesses the points?**

12   A.     I don't know. I don't know who in that  
13   department does that.

14   **Q.     When you say "that department," what**  
15   **department do you mean?**

16   A.     Human resources department.

17   **Q.     So the Atlanta office has nothing to do with**  
18   **determining if drivers are at fault in accidents**  
19   **while driving a Roto-Rooter vehicle or driving**  
20   **any vehicle during work for Roto-Rooter?**

21                           MR. HARRISON: Object to form.

22                           THE WITNESS: No, not that I  
23           know of.

24   BY MR. RAFI:

25   **Q.     When do you pull the MVRs. Excuse me. When**

1     **does Roto-Rooter pull the MVRs?**

2     A.     To the best of my knowledge, is at the  
3     anniversary of their hire.

4     **Q.     Have you ever heard of an employee being**  
5     **terminated from Roto-Rooter because of a motor**  
6     **vehicle accident prior to their yearly**  
7     **anniversary?**

8                     MR. HARRISON:   For any reason.

9     BY MR. RAFI:

10    **Q.     For any reason as a result of a motor**  
11    **vehicle accident.**

12    A.     For a motor vehicle accident?  I have never  
13    heard of one, no.  Not that I know of.

14    **Q.     Is discipline only given after the MVR**  
15    **check?**

16    A.     You have to ask the manager.  I am not a  
17    manager.

18    **Q.     But you are the branch safety --**

19    A.     I don't --

20    **Q.     Sir, sir.**

21    A.     Yes, sir.

22    **Q.     You are the branch safety coordinator**  
23    **correct?**

24    A.     Yes, sir.

25    **Q.     So you don't know when discipline is handled**



1 **involving a motor vehicle accident?**

2 A. It's a manager's responsibility. I do not  
3 deal with discipline.

4 **Q. Did Mr. James get names, addresses, license**  
5 **numbers, insurance companies, or the names of**  
6 **other parties involved in the wreck?**

7 A. I do not know.

8 **Q. Who is the first person to speak to Mr.**  
9 **James in person from Roto-Rooter after the**  
10 **vehicle accident?**

11 A. I do not know.

12 **Q. Mr. James told you he would call you back**  
13 **once he spoke to police, correct?**

14 A. Correct.

15 **Q. Did he ever call you back?**

16 A. I do not recall if he did or not. It's been  
17 a while. I don't recall if he did or not.

18 **Q. The next day you said, I assume the next**  
19 **day, you said you stayed up all night?**

20 A. Yes. Waiting for his phone call.

21 **Q. At some point --**

22 A. I don't recall if he did or not.

23 **Q. I am not asking about the call.**

24 MR. HARRISON: Let him ask the  
25 question.

1 BY MR. RAFI:

2 Q. At some point you went to work?

3 A. The next morning, yes.

4 Q. When did you first speak to Mr. James after  
5 that phone -- that first phone call with him?

6 A. I believe Mr. Garman spoke to him after  
7 that.

8 Q. Thank you for that answer.

9 When did you speak to Mr. James, if  
10 ever, after the accident and after that first  
11 phone call?

12 A. I don't recall.

13 Q. Did you speak to him after the accident?

14 A. I don't recall. I don't know.

15 Q. Why not?

16 A. I don't know.

17 Q. When is the last time you spoke to Mr.  
18 James?

19 A. I couldn't tell you.

20 Q. When is the last time you saw him?

21 A. I haven't. Not since the accident. I don't  
22 recall if I ever saw him after that or not.

23 Q. Do you have any idea of what happened to the  
24 vehicle after the accident?

25 A. It was impounded. It was in a lot at a --

1     **Q.     Wrecking lot?**

2     A.     Wrecking lot, yeah.

3     **Q.     Did anyone from Roto-Rooter ever go and look**  
4     **at that vehicle?**

5     A.     I did.

6     **Q.     You did?**

7     A.     Yeah.

8     **Q.     Why?**

9     A.     I went to pull our equipment off the truck  
10    when I was told he wasn't coming back.

11    **Q.     And what equipment was in the truck that you**  
12    **had to get?**

13    A.     Sewer machines, our parts, any equipment  
14    that we issued him, Roto-Rooter equipment and  
15    stuff that we issued him.

16    **Q.     Can you name everything that you remember?**

17    A.     There is two sewer machines, three cables, I  
18    didn't pull the winch out, I am not going to  
19    unwire a vehicle. If there was a GPS unit on it,  
20    I would have gotten that. I don't -- there  
21    should have been one and I don't recall if I  
22    pulled it.

23                   MR. HARRISON: He is just  
24                   asking you what you remember pulling  
25                   off of that vehicle.

1                   THE WITNESS: Two sewer  
2                   machines and parts that were  
3                   salvageable, copper fittings, total  
4                   repair parts, drain care product. You  
5                   know, the PPE equipment. And if it was  
6                   available, yes, I pulled everything I  
7                   could off the truck. As to the full  
8                   extent, I can't give you a blow by blow  
9                   what it was.

10       BY MR. RAFI:

11       **Q.       Let me show you what has been marked as**  
12       **Exhibit 16.**

13

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14

(Whereupon, Plaintiff's

15

**Exhibit 16, Photograph, was marked**

16

**for identification.)**

17

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18       BY MR. RAFI:

19       **Q.       This is a picture, Deposition Exhibit 16 is**  
20       **a picture of what I believe the back of Mr.**  
21       **James' vehicle. Is that what it appears to you?**

22

A.       That looks like the inside of it. Yes.

23

**Q.       Did you take this picture?**

24

A.       I don't think so. I don't know.

25

**Q.       Does that look like before or after you**

1 pulled the equipment out?

2 A. Looks like before.

3 Q. So there is more in there, in this picture  
4 than obviously after you left?

5 A. Yes.

6 Q. When did you pull the equipment out?

7 A. I don't know.

8 Q. Was it after that you learned that Mr. James  
9 no longer --

10 A. He couldn't purchase a new vehicle and so he  
11 was no longer able to work for us, because he  
12 could not purchase a new vehicle. From my  
13 understanding, he was too far in debt in this  
14 vehicle and wasn't going to get any compensation  
15 for it. That was my understanding.

16 Q. Did Roto-Rooter help drivers get vehicles?

17 A. There is an assistance program, yes.

18 Q. And Mr. James was enrolled in that  
19 assistance program?

20 A. I do not know.

21 Q. Mr. James took a drug test, correct?

22 A. Correct.

23 Q. Why?

24 A. He was given a drug test because I was  
25 informed that he was issued a citation.

1 Q. When did you learn that he was issued a  
2 citation?

3 A. He was given the drug test at 8 o'clock that  
4 next morning, so it would have been somewhere  
5 between 12:30 and 8 o'clock. And whether or not  
6 I was notified that he got a ticket by the  
7 technician, I don't recall if he called me back  
8 or whether or not one of the other managers were  
9 notified. I don't have the answer to that, who  
10 got --

11 MR. HARRISON: Just answer  
12 what he has asked, then stop and wait  
13 for the next question.

14 BY MR. RAFI:

15 Q. I believe the answer was Mr. James got a  
16 drug test because he was cited for the accident  
17 by the police, correct?

18 A. Yes.

19 Q. Do you know what he was cited for?

20 A. No.

21 Q. Did you ever find out what he was cited for?

22 A. I don't recall the full extent. No, sir. I  
23 don't. I don't recall.

24 Q. I showed you earlier in Exhibit 15 a sample  
25 incident report and you told me that this would

1 be filled out in certain motor vehicle accidents  
2 involving Roto-Rooter, correct?

3 A. Yes.

4 Q. Was that completed in this incident?

5 A. No.

6 Q. Why not?

7 A. Because I was instructed not to.

8 Q. By whom?

9 A. By Mr. Tinsley.

10 Q. He affirmatively instructed you not to  
11 complete --

12 A. No --

13 Q. Sir, did Mr. Tinsley affirmatively instruct  
14 you not to complete the Roto-Rooter Services  
15 Company Incident Investigation Report, which is  
16 labeled as Exhibit 15?

17 A. Yes.

18 Q. When you learned of the -- after you learned  
19 of the vehicle accident, who was the first person  
20 at Roto-Rooter that you told?

21 A. I don't know. I could have -- I could have  
22 sent out a text message to all the managers, I  
23 could have called the MOD. I don't know who the  
24 first person was.

25 Q. Tell me everyone you discussed this incident

1     **with following the accident.**

2     A.     It would be the -- it would be the General  
3     Manager.

4     **Q.     Mr. Austin?**

5     A.     Mr. Austin.  It would have been Russ Garman  
6     that I know of.  It would have been Walter  
7     Tinsley.

8     **Q.     Would you have spoken to Ms. Ohl?**

9     A.     No, I did not speak to her about it.

10    **Q.     Would you have spoken to Sean Mastin?**

11    A.     After I received notification, I notified --  
12    I called -- I forwarded up a copy of it when I  
13    got it --

14    **Q.     You mean the lawsuit?**

15    A.     The lawsuit, yes.  And then we communicated  
16    through emails, which you have.

17    **Q.     When was the last time Mr. James had a  
18    vehicle inspection with Roto-Rooter for his van?**

19    A.     There was no formal vehicle inspection.  
20    There was a time of purchase to ensure that there  
21    was -- there was nothing on the vehicle.  I  
22    mentioned there was a headache rack was the only  
23    requirement and being white and a cargo van of at  
24    least 1,500 or better.

25    **Q.     1,500 what?**



1 A. A 150. It's automotive terminology. 150 is  
2 a half ton, 2,500 is a 3/4 ton, or a 250 is a 3/4  
3 ton, or a 350 or a 3,500 is a one ton, cargo van.

4 **Q. Mr. James purchased the vehicle before he**  
5 **started working on his own or driving on his own,**  
6 **correct?**

7 A. Correct. Yes.

8 **Q. He needed the vehicle to get around before**  
9 **he could actually start working?**

10 A. Yes, sir.

11 **Q. And you inspected -- did you do the**  
12 **inspection of his vehicle initially?**

13 A. It would be either myself or Mr. Garman, or  
14 one of the other managers would look at it to  
15 make sure it was an approved vehicle.

16 **Q. I hope you all do that before he purchases**  
17 **the vehicle or do you do it after?**

18 A. They normally sent pictures Mr. To Garman.

19 **Q. Okay.**

20 **Mr. James began working in March of**  
21 **2012. Does that sound about right?**

22 A. Yes.

23 **Q. And the accident was late August of 2012?**

24 A. Okay.

25 **Q. Why wasn't his vehicle inspected at any**

1 point between those two points?

2 A. Cause my understanding, he was at the end of  
3 his training, which is three months or better,  
4 and I am not sure if he purchased at the end of  
5 his training or it was after his training because  
6 you would have to ask somebody else. There was a  
7 lag time between the end of his training, his  
8 training stopped and he was told to go get a  
9 vehicle to continue working. I don't know how  
10 long it took for him to get a vehicle. So March,  
11 April, May. It may have been May or June when he  
12 got his vehicle.

13 Q. I have an answer, so that way -- so he  
14 bought his truck in May of 2012?

15 A. May what?

16 Q. 25th.

17 A. Okay.

18 Q. Why wasn't his vehicle inspected from the  
19 time he bought it until the accident by  
20 Roto-Rooter --

21 MR. HARRISON: Object to form.

22 BY MR. RAFI:

23 Q. -- as you described to me the inspection  
24 process?

25 A. Okay. He bought it in May, we are required

1 to do an inspection every quarter, that is three  
2 months. He hadn't followed into my vision to do  
3 the inspection yet.

4 Q. So you agree now that Roto-Rooter needs --  
5 sir, let me finish the question. Do you agree  
6 with me now that Roto-Rooter needs to do  
7 inspections of employee owned vehicles?

8 A. I already stated that, yes, sir. But I also  
9 made the statement -- I am sorry. I will stop.

10 Q. So I can read everything that you say after  
11 it.

12 Safe to say a preventability

13 analysis on this wreck was not done?

14 A. I don't know what one is.

15 MR. HARRISON: How many times  
16 are you going to answer that question?

17 MR. RAFI: I never asked that.

18 MR. HARRISON: You asked him  
19 several times.

20 MR. RAFI: I never asked for a  
21 preventability analysis on this  
22 vehicle.

23 MR. HARRISON: Yeah.

24 MR. RAFI: No, sir, I have  
25 not.

1 MR. HARRISON: He said no, so  
2 go ahead. All right. Whatever.

3 MR. RAFI: You have a problem  
4 with me walking through answers, I  
5 apologize.

6 MR. HARRISON: I have a  
7 problem with asking the same questions.

8 MR. RAFI: Object to form.  
9 Don't speak during the deposition.

10 MR. HARRISON: I will do  
11 whatever I want.

12 MR. RAFI: You will do  
13 whatever you want?

14 MR. HARRISON: That is what I  
15 said.

16 MR. RAFI: All right. Note  
17 that.

18 MR. HARRISON: Good.

19 MR. RAFI: I will do -- for  
20 the record, I will do exactly what the  
21 Judge requires in the Standing Order.

22 MR. HARRISON: Good for you.

23 BY MR. RAFI:

24 **Q. Sir, do you agree that it's dangerous to**  
25 **leave a vehicle in a travel lane on a highway?**

1 A. My personal opinion?

2 Q. Yes, sir.

3 A. It's dangerous to leave a vehicle on --  
4 wherever.

5 Q. But you would agree with me, yes, that it's  
6 dangerous to leave a vehicle in a travel lane of  
7 a highway?

8 A. That is common knowledge. Yes, sir.

9 Q. Do you know if Mr. James called the police  
10 before he called you to report that his vehicle  
11 was left somewhere on the roadway of I-20?

12 A. I told you that already, that he was walking  
13 down when he noticed the police --

14 MR. HARRISON: Listen to his  
15 question. Just answer his question.

16 THE WITNESS: No, I don't know  
17 if he called the police.

18 BY MR. RAFI:

19 Q. Okay.

20 You do not know if he called the  
21 police?

22 A. No.

23 Q. You mentioned that Mr. James was on call?

24 A. Yes. You have different numbers by the way.

25

-----

1                   (Whereupon, Plaintiff's  
2                   Exhibit 17, Time Tracking, was  
3                   marked for identification.)

4                   -----

5           BY MR. RAFI:

6           **Q.       I am showing you what has been marked as**  
7           **Exhibit 17. This is an excerpt taken from the**  
8           **Roto-Rooter handbook. You can see the side as**  
9           **you pointed out earlier. Do you agree with that?**

10          A.       Yes.

11          **Q.       This is Page 15, 16, 17 and 18 of that**  
12          **handbook.**

13          A.       Okay.

14          **Q.       On Page 17, Page 3 of the document under**  
15          **Non-Work Time, heading two?**

16          A.       Okay.

17          **Q.       There is, see "on call time"?**

18          A.       Yes, I see that.

19          **Q.       And states, "When on call, a technician's**  
20          **job time is the time spent traveling to and from**  
21          **the job and the time actually spent on the job."**  
22          **Did I read that correctly?**

23          A.       That is correct.

24          **Q.       For other time between jobs, non-call --**  
25          **excuse me, on call is not considered work time.**

1 **Did I read that correctly?**

2 A. Correct.

3 **Q. Is that, as far as you know, the correct**  
4 **Roto-Rooter policy regarding on call time?**

5 A. Yes, sir.

6 **Q. That is all I have for you on that one.**

7 **You said Roto-Rooter uses GPS**  
8 **tracking system, correct?**

9 A. Yes, sir.

10 **Q. Roto-Rooter puts a UPS tracker on their**  
11 **employee's vehicles?**

12 A. Correct.

13 **Q. That is true, whether it is employee owned,**  
14 **correct?**

15 A. Correct.

16 **Q. Or whether it's company owned?**

17 A. Correct.

18 **Q. And that is to facilitate reimbursement of**  
19 **service van reimbursed expenses?**

20 A. My understanding is mileage.

21 **Q. And reimbursed mileage, that is what you are**  
22 **saying?**

23 A. Reimbursed mileage according to the .56 per  
24 mile that Federal Government requires.

25 **Q. And the GPS system is designed to track**

1 **vehicle movements only when on work time,**  
2 **correct?**

3 MR. HARRISON: Can you based  
4 on the stand by versus on call, can you  
5 clarify?

6 MR. RAFI: Let's just do it  
7 this way.

8 -----  
9 (Whereupon, Plaintiff's  
10 Exhibit 18, Roto-Rooter  
11 Services Company GPS Mileage  
12 Tracking Agreement, was marked for  
13 identification.)

14 -----

15 BY MR. RAFI:

16 **Q. Here is number 18. This is the Roto-Rooter**  
17 **Services Company GPS Mileage Tracking Agreement.**  
18 **This is Daniel James' agreement, right, sir?**

19 A. Yes.

20 **Q. And the second paragraph, and it's kind of**  
21 **what I quoted to you. "The company uses a GPS**  
22 **mileage tracking system to facilitate**  
23 **reimbursement for service van expenses."**

24 A. Okay.

25 **Q. That is your time and mileage, and that**



1     **makes sense, right? Prepaid mileage?**

2     A.     No. That is my understanding that is what  
3     it is.

4     **Q.     And the last sentence says, "The system is**  
5     **designed," last sentence of paragraph two. "The**  
6     **system is designed to track vehicle movements**  
7     **only during work time. When the technician is**  
8     **off duty tracking is disabled." Is that correct?**

9     A.     That is what I have been informed.

10    **Q.     Okay.**

11                                 **It's my understanding that Mr.**  
12    **James had a GPS tracking device on his vehicle.**  
13    **Do you know that one way or the other?**

14    A.     If he signed the acknowledgment form, yes,  
15    and I could probably research the boxes that the  
16    GPS units -- I don't know.

17                                 MR. HARRISON: Just answer his  
18    question.

19                                 THE WITNESS: Yes, he did have  
20    one in it.

21    BY MR. RAFI:

22    **Q.     What do you mean you can research the boxes**  
23    **with the GPS unit?**

24    A.     When I assign a GPS unit or the previous  
25    technician that had that part of it, I assign the

1 GPS, he writes on the box who he put the --

2 **Q. Do you know where those boxes go?**

3 A. The boxes are in my warehouse.

4 **Q. Has your lawyer asked you to give him that**  
5 **box?**

6 A. He asked for all pertinent information. I  
7 didn't think about it.

8 MR. HARRISON: My

9 understanding, Mike, and we are happy

10 to look for whatever boxes. My

11 understanding is all the data held by

12 Fleet Tracks was purged in the data and

13 provisional response. I don't know if

14 I have been asked to produce the actual

15 device because I didn't know it

16 existed.

17 MR. RAFI: I didn't either.

18 MR. HARRISON: No. No. When

19 you are asked a question, you respond.

20 BY MR. RAFI:

21 **Q. This is the last -- hopefully the last set**  
22 **of questions I have for you, sir.**

23 A. Okay.

24 **Q. Remind me of your answer. You didn't know**  
25 **where Mr. James was coming from; is that correct?**

1 A. Not at time being, no.

2 Q. Assuming Mr. James was coming from Conyers  
3 on a job, he was on call and he was driving home,  
4 which I believe are the facts --

5 A. Okay.

6 Q. -- he was being tracked with his GPS system,  
7 right, because he hadn't been home and needed to  
8 be reimbursed?

9 A. Correct.

10 MR. RAFI: I have no further  
11 questions. Thank you very much for  
12 your patience, sir.

13 MR. HARRISON: Let me speak  
14 with him about signature and Keith is  
15 here. I just need a couple of minutes.

16 (Adjourned.)

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## 1 C E R T I F I C A T I O N

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I HEREBY CERTIFY that the proceedings and evidence are contained fully and accurately in the stenographic notes taken by me upon the foregoing matter on Friday, January 9, 2015, and that this is a correct transcript of same.

Celeste Perla, RPR, CSR, Merit  
Reporter and Notary Public  
Registered ID #19508  
CCR 6331-2589-3832-7040

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**WORD INDEX**

&lt; \$ &gt;

**\$80.00** 39:4

&lt; : &gt;

**:No** 1:1

&lt; 0 &gt;

**056** 133:18 161:7**058** 126:17

131:23

&lt; 1 &gt;

**1** 1:1 3:11 6:6

70:10, 13 71:5, 6

79:6 100:6, 6

138:16 139:21

146:20 152:15

167:5

**1,500** 240:24, 25**10** 4:3 41:17

57:25 66:20

80:17 81:7

120:21 122:13

142:20, 24 143:8

156:13, 14, 20

157:3 169:19

226:18

**10:00** 1:1**10:10** 5:15**100** 40:16**11** 4:6 8:22

34:10, 10 41:18,

23 57:25 83:17

149:8, 14

**11197** 10:13**12** 4:8 28:3

34:10 44:12

47:10 83:17

123:18 137:1

140:4 151:12

**12:30** 195:6, 13

203:7, 9 204:14

207:10, 14

208:25 213:12

238:5

**123** 3:20**125** 3:22**13** 4:10 151:6

152:5

**130** 3:24**137** 4:3**14** 4:12 171:18,

25 173:11

185:23 192:22

**142** 4:5**149** 4:7**14A52248** 1:1**15** 4:14 183:24

184:4 238:24

239:16 246:11

**1-5** 1:1**150** 241:1, 1**151** 4:12**16** 4:17 123:18

236:12, 15, 19

246:11

**1691** 2:11**16th** 123:4

125:13 149:18

**17** 4:18 140:4

246:2, 7, 11, 14

**171** 4:14**17th** 10:1**18** 4:19 15:10

246:11 248:10, 16

**1-800** 67:20**183** 4:16**19** 4:22**1932** 2:4**19508** 252:17**1960** 10:1**1973** 10:6, 8

13:24

**1976** 17:1**1994** 13:21**1995** 13:22**1997** 14:24**1st** 143:7

&lt; 2 &gt;

**2** 3:13 38:14

73:4, 7, 11, 12, 13

78:3 82:14 90:2

137:4 138:16

139:21 140:4, 15

152:15 162:14

167:8 172:15

226:20, 25 227:2

**2,500** 241:2**20** 4:23 10:18

11:9 13:12 45:7,

9 69:8 140:15

210:20 211:24

**2000** 15:13

19:18 34:9 53:7,

7

**2001** 53:8 54:9**2003** 8:22 16:12

25:19

**2005** 45:16

141:24

**2006** 34:12 37:18**2007** 34:13, 16

35:16 37:18

**2008** 17:14, 19,

25 24:15 25:20,

21 26:2 27:12,

17, 19, 21, 22

28:17 29:19

30:13, 16, 20

31:1 34:16 35:9,

20

**2010** 46:25

47:17 90:11

**2011** 34:10

45:23 46:9 47:1,

21 90:11

**2012** 8:21 123:4

125:13 140:6, 14,

15 143:7 151:16

153:15 165:22

166:16 171:10

193:21 195:3

241:21, 23 242:14

**2013** 149:18**2015** 1:1 5:15

252:8

**230G** 4:12 151:8

152:7

**236** 4:17**23rd** 195:2**24** 53:11 65:18

173:12 174:1

179:16 180:5

185:22, 25 186:1

187:10

**246** 4:18**248** 4:21**250** 2:4 241:2**252** 1:1**25th** 242:16**280** 2:12**285** 80:14**288** 1:1 2:8**2968** 82:23**29th** 8:21 141:24**2nd** 151:16

&lt; 3 &gt;

**3** 3:14 77:8, 13

123:18 139:23

141:23 164:7

166:5 180:3

181:14 241:2, 2

246:14

**3,500** 241:3**30** 156:14**300** 154:23**30030** 74:11**30033** 82:25**30060** 1:1 2:8**30228** 10:14**30319** 2:5**30349** 2:12 63:14**350** 241:3**3rds** 78:3

&lt; 4 &gt;

**4** 3:16 16:9

79:25 80:3, 12

139:23 193:5

241:2, 2

**40** 103:20**404-297-6408**

78:14

**404-377-4932**

74:20

**41** 10:6**445** 63:13**45** 18:4 53:21

&lt; 5 &gt;

**5** 3:4, 17 81:15,

20 140:12

**56** 129:5 131:10  
174:13 193:9  
247:23  
**58** 128:3, 18  
129:8, 12 130:15,  
20 131:5, 12  
132:9 172:22  
**5900** 83:1

## &lt; 6 &gt;

**6** 3:18 21:4  
25:2 50:8 123:8,  
8, 11 140:12  
152:21 166:17  
**60** 172:16, 22  
**6300** 43:20 84:8  
**6331-2589-3832-70**  
**40** 252:18  
**6356A** 63:9 84:10  
**647** 78:6

## &lt; 7 &gt;

**7** 3:21 65:18  
125:3, 8 134:2, 3  
135:22  
**70** 3:12  
**73** 3:13  
**75** 42:16 63:19  
**77** 3:15  
**770** 67:16  
**770.294.2360** 11:7  
**770-482-5335**  
79:12

## &lt; 8 &gt;

**8** 3:23 130:8  
131:9 161:19  
238:3, 5  
**80** 3:16  
**81** 3:17  
**85** 63:19, 19  
**8-hour** 54:20  
58:7 119:5, 16,  
20 120:2, 5, 10  
122:16, 21

## &lt; 9 &gt;

**9** 1:1 4:3 26:20  
137:16, 22 138:7,

**7** 139:23 140:12  
252:7  
**911** 15:22  
**95** 10:18  
**97** 15:1, 1  
**98** 15:1  
**992-9422** 67:16  
**9th** 5:15

## &lt; A &gt;

**a.m** 1:1 5:15  
**abide** 22:3, 12, 18  
23:2 40:12  
**abilities** 167:12,  
22  
**ability** 68:18  
132:16  
**able** 12:20 45:16  
64:14 85:5  
131:6 133:3  
237:11

**Absolutely**

129:23 155:16  
158:25 162:9  
**accepted** 15:25  
60:17

**access** 88:6  
173:8

**accessed** 169:5  
**accessible** 46:23  
154:18

**Accident** 4:12  
17:11, 16, 21, 25  
19:19 24:15  
25:5, 13, 23 26:2,  
18 27:6, 9 28:17  
29:3, 6, 8, 11, 14,  
15, 19 30:13  
31:25 32:4, 8, 9  
33:4, 12 34:15,  
18 35:3, 6, 9, 16  
36:4 37:22  
38:10 39:2 53:4  
93:6, 13 97:5  
99:5, 16 100:2,  
25 103:9 110:25  
111:2 112:10, 15  
119:21 120:7  
122:18 124:12,  
20 134:20 147:2,

10, 13 161:18  
171:18, 23 172:7,  
10, 16 173:12, 13,  
17, 24, 25 174:11,  
14, 21 175:3, 14,  
17, 19 176:10, 11,  
21 177:18 178:2,  
11 179:15, 16, 17  
180:5, 6 181:20  
182:1, 21 183:14  
184:12, 17 186:1,  
14, 25 187:14, 17,  
22 188:4 189:2,  
3 192:2 193:3, 7,  
14, 19, 21 194:3  
195:7, 8, 11  
196:15, 16  
199:20 201:12  
204:20 205:18  
206:21 207:10  
208:25 212:12  
213:12 221:16  
222:20 223:9  
224:16 227:8, 18  
228:14 231:8  
232:6, 11, 12  
233:1, 10 234:10,  
13, 21, 24 238:16  
239:19 240:1  
241:23 242:19  
**accidents** 30:17  
52:21 53:11  
56:8 93:3 94:11  
99:17 112:24  
168:15 172:11  
178:25 187:10  
188:5 189:14, 23  
191:6 210:2  
221:12 222:5  
229:19 230:7  
231:18 239:1  
**accurately** 141:17  
252:5  
**Acknowledgement**  
4:9  
**acknowledgment**  
128:21 144:4  
145:1, 2 151:13  
249:14

**acquainted**

115:16  
**Act** 6:2, 3  
**action** 174:12  
191:14 193:9  
**actual** 8:3 48:2  
85:16 115:24  
132:18 144:6  
250:14  
**addition** 81:7  
86:19, 22 101:15  
146:7  
**additional** 46:6  
90:23 128:13  
131:20 137:3  
**address** 8:8  
10:12, 17 11:9  
63:12 64:23  
78:12, 17, 18  
79:8, 14 83:11,  
12, 15 192:23  
198:18, 19  
**addresses** 63:8  
175:11 233:4  
**Adjourned** 251:16  
**admit** 175:4  
176:21  
**admitted** 37:25  
**affect** 132:15, 25  
228:11  
**affirmatively**  
239:10, 13  
**age** 34:23  
**ago** 5:20 60:19  
84:17 108:16  
115:3 132:11  
161:2, 3 203:23  
204:12, 12  
**agree** 8:23 21:13  
22:18 50:23  
76:13, 21 126:9,  
13 145:3 147:12,  
22 162:3, 10, 16  
171:12 173:14  
175:5 176:12  
178:24 180:24  
186:2, 10, 23  
187:6 189:15, 24  
191:25 217:2, 7,  
10, 13, 17 218:23

219:6 221:25  
 223:12 224:4  
 227:14 243:4, 5  
 244:24 245:5  
 246:9  
**Agreed** 6:17, 18  
 172:4 173:13  
 220:8 222:18  
 227:3, 20  
**Agreement** 4:21  
 248:12, 17, 18  
**ahead** 7:22  
 18:19 85:22  
 138:8 183:5  
 205:20 211:8  
 230:4 244:2  
**ahold** 10:25 11:2  
**Aim** 104:5  
**air** 156:8  
**airport** 63:20  
 81:4, 5  
**alcohol** 101:10,  
 13, 16, 23 167:10  
**alive** 203:17, 23  
**allow** 50:19  
 84:22 104:15  
**allowed** 6:3  
 26:24 48:24  
 59:7 133:19  
 166:19 167:2  
 173:7 208:15  
**alongs** 135:4  
**ambulance** 29:24  
 32:19 50:20  
 182:21  
**ambulances**  
 50:15, 17, 24  
**analyses** 192:18  
**analysis** 35:10,  
 15 192:1, 16, 19  
 194:11, 20  
 243:13, 21  
**ANDREA** 2:9  
 7:19  
**Angie's** 82:3  
**angle** 18:5 53:21  
**angry** 34:4  
**anniversary**  
 168:21 232:3, 7  
**annual** 168:11

**answer** 6:14  
 7:12, 21, 22 12:4,  
 22 22:13 23:2,  
 12, 14, 22 24:2, 2,  
 4, 6, 7, 7 28:10  
 41:11 55:6  
 56:15 62:13  
 65:19 69:13  
 78:20, 24 85:18  
 97:3, 3 99:8, 11  
 100:21, 22  
 102:12 110:11  
 114:25 116:17  
 132:16 133:4, 6  
 146:23 147:8  
 178:4 179:5  
 184:16 186:8, 11  
 189:6, 9 192:17  
 194:9, 25 202:6  
 207:3, 21 208:12,  
 16 209:8 215:9  
 216:2 219:13, 25  
 225:14 226:1, 2,  
 13 234:8 238:9,  
 11, 15 242:13  
 243:16 245:15  
 249:17 250:24  
**answered** 207:17,  
 19  
**answering** 188:22  
 219:16  
**answers** 7:11  
 8:2 67:8 87:15  
 100:15, 16  
 121:23 132:15,  
 25 198:23 208:7,  
 9, 18 244:4  
**Antonio** 10:3  
**anybody** 43:8  
 49:5 62:3 87:16  
 91:24 121:3  
 161:5 164:1  
 196:21 201:3, 5  
 228:12  
**anymore** 161:5  
 163:1 164:1  
**apart** 118:8 191:6  
**apologize** 69:6  
 244:5  
**Apparently** 42:4

**appear** 26:16  
 80:22, 23  
**appearance**  
 153:21, 23 154:2  
 156:4 217:4  
**APPEARANCES**  
 2:1  
**appears** 80:18  
 236:21  
**applicable** 143:16,  
 23 182:10  
**application** 42:21  
 43:16 57:11 58:9  
**applications** 43:7  
**apply** 42:23  
 43:14, 18 225:12  
 252:20  
**appreciate** 62:13  
 76:24 96:7  
 142:13 208:14  
 226:13, 14  
**apprentice** 63:4  
**appropriate**  
 143:15 156:5  
 174:12 188:3  
 189:13 193:9  
**appropriately**  
 141:17  
**approved** 48:24  
 214:15 241:15  
**Approximately**  
 25:22 33:19 34:7  
**April** 242:11  
**arc** 45:12  
**area** 36:15 45:4,  
 8, 8 63:18, 20  
 69:1, 16, 18 70:4  
 72:11 76:10  
 113:17 195:10  
**areas** 71:13  
 116:21, 22 130:22  
**argue** 105:17  
 106:13 206:6  
**argumentative**  
 105:20  
**a-ride-along** 111:7  
**arising** 147:18  
**Art** 74:6  
**articulate** 227:22

**articulated** 223:7  
 224:3  
**asked** 11:12  
 46:10, 25 48:1  
 52:17, 19 60:17,  
 18, 20, 22 61:2  
 69:6 102:10  
 121:18, 21  
 130:15 133:13,  
 23 146:1 163:23,  
 24 171:4 183:16  
 196:20 199:21  
 201:4 204:6, 9,  
 10 208:10 211:5  
 221:19 238:12  
 243:17, 18, 20  
 250:4, 6, 14, 19  
**asking** 5:23  
 20:23 40:10  
 62:12 127:22, 23  
 158:10, 10 187:9  
 189:19, 20  
 192:15 197:17  
 213:4 222:7, 10  
 223:17, 25 224:1  
 225:10, 11, 12  
 226:12 228:20  
 233:23 235:24  
 244:7  
**asks** 41:10  
**asleep** 195:22, 24  
**aspect** 97:15, 19,  
 25 106:25  
**aspects** 54:21  
 55:4 122:17  
**assemblance**  
 227:15  
**assertion** 6:15  
**asserts** 24:5  
**assess** 225:4  
 228:3 229:21  
**assessed** 38:23  
 222:8  
**assesses** 231:11  
**assign** 249:24, 25  
**assigned** 147:4  
 182:5  
**assignments**  
 145:24  
**assigns** 145:14

<p><b>assistance</b> 237:17, 19</p> <p><b>assisted</b> 48:18</p> <p><b>associated</b> 177:5 198:17</p> <p><b>assume</b> 13:11 18:13 32:22 41:4 48:1 81:12 126:14 133:7 143:22 146:13 233:18</p> <p><b>assumed</b> 50:7 54:11 214:12, 13</p> <p><b>assuming</b> 9:1 28:15 37:20 55:24 65:14 87:15 101:21 104:23 112:3 164:6, 22, 23 174:7 199:2 251:2</p> <p><b>assumption</b> 54:15 143:25</p> <p><b>Atlanta</b> 2:5, 12 10:4 11:22 58:15 59:12 60:5 61:4, 4 62:3 63:6, 6, 13 68:22 69:24 70:3, 4 72:10, 13 74:6 76:10 80:15 92:16 98:21, 24 122:8 140:16 165:9, 23 193:21 194:21 202:24 203:2, 3, 4 231:17</p> <p><b>attempting</b> 180:17</p> <p><b>attend</b> 13:7</p> <p><b>Attendance</b> 3:19 123:13, 17 150:6</p> <p><b>attendant</b> 50:20</p> <p><b>attended</b> 91:6</p> <p><b>attention</b> 106:25 214:23</p> <p><b>attorney</b> 24:10 121:20 137:24 171:5</p> <p><b>August</b> 141:24 195:2 241:23</p>	<p><b>Austin</b> 58:11, 20 60:7 75:14 87:14 140:15 152:3 240:4, 5</p> <p><b>auto</b> 24:17 27:9 38:20 97:4 172:16 173:24 182:21 191:6 222:5</p> <p><b>automotive</b> 241:1</p> <p><b>available</b> 14:17 50:20 86:2, 24 107:22 108:6, 21, 23 120:1 136:25 144:14 150:17 163:19, 21 182:11 214:20 236:6</p> <p><b>Avenue</b> 1:1 2:8</p> <p><b>awake</b> 50:22 195:22 197:2</p> <p><b>awarded</b> 38:12</p> <p><b>aware</b> 38:14 76:10 106:23, 23 168:4</p> <p><b>&lt; B &gt;</b></p> <p><b>back</b> 11:23, 24 12:25 13:4, 25 15:23 16:13 20:3, 7 23:7, 10 26:23 32:12 43:8 54:7 67:3 73:13 87:17 90:4 91:2, 4 98:5 117:21 118:16 122:2 137:25 141:22 166:19 167:2 176:15 179:25 185:23 189:10 192:23 195:8, 21 196:17, 23 197:1, 5 200:15, 17 201:1 216:21 226:18 228:8 233:12, 15 235:10 236:20 238:7</p>	<p><b>Backed</b> 36:8, 15 54:3</p> <p><b>background</b> 7:8 47:24 48:5 113:17 201:13</p> <p><b>backgrounds</b> 114:3</p> <p><b>backing</b> 36:23 37:5 105:22, 25</p> <p><b>backs</b> 154:24</p> <p><b>backtrack</b> 161:17</p> <p><b>bad</b> 42:17 156:11</p> <p><b>badge</b> 39:20 40:10</p> <p><b>baggage</b> 16:6</p> <p><b>bags</b> 16:6</p> <p><b>Barman</b> 56:19</p> <p><b>barrier</b> 154:6</p> <p><b>Based</b> 40:16 69:12 138:25 169:5, 13 191:13 197:15 222:24, 25 228:9, 10 248:3</p> <p><b>bases</b> 97:14</p> <p><b>basic</b> 139:7</p> <p><b>basically</b> 149:21</p> <p><b>basis</b> 65:5 92:3 160:22</p> <p><b>bay</b> 32:11</p> <p><b>bear</b> 5:24 80:8</p> <p><b>bearing</b> 19:2 39:13 62:14</p> <p><b>beats</b> 33:8</p> <p><b>bed</b> 26:23 183:4</p> <p><b>began</b> 37:17 241:20</p> <p><b>beginning</b> 34:13 37:18 160:20</p> <p><b>behalf</b> 2:2, 6</p> <p><b>behaviors</b> 139:1</p> <p><b>believe</b> 39:1 69:13 75:14 99:24 100:20 112:18 119:13 122:15 128:24 130:20 168:23 169:22 174:16 175:2 178:4 179:14 184:8</p>	<p>202:18, 18 234:6 236:20 238:15 251:4</p> <p><b>belt</b> 16:7 39:24 167:6</p> <p><b>benders</b> 210:4</p> <p><b>benefit</b> 137:1</p> <p><b>benefits</b> 88:6, 11</p> <p><b>best</b> 80:9 104:8 189:22 196:6, 8, 11 202:6 225:18 226:2 232:2</p> <p><b>better</b> 34:5 47:23 81:16, 24 82:9 83:8, 9, 13 100:18 103:20 134:19 213:7 240:24 242:3</p> <p><b>beyond</b> 190:19, 23 216:10</p> <p><b>bill</b> 92:18</p> <p><b>bit</b> 152:3 161:20 213:7</p> <p><b>blame</b> 180:18 222:8 225:4, 5, 20</p> <p><b>Blank</b> 137:6</p> <p><b>blanker</b> 157:2</p> <p><b>blinker</b> 156:24 157:5, 9, 18 158:8</p> <p><b>blinkers</b> 217:20</p> <p><b>blow</b> 236:8, 8</p> <p><b>board</b> 217:1</p> <p><b>boat</b> 51:22</p> <p><b>BOLAND</b> 1:1 3:3 5:9, 14, 20 6:20, 22 9:3 24:4 67:4 70:19 77:7 121:16 125:20 130:14 137:21 142:13 143:8 147:24 161:16 192:14</p> <p><b>bold</b> 82:16 162:20 173:15</p> <p><b>bones</b> 24:19</p> <p><b>book</b> 18:2 128:16 144:23, 24</p> <p><b>born</b> 9:25</p>
--	---	---	---



<p><b>bottom</b> 71:10 141:24 149:17 152:16 <b>bought</b> 34:19, 23 242:14, 19, 25 <b>Boulevard</b> 31:5 32:13 42:15 43:20 53:6, 20 84:8, 8 <b>box</b> 25:4, 21 28:21, 23, 23 138:19 230:24 250:1, 5 <b>boxes</b> 249:15, 22 250:2, 3, 10 <b>brake</b> 158:17, 24 217:24 <b>branch</b> 11:17 13:14 33:13 48:4 54:17 56:2 57:5 58:16 60:2 62:9, 19 90:13, 14, 21 91:5, 12, 13, 15 92:16 160:19 162:21 165:9 166:8 168:25 232:18, 22 <b>branches</b> 99:23 <b>brand</b> 33:7 <b>break</b> 66:10, 16, 20 67:6, 9 121:4 192:5 <b>breath</b> 215:25 220:4 <b>Brickstore</b> 74:4 <b>bring</b> 15:20 63:3 129:20 226:18 <b>brings</b> 14:24 <b>broaden</b> 135:6 <b>broken</b> 24:19 <b>brought</b> 72:3 84:25 189:3 <b>bruising</b> 24:19 <b>Buford</b> 72:12 <b>build</b> 48:13 118:7 <b>Building</b> 14:5 48:18 51:9, 10 <b>built</b> 48:18 <b>bullet</b> 147:17 149:24 172:15</p>	<p>173:10 174:9, 25 175:1, 5, 6, 7 176:15 177:17 178:5, 10 179:13 180:3, 25 181:9, 14 183:9 185:20 192:22, 24 193:11 194:19 <b>Bureau</b> 81:25 82:9 83:9, 13 <b>Bureau's</b> 81:16 <b>burn</b> 118:20 <b>business</b> 54:16 60:25 66:13 81:16, 24 82:9 83:8, 9, 13 <b>businesses</b> 82:3, 16 <b>businesses,</b> 82:15 <b>busy</b> 62:9, 10 91:25 <b>Butler</b> 2:3</p> <p>&lt; C &gt; <b>cab</b> 25:4 <b>cables</b> 235:17 <b>call</b> 12:2, 4, 24 13:2 21:15, 23 22:1 35:16 37:10 38:14 45:19 62:1 71:5 82:9 99:19, 23 100:5 111:6 138:6 154:10 175:16, 18 176:8, 10 177:20 181:21 182:2 183:8, 13 195:23 196:22, 25 198:10 199:5 203:5, 13 204:13, 17, 19 205:7 206:24 207:9 208:10, 24 209:20 210:9, 17, 21 211:23 233:12, 15, 20, 23 234:5, 11 245:23 246:17, 19, 25</p>	<p>247:4 248:4 251:3 <b>called</b> 9:18 16:3 27:7 29:25 31:25 36:17 37:2, 9 43:11, 16 51:18 112:9, 15 195:4, 5, 7, 16 197:5, 18 203:11 204:25 207:13, 16 238:7 239:23 240:12 245:9, 10, 17, 20 <b>calls</b> 11:3 179:6 207:2 <b>calm</b> 32:5 <b>camera</b> 42:6 <b>candidate</b> 138:21, 24, 25 139:12, 13 141:10, 13, 18 <b>candidates</b> 133:15 <b>canister</b> 200:10, 13 <b>car</b> 26:10 31:6, 7, 8 33:7 52:15, 23 53:2 54:5 93:25 94:3 210:19 219:10 <b>card</b> 66:14 <b>care</b> 61:14 65:4 182:12 194:5, 12 236:4 <b>careened</b> 32:12 <b>cargo</b> 31:15, 17 154:7 240:23 241:3 <b>carrier</b> 171:9, 9, 10 <b>carry</b> 97:5 <b>Carter</b> 43:20 84:7, 8 <b>case</b> 6:5 12:12 19:2 39:13 52:6 96:10, 12 105:23 111:2 120:15 219:7 220:14 221:18 228:17 <b>cases</b> 93:16 <b>categories</b> 117:22 124:23</p>	<p><b>category</b> 86:5 117:25 <b>caught</b> 42:6 52:7 <b>cause</b> 34:19 39:5, 6 42:24 50:21 54:5 60:14 65:19 87:13 105:10 146:4, 5 175:3 176:21 177:1 187:21, 22 196:23 203:23 204:18 205:3 209:4 214:13 242:2 <b>caused</b> 32:8 <b>CCR</b> 252:18 <b>CELESTE</b> 1:1 252:9 <b>cell</b> 10:22 11:4, 6 12:1 66:5 170:9, 25 <b>center</b> 182:7 <b>centers</b> 68:1 <b>Central</b> 98:20, 21 99:23 <b>certain</b> 39:17, 20 40:17 46:20 47:8 55:6 114:15 228:9 239:1 <b>certainly</b> 19:3 48:21 <b>certificates</b> 150:11 <b>certification</b> 252:20 <b>Certified</b> 27:20 46:3 55:21 90:22 91:6 122:6 138:19 <b>CERTIFY</b> 252:3 <b>certifying</b> 252:22 <b>CFT</b> 4:3 46:1, 2 122:4, 5 136:5, 9, 12, 21 137:16 138:13, 20 139:9, 16 <b>CFTs</b> 47:7 135:4, 11</p>
---	--	--	--

<p><b>chain</b> 184:25 185:3</p> <p><b>changed</b> 123:2</p> <p><b>changes</b> 171:7</p> <p><b>Charge</b> 49:13 61:16</p> <p><b>charged</b> 154:21</p> <p><b>check</b> 38:11 114:10, 11 129:25 153:11, 24 154:11 168:12, 23 217:7 232:15</p> <p><b>checklist</b> 128:22 135:22 149:25 152:25 153:2</p> <p><b>checkmarks</b> 126:12</p> <p><b>checks</b> 126:14</p> <p><b>chemicals</b> 48:20 160:9, 13</p> <p><b>Chevy</b> 26:22</p> <p><b>Chicago</b> 68:21</p> <p><b>chief</b> 50:9</p> <p><b>choice</b> 30:9</p> <p><b>chooses</b> 75:12</p> <p><b>chose</b> 216:9</p> <p><b>Chris</b> 6:4 56:16 70:21 75:2, 17</p> <p><b>CHRISTOPHER</b> 2:7</p> <p><b>cinch</b> 52:5</p> <p><b>Circle</b> 10:13 16:13</p> <p><b>circumstances</b> 12:3 17:24 26:1</p> <p><b>citation</b> 29:2 178:14, 18, 21, 22, 23 179:1 191:17 221:16, 20 222:13, 15, 19, 25 223:3, 8 224:5, 7, 15, 20 225:2 228:18 237:25 238:2</p> <p><b>citations</b> 53:25 168:15 220:19, 22 221:11, 22</p> <p><b>cited</b> 54:2</p>	<p>238:16, 19, 21</p> <p><b>Civil</b> 6:2</p> <p><b>claim</b> 93:14, 21 97:7 154:14 178:1</p> <p><b>claims</b> 97:23</p> <p><b>clarification</b> 114:21</p> <p><b>clarify</b> 7:17 12:8 115:4 197:21 248:5</p> <p><b>clarifying</b> 12:13</p> <p><b>Clarkston</b> 78:7</p> <p><b>class</b> 116:1 122:21 185:17</p> <p><b>classes</b> 55:21 57:21, 25 185:9, 10, 11</p> <p><b>classified</b> 39:6</p> <p><b>classroom</b> 57:18 115:19 116:14, 15 122:22 124:5</p> <p><b>Clayton</b> 10:11, 17 13:8, 8, 22, 24 14:17 26:5 42:19 45:10, 11 63:15, 17</p> <p><b>clean</b> 44:25 153:21 156:4, 6 217:4</p> <p><b>cleaned</b> 48:11</p> <p><b>cleaning</b> 27:15 45:18</p> <p><b>clear</b> 118:13 180:2 190:14</p> <p><b>clearly</b> 212:17 216:12</p> <p><b>Cleveland</b> 1:1 2:7</p> <p><b>clicked</b> 71:25</p> <p><b>client</b> 23:6, 17 203:17 216:17</p> <p><b>Clinics</b> 182:12</p> <p><b>clip</b> 39:23, 23</p> <p><b>clip-on</b> 52:6</p> <p><b>clipped</b> 71:12 72:1</p> <p><b>close</b> 39:15 40:13, 14, 15</p>	<p>65:19 68:25 90:4 212:9 216:1</p> <p><b>closely</b> 161:20</p> <p><b>closer</b> 25:19, 19</p> <p><b>Closing</b> 40:6, 7, 11</p> <p><b>clothes</b> 40:2, 7</p> <p><b>Coaching</b> 160:25 162:24 163:3, 16, 20</p> <p><b>code</b> 28:1 62:4, 4 72:14 83:1</p> <p><b>codes</b> 117:3</p> <p><b>coding</b> 117:2, 3, 12, 13, 23</p> <p><b>coffee</b> 20:10, 11</p> <p><b>College</b> 63:13, 25 64:20, 22 65:25 66:4, 18 67:14 68:13 80:23 81:2, 9 84:1, 15 88:3 89:5, 20 90:7</p> <p><b>collision</b> 30:24 195:3 198:25 200:22, 25 226:8</p> <p><b>collisions</b> 30:17 176:7</p> <p><b>colors</b> 9:21</p> <p><b>combined</b> 151:1</p> <p><b>combo</b> 45:19, 21, 22, 24 46:4 47:17</p> <p><b>come</b> 11:23 44:6 47:12 58:3 59:9 61:12 67:20 108:13 111:24 192:23 204:16</p> <p><b>comes</b> 8:7 55:20 56:9</p> <p><b>comfortable</b> 39:25 111:9 135:15 157:8 158:7, 12, 22</p> <p><b>coming</b> 46:12 53:18 61:20 197:9 198:12, 18, 19, 24 235:10 250:25 251:2</p> <p><b>command</b> 185:1, 3</p>	<p><b>commendable</b> 216:11</p> <p><b>commercial</b> 17:2, 4 39:5, 7 135:8</p> <p><b>common</b> 9:11 188:9 219:5 220:8 245:8</p> <p><b>communicate</b> 230:15</p> <p><b>communicated</b> 240:15</p> <p><b>communicating</b> 160:13</p> <p><b>Communication</b> 160:7, 12 213:20</p> <p><b>community</b> 48:12</p> <p><b>comp</b> 93:2, 10, 14, 21, 24</p> <p><b>companies</b> 175:12 233:5</p> <p><b>COMPANY</b> 1:1, 1 2:9 3:18, 23 4:19 8:14, 14, 15, 17, 24 10:23 27:11 38:20 52:15, 23, 25 58:15 74:16 75:9, 12, 12 76:5 82:2, 18, 23 83:4, 8 93:2, 12, 20 94:6, 11, 14, 18, 24 98:5, 12 99:3 100:12, 13, 15, 23 106:21 123:12 128:12 130:9 150:21 158:1 162:11 165:8 172:1 174:21 175:1, 8 176:17, 19 177:4 184:5, 23 203:4 204:24 205:3, 6, 19 206:23 207:14 208:24 210:1, 16, 22 219:3 229:13 239:15 247:16 248:11, 17, 21</p> <p><b>company's</b> 74:19 96:20 97:1</p>
--	---	---	---

<p><b>compartment</b> 154:7, 8</p> <p><b>compensation</b> 237:14</p> <p><b>compiled</b> 138:7</p> <p><b>complete</b> 136:20 138:20 139:4 162:24 173:12 179:15 180:4 239:11, 14</p> <p><b>completed</b> 123:25 124:3 126:13, 14 136:16 138:23 139:19 140:8, 15, 18, 19, 23 166:11 174:2 239:4</p> <p><b>completely</b> 47:22 196:13</p> <p><b>completion</b> 138:21 150:11, 21 166:6 185:25 186:1</p> <p><b>comply</b> 92:8, 11 102:6, 20, 25</p> <p><b>component</b> 51:25</p> <p><b>comprehensive</b> 71:7</p> <p><b>computer</b> 62:5 85:25 88:4 112:4 153:14 166:12, 15 184:13</p> <p><b>concept</b> 108:2</p> <p><b>concern</b> 128:25</p> <p><b>concerning</b> 29:6 30:13 76:19 102:21 107:12 110:20 116:23 156:21</p> <p><b>concerns</b> 8:8 118:24</p> <p><b>condition</b> 160:11 165:5</p> <p><b>conditions</b> 166:18</p> <p><b>Conduct</b> 4:11 128:23 151:8 152:6</p> <p><b>conducted</b> 150:12</p> <p><b>confirm</b> 100:21</p>	<p><b>confirmed</b> 83:24</p> <p><b>confused</b> 119:15</p> <p><b>consider</b> 118:3 119:8</p> <p><b>considered</b> 72:13 246:25</p> <p><b>considering</b> 57:14</p> <p><b>construction</b> 49:8</p> <p><b>contact</b> 12:18 27:11 100:3 176:13</p> <p><b>contacting</b> 12:15</p> <p><b>contained</b> 127:16 140:11 252:4</p> <p><b>contende</b> 228:18</p> <p><b>content</b> 67:5</p> <p><b>continue</b> 20:2 21:13 46:13 47:11 61:1 110:4 121:16 242:9</p> <p><b>CONTINUED</b> 4:1 23:23</p> <p><b>continuing</b> 130:14</p> <p><b>contradicting</b> 216:22</p> <p><b>contributing</b> 133:3</p> <p><b>control</b> 252:21</p> <p><b>convenient</b> 39:24</p> <p><b>conversation</b> 12:25 23:1 105:6 110:3 202:8, 12</p> <p><b>conveyor</b> 16:7</p> <p><b>convicted</b> 16:18</p> <p><b>Conyers</b> 198:25 251:2</p> <p><b>coordinator</b> 11:18 27:8 28:5 33:13 34:9 48:4 54:18 56:2 59:25 90:15, 16, 21 91:6, 12, 14, 15 180:16 232:22</p> <p><b>Copies</b> 150:5, 11</p> <p><b>copper</b> 236:3</p> <p><b>copy</b> 70:22 77:9 137:6 144:14</p>	<p>150:5 240:12</p> <p><b>Corley</b> 84:10, 14</p> <p><b>corner</b> 71:10 74:10 80:11 152:16</p> <p><b>Corolla</b> 26:8</p> <p><b>corporate</b> 55:20 56:6 60:1 69:15 70:2 88:8 98:24, 25 109:7 111:25 149:3 153:4 163:25 168:20, 22 169:4 229:12, 13</p> <p><b>correct</b> 29:3, 4 37:19 58:12 59:23 63:10 70:4, 5 72:24 73:1 74:17, 18 75:16 83:5 86:23 87:11 94:5 102:15 103:25 104:18 105:2 106:17 107:17 110:9, 18 114:24 117:14 125:13 135:17 136:1 140:9 167:13 170:14, 16, 17, 21 172:5, 13, 23 174:4, 6 177:5 178:15 181:17 185:18 190:8 207:11, 12 209:1 215:16 217:5, 8, 11, 12, 15, 16 218:4, 5, 14 219:8 220:15, 19 222:22 223:4 227:11 232:23 233:13, 14 237:21, 22 238:17 239:2 241:6, 7 246:23 247:2, 3, 8, 12, 14, 15, 17 248:2 249:8 250:25 251:9 252:8</p> <p><b>corrected</b> 166:18, 24</p>	<p><b>correctly</b> 57:11 126:9 165:6 227:10 246:22 247:1</p> <p><b>Corsi</b> 2:11</p> <p><b>COUNSEL</b> 2:1 24:5, 5 66:25 67:4 121:13 130:4 161:13 192:11</p> <p><b>counseling</b> 38:7 40:21 160:3</p> <p><b>count</b> 41:2 80:17 81:7 122:9</p> <p><b>COUNTY</b> 1:1 10:11, 17 13:8, 22, 24 14:17 26:5 42:20 45:10, 11, 11 63:15, 15, 23 67:24 68:2, 5 69:22, 25</p> <p><b>couple</b> 43:24 115:3 251:15</p> <p><b>course</b> 13:3 15:25 118:18 119:13, 14, 16, 20 120:3, 5 123:1, 1, 2 124:1 167:9 169:20, 24 170:5 201:21</p> <p><b>courses</b> 54:21 55:9 104:25 119:5</p> <p><b>COURT</b> 1:1, 1 5:4 7:4 222:9</p> <p><b>courtesy</b> 131:1</p> <p><b>cover</b> 97:14 119:19 208:20</p> <p><b>coverage</b> 45:4 50:19, 25</p> <p><b>covered</b> 24:8 62:16, 18, 22 88:16 89:4, 15 122:16 124:12</p> <p><b>covers</b> 91:21 122:17</p> <p><b>Crafters</b> 14:19, 22 51:24 52:11</p>
--	---	--	---

<p><b>crank</b> 154:4 217:13</p> <p><b>crawl</b> 26:24 34:24</p> <p><b>Creek</b> 78:6</p> <p><b>crime</b> 16:19 190:12, 15</p> <p><b>crossing</b> 26:11</p> <p><b>crystal</b> 180:2</p> <p><b>CSR</b> 1:1 252:9</p> <p><b>cup</b> 16:10</p> <p><b>curb</b> 16:9</p> <p><b>current</b> 8:10 84:9 136:10 228:2</p> <p><b>currently</b> 10:9 47:6 59:3 65:24 165:10</p> <p><b>curricular</b> 47:12</p> <p><b>customer</b> 91:22 121:1 186:15, 16</p> <p><b>customer's</b> 91:22 154:13 159:8</p> <p><b>cut</b> 26:22, 22 85:19 207:25</p> <p><b>cutting</b> 46:17 230:21</p> <p><b>&lt; D &gt;</b></p> <p><b>daily</b> 65:5 164:11, 12, 16, 18 165:1</p> <p><b>damage</b> 93:2 100:2 154:14 178:1 205:20</p> <p><b>damaged</b> 31:23</p> <p><b>damages</b> 154:2</p> <p><b>danger</b> 187:22</p> <p><b>dangerous</b> 119:1 160:11 218:13 244:24 245:3, 6</p> <p><b>DANIEL</b> 1:1 2:13 115:10 116:3 123:21 125:12 134:5, 6 137:23 151:14 193:22 195:3 219:7 248:18</p> <p><b>Daniels</b> 134:24</p>	<p><b>Daniel's</b> 134:11</p> <p><b>darted</b> 18:3</p> <p><b>dash</b> 153:22</p> <p><b>data</b> 184:13 250:11, 12</p> <p><b>database</b> 173:7</p> <p><b>DATE</b> 1:1 4:16 6:16 25:18 140:4 142:3 183:24</p> <p><b>day</b> 15:17 25:1 26:18 33:20 50:4, 9, 10 65:25 86:18 116:1, 12 119:7 120:18, 20 122:22, 22, 24, 25 123:1, 1, 2, 25 124:1, 2, 3, 8 135:13 136:24 156:20 168:21 169:19 202:2 209:14, 15 216:2 220:1 233:18, 19</p> <p><b>days</b> 47:5, 8, 13, 14, 14, 16, 17 64:24, 25 65:17, 25 85:7 116:13 123:20, 21 156:13, 14 157:3, 10, 18 158:8, 15</p> <p><b>deal</b> 104:25 233:3</p> <p><b>dealing</b> 48:11 148:6</p> <p><b>death</b> 182:18, 19</p> <p><b>debt</b> 237:13</p> <p><b>Decatur</b> 70:6 72:17, 21 73:25 74:6, 11, 24 78:17 79:2 82:24, 24</p> <p><b>December</b> 34:9</p> <p><b>decide</b> 141:18 205:6</p> <p><b>decided</b> 15:23 53:19, 21 60:23</p> <p><b>decides</b> 101:4 228:4 229:18 230:6</p>	<p><b>decision</b> 75:15 181:19</p> <p><b>deep</b> 220:3</p> <p><b>Defendant</b> 2:6 198:22 204:3</p> <p><b>Defendants</b> 1:1</p> <p><b>Defense</b> 41:5</p> <p><b>degree</b> 18:4 53:21 124:16</p> <p><b>DEKALB</b> 1:1 3:14 67:23 68:1, 4 77:13, 20</p> <p><b>delegate</b> 61:15</p> <p><b>deliver</b> 51:20</p> <p><b>Department</b> 41:5 92:17 144:9 189:16 202:23 229:16, 17 230:16 231:13, 15, 16</p> <p><b>department,</b> 231:14</p> <p><b>depend</b> 58:1</p> <p><b>depending</b> 120:22</p> <p><b>depends</b> 86:17 93:7 156:10 159:5 160:2 166:25</p> <p><b>deposed</b> 6:25 21:1 76:12</p> <p><b>deposit</b> 65:7</p> <p><b>deposition</b> 5:14, 25 6:5 19:6, 23 21:11 23:24 32:21 71:6 73:13 105:19 123:8 173:11 184:4 208:21 236:19 244:9</p> <p><b>depositions</b> 6:6</p> <p><b>Depot</b> 51:23 84:21 85:6 86:19, 21, 22</p> <p><b>describe</b> 26:1 53:12, 14</p> <p><b>described</b> 61:19 242:23</p> <p><b>designed</b> 247:25 249:6</p>	<p><b>designed,</b> 249:5</p> <p><b>desk</b> 85:25 86:1</p> <p><b>destroying</b> 46:22</p> <p><b>detectors</b> 16:4</p> <p><b>determination</b> 100:4 179:20 210:23 211:22 229:6</p> <p><b>determine</b> 145:17 151:19 174:11 191:20 193:8, 12, 20 194:3 225:6, 9 226:8 227:16, 19 230:18, 20 231:1</p> <p><b>determined</b> 146:19 224:20 225:25</p> <p><b>determines</b> 220:25 221:10 222:9, 11 227:21 231:7</p> <p><b>determining</b> 75:9 231:18</p> <p><b>DEVELOPMENT</b> 1:1 8:14, 17</p> <p><b>device</b> 249:12 250:15</p> <p><b>diagnose</b> 118:7</p> <p><b>diagnosed</b> 18:17, 22 24:16</p> <p><b>diagnosis</b> 24:14</p> <p><b>dictate</b> 206:24</p> <p><b>differ</b> 94:17</p> <p><b>difference</b> 174:24 176:18</p> <p><b>differences</b> 175:2</p> <p><b>different</b> 27:18 44:6 94:13 117:3 122:17 135:7, 11 148:11 160:21, 22 165:17 205:5, 5, 17 206:20, 22 245:24</p> <p><b>differently</b> 180:21</p> <p><b>differently,</b> 145:15</p> <p><b>difficult</b> 173:2</p> <p><b>digits</b> 122:11</p> <p><b>dimensional</b> 45:8</p>
--	--	--	---

<p><b>DIRECT</b> 5:17 21:3 58:17, 19 138:9 193:24 208:8 252:21 <b>directed</b> 103:4 <b>direction</b> 53:19 <b>directly</b> 15:20 <b>Director</b> 184:21, 22 185:6 205:7 <b>disabled</b> 249:8 <b>disagree</b> 179:14 187:6 189:24 <b>disagreement</b> 162:17 <b>discharged</b> 13:18 <b>disciplinary</b> 191:14 <b>discipline</b> 38:2 40:20, 22 92:21 232:14, 25 233:3 <b>disciplined</b> 39:11, 15 40:18 <b>disciplining</b> 92:19 <b>discovery</b> 19:6 109:18 198:23 <b>discrepancy</b> 75:25 <b>discretion</b> 166:22 <b>discuss</b> 67:4, 8 <b>discussed</b> 30:14 59:12 64:17 83:24 86:9 87:13 89:19 90:7 239:25 <b>discussion</b> 19:15 66:22 76:22 121:10 130:1 161:10 192:8 <b>discussions</b> 139:1 <b>dispatch</b> 68:20, 22 89:23 <b>dispatcher</b> 68:19 <b>Dispatching</b> 50:18 51:4, 5 <b>dispensing</b> 91:16 <b>disposals</b> 46:20 <b>disposition</b> 228:17 <b>dispute</b> 180:3, 10, 13, 22 199:3</p>	<p><b>disputing</b> 178:5, 8, 10 <b>dissatisfied</b> 42:24 43:6 <b>dissemination</b> 160:19 <b>divert</b> 11:24 <b>DOBUR</b> 2:9 3:5 6:18 121:8 <b>dock</b> 14:7 <b>doctor</b> 18:22 167:16 <b>doctors</b> 24:15 <b>document</b> 7:14 117:23 125:10 129:13 131:17 133:14 135:19 137:9 138:2 139:15, 21 140:11 144:2 149:16 152:9 153:8 161:19 162:14 164:7 227:12 246:14 <b>Documentation</b> 117:1, 2 <b>documents</b> 137:22 140:25 148:19, 22 152:2 <b>DOD</b> 41:5 <b>Dodge</b> 53:3 <b>doing</b> 8:1 18:10 34:11 36:11 45:18, 19 46:17 56:11 59:6 111:10 118:17, 22, 25 136:21 165:24 166:1, 2 186:20 187:20 190:6 225:18 226:2 <b>Donuts</b> 32:14 <b>door</b> 18:6 28:25 109:14 <b>doors</b> 109:2 <b>dot</b> 74:7 102:2, 14, 16 103:4 <b>dots</b> 80:19 <b>doubt</b> 126:5</p>	<p><b>Downey</b> 1:1 2:7 <b>downs</b> 16:5 <b>downtown</b> 73:25 <b>Drain</b> 3:11 27:15 45:18, 20 46:18 65:3 70:14 135:9 236:4 <b>drains</b> 44:25 <b>draw</b> 42:25 <b>drink</b> 20:11 <b>drivable</b> 34:21 214:2 <b>drive</b> 33:1 51:19 64:8 65:5 78:6 104:20 107:25 111:19 113:19 129:2 138:21 145:17 158:15 159:4, 8, 11 214:6, 10, 15 215:21 <b>driver</b> 29:24 30:2 50:20 94:2 100:24 106:4, 7 119:3, 11, 13, 14, 17, 17 120:11 156:7 157:2, 8, 17 158:7 160:25 162:20, 25 163:4, 16, 20 167:8 168:14 169:24 170:4 172:7 203:16 204:7 220:25 221:15 227:17 <b>drivers</b> 30:4 32:16, 23 51:1 106:9 145:5 162:22, 24 168:7 176:24 178:24 191:16 221:10 222:12 226:7 227:21 230:6 231:18 237:16 <b>driver's</b> 16:21, 25 17:2, 4, 7 18:6 40:25 41:6 103:24 113:16 119:5 131:3 214:14</p>	<p><b>driveway</b> 154:13 159:5 210:7 <b>Driving</b> 4:3, 8 52:15 103:9, 20 104:1 110:1 111:10 114:2, 11 119:20 126:16, 21 127:7 129:9 131:1 142:16, 20 143:6, 16 144:18 145:11 147:5 150:16 151:13, 18, 18 154:7, 12 157:17 158:8 167:12, 22 169:5, 15, 20 199:7 214:23, 24 218:24 219:4 220:10 231:19, 19 241:5 251:3 <b>drops</b> 79:18 <b>drove</b> 14:12 26:9 31:9 34:22 119:7 <b>drug</b> 93:25 94:4 97:13 99:3 100:10, 24 101:5, 7, 15, 19, 20, 23, 24, 25 102:13 167:21 177:23 178:12, 23 179:22 181:20, 25 182:4, 7, 22 222:15, 16 225:3 237:21, 24 238:3, 16 <b>drugs</b> 167:11, 23 168:3 <b>Druid</b> 2:4 <b>duly</b> 5:9 31:8 32:9, 10 <b>dumping</b> 152:2 <b>Duncan</b> 32:14 <b>duplicate</b> 6:8 <b>dust</b> 155:6 <b>duties</b> 14:13 48:7, 19 50:3 54:17, 19, 19 61:21 <b>duty</b> 7:3 24:23 25:14 26:2</p>
--	--	--	--

<p>28:18 29:3, 10, 14, 18 30:13, 18 35:9 36:5 46:6 52:21 53:5 54:24 202:20 249:8 <b>DVD</b> 163:18 <b>DVDs</b> 109:4</p> <p>&lt; E &gt;</p> <p><b>earlier</b> 11:12 35:20 48:3 95:6 99:17 133:24 146:1 150:9, 24 177:19 178:17 185:15 211:6 220:24 238:24 246:9</p> <p><b>Earth</b> 73:23</p> <p><b>easier</b> 72:16 89:9 152:3</p> <p><b>east</b> 81:5</p> <p><b>Easy</b> 219:22</p> <p><b>ed</b> 103:24</p> <p><b>educate</b> 46:13</p> <p><b>education</b> 13:5, 5</p> <p><b>efforts</b> 75:6</p> <p><b>eight</b> 55:2 120:21 182:1, 9</p> <p><b>either</b> 34:15 39:23 53:7 63:21 116:19 140:8 194:16 241:13 250:17</p> <p><b>electric</b> 118:8</p> <p><b>Electrical</b> 49:3</p> <p><b>eligibility</b> 145:17 151:19, 20</p> <p><b>else's</b> 20:11</p> <p><b>email</b> 112:3</p> <p><b>emails</b> 109:18 240:16</p> <p><b>emergency</b> 154:5 182:12 183:2</p> <p><b>employed</b> 8:19 58:25 59:3 165:23</p> <p><b>employee</b> 57:7 93:4, 5, 12 94:3, 9, 14, 21 99:4, 6</p>	<p>104:18 108:15 110:5 114:6 120:9 127:16 135:5 143:5 146:18 147:3, 12 150:20 153:19 157:15 159:18, 23 162:22, 23 164:15, 18 167:5, 8 168:7 170:12 172:8 173:11 179:14 180:4, 4 181:20 204:21 205:17 206:21, 23 209:20, 22 210:10, 13, 16, 19 214:9 219:3 222:19 224:14 231:8 232:4 243:7 247:13</p> <p><b>employees</b> 52:3 55:19 92:8, 11, 20 101:12, 13, 15, 16 102:6, 20, 24 103:11 104:9 107:3, 11, 24 108:2 110:16 112:23 114:3, 11, 23 115:21 118:25 135:20 141:2 144:25 145:4 150:17 151:25 162:8 164:13 167:15, 18 168:19 170:15 176:7, 20 178:11 188:12 193:18 200:12, 13 216:14 217:3 220:9 229:18</p> <p><b>employee's</b> 145:17 247:11</p> <p><b>employment</b> 138:22 139:13 145:21 151:20 152:14 153:16 167:10 176:1 201:21</p> <p><b>enabled</b> 90:20</p>	<p><b>encompass</b> 135:11</p> <p><b>ended</b> 30:22, 23 50:10 53:6, 9</p> <p><b>engines</b> 50:14</p> <p><b>enrolled</b> 237:18</p> <p><b>ensure</b> 92:1 165:4, 20 188:3 189:13, 14, 23 240:20</p> <p><b>ensures</b> 186:24</p> <p><b>ensuring</b> 92:7, 10 102:5, 19, 24</p> <p><b>entities</b> 76:4</p> <p><b>entry</b> 117:4 184:14</p> <p><b>equipment</b> 15:7 43:5 52:17, 18 91:17 150:3 155:2, 13 159:19 214:3 235:9, 11, 13, 14 236:5 237:1, 6</p> <p><b>equipped</b> 200:13</p> <p><b>ER</b> 166:25</p> <p><b>especially</b> 216:15</p> <p><b>ESQUIRE</b> 2:3, 7, 9</p> <p><b>essentially</b> 47:18</p> <p><b>Europe</b> 41:2, 4</p> <p><b>evaluate</b> 141:18</p> <p><b>evaluating</b> 141:12</p> <p><b>Evaluation</b> 4:3 38:22 136:6, 12 137:16 138:14 141:4, 7</p> <p><b>evening</b> 26:20 198:10</p> <p><b>event</b> 184:11</p> <p><b>everybody</b> 15:16 54:14</p> <p><b>everyday</b> 14:12 64:8, 15</p> <p><b>evidence</b> 211:10 225:20 252:4</p> <p><b>Ex</b> 3:11, 13, 14, 16, 17, 18, 21, 23 4:3, 3, 6, 8, 10, 12, 14, 17, 18, 19, 22, 23</p>	<p><b>exact</b> 122:9 201:5</p> <p><b>exactly</b> 32:15 33:10 108:1 116:20 211:15 228:24 244:20</p> <p><b>Examination</b> 3:4, 5, 6 5:17</p> <p><b>examined</b> 5:10</p> <p><b>example</b> 70:6</p> <p><b>excavation</b> 59:2 202:23</p> <p><b>exceeds</b> 169:22</p> <p><b>excerpt</b> 246:7</p> <p><b>excuse</b> 10:5 20:10 138:23 150:5 159:13 165:2 218:22 231:25 246:25</p> <p><b>Exhibit</b> 70:10, 13, 25 71:5, 6 73:4, 7, 11, 12, 13 77:8, 13 79:6, 25 80:3, 12 81:15, 20 123:8, 8, 11 125:3, 8 130:8 131:9 134:2, 3 135:22 137:4, 16, 22 138:7, 7, 16 139:23 140:12 142:8, 20, 24 143:8 149:8, 14 151:6, 12 152:4 171:18, 24 173:11 183:24 184:4 192:22 226:18 236:12, 15, 19 238:24 239:16 246:2, 7 248:10</p> <p><b>EXHIBITS</b> 3:9 4:1 6:8 70:9</p> <p><b>exist</b> 163:1 166:13</p> <p><b>existed</b> 250:16</p> <p><b>exit</b> 199:11, 12</p> <p><b>expected</b> 59:5</p> <p><b>expenses</b> 247:19 248:23</p>
---	--	---	---

<b>experience</b> 135:7 137:1	172:17 184:7 194:5, 10, 16	<b>feel</b> 111:9 115:4 133:2 157:8 158:12, 22	<b>finish</b> 25:9 56:11 108:25 175:22 207:20 208:15 219:12 226:1 229:23 230:1 243:5
<b>experienced</b> 157:11	<b>familiarize</b> 137:13	<b>feeling</b> 9:23 157:12, 13 206:10	<b>finished</b> 11:13 85:18
<b>expert</b> 179:24 222:5	<b>family</b> 15:8 60:24	<b>feels</b> 121:4 224:25	<b>Fire</b> 154:20 188:13 218:17
<b>explain</b> 80:8 99:11, 13 113:12 206:1 211:5 220:24 228:13	<b>family's</b> 60:25	<b>feet</b> 91:21	<b>first</b> 6:4 13:2 14:1, 4 15:21 31:16 32:3, 5 33:21 38:6, 6 43:11 44:8 48:14 54:19, 24 55:1 82:22 84:9 108:20 115:15, 20, 24 116:1, 4 127:2 138:13, 17, 19 141:15 150:20 156:2 171:25 172:8 176:15 181:24 195:18 197:5 203:11 227:2 233:8 234:4, 5, 10 239:19, 24
<b>explaining</b> 207:6	<b>far</b> 57:9 91:8 132:3, 5 149:5 153:5 212:10 213:2, 5 214:11 223:5 228:8 237:13 247:3	<b>fellow</b> 19:3	<b>fit</b> 92:18
<b>extent</b> 14:13 236:8 238:22	<b>fancy</b> 179:10	<b>fender</b> 210:4	<b>fittings</b> 236:3
<b>extinguisher</b> 154:21 218:17	<b>fatalities</b> 204:1 213:16	<b>field</b> 27:20 44:17, 19 46:3 47:18 57:3 90:22 91:7 114:19 116:16 122:6 125:18 138:20 140:1 141:25 144:13 148:16 169:2 193:25	<b>five</b> 15:11 33:19 34:7, 11, 21 41:15, 21 84:17 104:3 215:5, 15
<b>extra</b> 47:12	<b>fatality</b> 203:12, 13, 15 204:15	<b>file</b> 61:3 93:21 97:23 100:12 137:23 148:9, 11, 23 150:22 169:3	<b>fix</b> 158:16, 19, 21
<b>extremely</b> 207:23 208:3	<b>faucet</b> 118:8	<b>file,</b> 150:23	<b>fixed</b> 156:12 157:7 159:7, 14 167:1
< F >	<b>faucets</b> 46:16 118:10	<b>filled</b> 43:15 126:1 134:5, 6 140:18 153:10 184:11 186:24 219:4 239:1	<b>fixtures</b> 64:12 84:21
<b>fabrication</b> 14:21	<b>Faulkner</b> 122:3, 4 139:15	<b>fills</b> 126:2	<b>Fleet</b> 250:12
<b>facilitate</b> 247:18 248:22	<b>fault</b> 37:25 146:19 147:2, 9, 13 177:22, 22 178:13, 17, 20, 25 179:17 191:10, 11, 12, 16, 21 221:1, 11 222:1, 12, 21 223:7, 15, 17, 22 224:9, 12, 15 225:6, 20 226:8 227:8, 17, 21 228:14 229:7, 19 230:7 231:8, 18	<b>find</b> 24:21 75:20 82:10 108:20 191:16 192:5 195:2 198:9 221:15 238:21	<b>Flint</b> 26:4
<b>facilities</b> 48:11	<b>fax</b> 67:18	<b>filed</b> 93:10, 13	<b>Flip</b> 129:4 141:22 171:7
<b>facility</b> 43:4 182:4	<b>Fayette</b> 45:11	<b>fill</b> 29:14 35:5 37:21 103:5 134:8, 12 184:18	<b>flipped</b> 32:12
<b>facing</b> 84:23	<b>feasible</b> 183:6	<b>filled</b> 43:15 126:1 134:5, 6 140:18 153:10 184:11 186:24 219:4 239:1	<b>flood</b> 118:19
<b>fact</b> 19:17 66:17 206:1 212:13	<b>February</b> 140:6, 14 143:7	<b>file</b> 61:3 93:21 97:23 100:12 137:23 148:9, 11, 23 150:22 169:3	<b>focus</b> 117:7 118:1
<b>facts</b> 211:2, 9, 14 212:11 251:4	<b>Federal</b> 7:3 102:20, 25 130:25 168:7 194:5, 12, 16 247:24	<b>file,</b> 150:23	<b>Folder</b> 4:7 147:25 148:3, 7,
<b>fail</b> 55:8	<b>fee</b> 39:5	<b>filed</b> 93:10, 13	
<b>failed</b> 22:20 93:25 94:4 192:22	<b>feedback</b> 138:24 141:16	<b>fill</b> 29:14 35:5 37:21 103:5 134:8, 12 184:18	
<b>failure</b> 199:25		<b>filled</b> 43:15 126:1 134:5, 6 140:18 153:10 184:11 186:24 219:4 239:1	
<b>fair</b> 88:20 90:9 133:8 216:14		<b>fills</b> 126:2	
<b>fall</b> 51:12 55:19		<b>find</b> 24:21 75:20 82:10 108:20 191:16 192:5 195:2 198:9 221:15 238:21	
<b>familiar</b> 38:9 55:11 74:3 77:24 78:9 79:9 81:24 83:7, 11 103:13 125:9 127:5, 6, 8 130:16, 17 136:5 144:1 147:24 152:8, 11 161:21, 24 171:23, 25		<b>fine</b> 6:11 9:2 10:7 18:11 38:1 56:12 76:23 77:4 115:1, 6 220:5 228:18	

<p>7, 8, 12, 15, 20, 23 149:9, 16, 20 <b>follow</b> 23:19 97:18, 21 100:17 104:22 106:17 107:3, 13 108:3 110:16, 19 112:23 113:24 130:24 145:5, 8 165:9 180:25 181:9, 12, 16 188:10, 11, 12 <b>followed</b> 174:17 180:21 194:20 243:2 <b>following</b> 97:22 183:9 240:1 <b>follows</b> 5:11 <b>foot</b> 35:1 <b>foregoing</b> 252:7, 20 <b>forget</b> 51:8 192:16 <b>forgive</b> 51:8 73:13 161:16 <b>forklift</b> 51:20 <b>Form</b> 4:3, 9 6:13 18:25 19:11, 22 21:10 23:12 37:21 71:16 81:10 89:22 95:2, 7 97:3 103:1, 5, 15 105:13 107:6 110:22 112:14 113:2 126:1 128:21 131:12, 24 135:25 136:3, 6, 16, 20 137:17 138:14, 20 139:5, 18 141:7, 7 142:3 145:3 146:22 151:13, 22 157:20 166:6, 11 168:25 173:5, 12 174:1 177:18 179:3, 15 180:5, 9 181:3 182:24 183:20 184:10, 12, 13 186:6, 24</p>	<p>187:2, 23 190:4, 21 191:13, 20 205:23 207:1 209:6 210:25 211:13 212:2 213:14 221:3 222:3, 23 223:13 224:18 231:21 242:21 244:8 249:14 <b>formal</b> 13:5 103:22, 24 240:19 <b>format</b> 132:1 <b>formatted</b> 131:16 <b>forming</b> 15:22 <b>forms</b> 138:3, 4 141:1, 3, 4, 5, 6 169:3 <b>forth</b> 20:8 73:14 <b>forward</b> 22:16, 22 225:8 <b>forwarded</b> 153:3 240:12 <b>found</b> 159:23 188:17 198:10 <b>four</b> 82:25 98:18 120:21 194:19 <b>fourth</b> 141:23 174:9 192:23 <b>franchisee</b> 69:17 <b>franchise</b> 69:17 <b>franchisees</b> 76:1, 9 <b>franchises</b> 69:18, 21 76:9 <b>free</b> 32:23 115:4 159:22 170:13 <b>frequent</b> 64:7 <b>frequently</b> 201:24 <b>Friday</b> 1:1 252:7 <b>front</b> 26:6 31:6, 10 32:6 53:17 128:7 132:22 145:6 162:1 192:21 199:11 217:14 <b>frustrated</b> 206:2 <b>FTM</b> 57:1</p>	<p><b>full</b> 6:21 11:15 14:13 95:24 236:7 238:22 <b>fully</b> 133:3 252:5 <b>Fulton</b> 63:17 <b>function</b> 85:2 <b>functioning</b> 84:18 <b>functions</b> 85:4 <b>further</b> 19:14 21:13 195:21 197:2 251:10 <b>fuzzy</b> 80:7  &lt; G &gt; <b>GA</b> 1:1 3:14 77:13 <b>gainful</b> 152:14 <b>garbage</b> 46:19 <b>Garman</b> 56:20, 21, 24 58:19 60:9 86:12 101:24 114:18 115:13 125:24, 25 140:1 142:1, 3, 4 148:18 193:24 194:15, 24 234:6 240:5 241:13, 18 <b>Garman's</b> 194:2 <b>gas</b> 195:9 196:10, 14, 15, 16 197:7 198:4, 13 199:8, 10, 17, 21, 23 200:2, 8, 13 219:4, 8, 10, 19 220:11, 14 <b>gathered</b> 186:25 <b>geared</b> 106:6 <b>general</b> 58:11, 12, 14 61:8, 13 62:6 92:15 117:5, 24 131:2 140:16 152:13 154:1 160:17, 18 165:4 166:7 169:1 172:9, 13 173:23 185:5 240:2 <b>generally</b> 130:21 <b>gentleman</b> 188:7 <b>genuinely</b> 62:12 <b>George</b> 125:20</p>	<p><b>GEORGIA</b> 1:1 2:5, 8, 12 6:1 10:5, 11, 13 13:9 16:23 42:14 71:12, 24 72:1, 3, 5, 9 74:11 77:21 78:7, 18 79:2, 9 82:24 98:23 103:21 <b>getting</b> 32:4 53:10 136:2 169:13 176:15 200:8 201:12 <b>give</b> 7:8 8:2 12:2 35:23 46:11 54:6, 12 57:23 63:8 67:21 70:18 77:10 80:7 82:25 88:24 90:3 101:10 103:8 104:6 107:18 110:25 128:12 129:24 135:10, 20 136:25 156:13 159:7 160:22 175:2 176:20 177:15 179:1 198:18 204:23 214:17 224:1 226:14 229:1 236:8 250:4 <b>given</b> 29:2 30:2, 5 38:2 48:23 58:2 101:5, 7 119:5 126:3, 22 144:12, 23, 25 155:9 160:24 165:14, 21 168:15 169:8 178:14, 18, 21, 22 191:17 220:18 221:11, 16 222:12, 14 224:5, 7, 15 225:2, 25 226:1 232:14 237:24 238:3 <b>gives</b> 100:4</p>
---	--	--	---



177:21 198:24 <b>giving</b> 77:9 120:8 <b>glad</b> 30:7 112:12 <b>glasses</b> 14:12, 19 52:4 91:17 118:21 155:5 <b>glorified</b> 16:5 <b>gloves</b> 155:7, 8 <b>GM</b> 57:4 74:25 76:13 <b>go</b> 5:7 7:22 12:6 15:23 18:18 19:13 20:7 22:22 24:21 32:24 39:10 42:12 43:18 44:11 45:1 47:8, 13 49:5 53:22 54:13 55:9 56:13 64:9 65:2 73:13 75:20 85:5, 22 86:5, 11 88:23 90:2 91:19 95:10 105:7 117:16 120:23 129:13 132:13 138:8 139:5 152:4 156:25 157:6 158:16, 19, 21, 21 159:7 161:8 162:14 168:22 169:20 170:4 173:7 183:5 186:19 189:10 196:14 211:8 216:21 230:3 235:3 242:8 244:2 250:2 <b>God</b> 53:16 104:5 <b>goes</b> 82:25 86:7, 14 87:18 148:6 <b>going</b> 15:2 19:8, 13 20:7, 15 21:7, 23 22:2, 8, 11 23:4, 16, 19 42:15 46:17 53:22, 22 54:12, 15 67:13 70:18	77:7 83:17 87:15 95:24 105:17, 19 106:2, 11, 14 113:21 121:9 126:4 131:8 135:14 158:14 189:6 192:15 194:8 198:12, 14 199:17 208:12 212:15 219:21 235:18 237:14 243:16 <b>Gonzalez</b> 58:24 202:19, 22 <b>good</b> 8:1 43:5 116:2 117:8 121:8 132:21 151:18 156:7 165:5 206:15 214:2 220:6 244:18, 22 <b>Google</b> 3:15, 16 4:22 73:23, 23 74:23 77:14, 18, 21, 24 79:18, 21 80:3, 10 <b>gotten</b> 169:15 235:20 <b>governing</b> 103:14 <b>government</b> 15:23, 25 247:24 <b>GPS</b> 4:20 235:19 247:7, 25 248:11, 17, 21 249:12, 16, 23, 24 250:1 251:6 <b>grace</b> 156:20 159:7 <b>Grand</b> 7:3, 3 <b>great</b> 41:8 71:1 <b>Green</b> 4:6 26:5 53:17 147:25 148:2, 12, 15, 20, 22 149:9, 15, 20 <b>greet</b> 120:25 <b>Greg</b> 122:3, 4 139:15 <b>grinding</b> 49:19 <b>ground</b> 164:18	<b>group</b> 58:6, 7 165:16 <b>Grove</b> 45:12 <b>grulia</b> 9:18, 24 <b>guard</b> 33:6 <b>guardrail</b> 196:12 <b>guess</b> 33:8 200:5 201:9 <b>guidance</b> 92:4 100:4 130:22 177:21 179:18 180:15 182:3 <b>guide</b> 139:22, 24 140:13 144:21 <b>Guidelines</b> 55:23 102:15 <b>guilt</b> 175:4 176:22 <b>gun</b> 33:7 <b>guy</b> 30:7 31:9 <b>Gwinnett</b> 63:22 64:21 65:14 67:13, 14 69:22  < H > <b>ha</b> 11:11 33:9 42:17 196:2 <b>habit</b> 160:4 <b>hair</b> 9:21 52:8, 9 <b>half</b> 8:22 14:23 174:20 204:12 241:2 <b>Hampton</b> 10:13 <b>hand</b> 38:22 51:21 73:3 77:7 123:7 131:8 134:7, 11 137:2 154:20 184:3 <b>handbook</b> 127:16 128:10 143:5, 6, 9, 12, 14 144:10, 11, 19, 21 145:1 246:8, 12 <b>handbooks</b> 144:8, 8 <b>handed</b> 38:18 71:4 137:21 142:24 169:1 <b>handing</b> 81:14 151:12	<b>handled</b> 16:3 103:6 232:25 <b>handler</b> 16:6 <b>hands</b> 43:5, 10 46:24 118:21 144:22 170:13 <b>handwriting</b> 125:15, 17 134:3 <b>happen</b> 53:17 188:4, 5 189:15, 24 <b>happened</b> 15:22 29:20 31:4 34:17 37:11 47:21 53:7, 15 143:19 186:19 195:12 197:1 213:11 234:23 <b>happens</b> 87:12 156:5, 9 159:23 164:23 183:15 <b>happy</b> 76:1 250:9 <b>hard</b> 87:17 91:17 155:6 <b>HARRISON</b> 2:7 3:6 6:10, 17 7:19 12:7 18:18, 24 19:12, 24 20:14, 19, 25 21:6, 16, 25 22:5, 10, 14, 21 23:4, 11, 15, 25 24:9 25:9 28:10 29:8, 12 35:18 36:1 40:4 41:10 42:3 49:21 56:10, 17 59:14, 18 66:15, 19 69:3 70:23 71:1, 15 72:24 75:22 76:11, 20 78:20, 23 81:10 85:17, 22 89:8, 21 95:1, 5, 10, 14, 17, 23 96:3, 6 97:2 99:10 102:9 103:1, 15 105:13, 16 106:1, 5, 10 107:5, 15 108:25 110:11, 21 112:8, 12, 17
---	--	--	--

113:1, 5, 11, 14 114:20 115:2, 8 116:6 121:6 126:18 127:21 128:3, 5, 17 129:4, 6, 10, 22 131:24 132:3 133:21 137:8, 11 138:8, 11 142:7, 25 146:21 147:7 155:24 157:19 161:8 164:14 167:24 172:21 173:4 175:22 176:3 177:6, 12 179:2 180:8 181:2, 5 182:23 183:19 185:23 186:5 187:1, 23 188:15, 21 189:5 190:4, 9, 14, 20 191:1, 19 192:7 196:7 197:17, 20, 24 205:12, 22 206:4, 8, 15, 25 207:7, 20, 25 208:6, 14 209:6 210:24 211:4, 8, 18 212:1, 5, 9, 18, 22 213:1, 6, 9, 14 215:8, 22, 25 216:6, 18 219:12, 17, 22 220:3, 6 221:2, 5 222:2, 23 223:13, 19 224:17 225:16, 24 228:24 229:4, 22, 25 230:21, 25 231:21 232:8 233:24 235:23 238:11 242:21 243:15, 18, 23 244:1, 6, 10, 14, 18, 22 245:14 248:3 249:17 250:8, 18 251:13 <b>Hartsfield</b> 16:8 <b>hat</b> 155:6 <b>hatchet</b> 54:14	<b>hates</b> 54:14 <b>hats</b> 91:18 <b>haul</b> 154:22 <b>Hazard</b> 160:6, 9 218:1 <b>hazardous</b> 160:11, 12 <b>hazards</b> 154:5 159:1 <b>head</b> 67:15 <b>headache</b> 154:10, 10 240:22 <b>headers</b> 144:14 <b>heading</b> 131:16, 20 246:15 <b>headlights</b> 156:22, 22 <b>heads</b> 230:15 <b>healed</b> 18:16 <b>hear</b> 7:11 201:13, 15 <b>heard</b> 201:15 232:4, 13 <b>hearing</b> 118:22 155:5 <b>heater</b> 90:1, 3 118:8 <b>heaters</b> 46:21 65:3 87:22 88:1 90:1 <b>height</b> 35:1 <b>held</b> 14:1 27:14, 17 66:23 121:11 130:2 161:11 192:9 250:11 <b>help</b> 82:10 134:6, 18 187:21 237:16 <b>helpful</b> 20:4 <b>helping</b> 136:22 <b>High</b> 13:6, 7, 8 104:5 111:16 169:21 <b>higher</b> 33:25 <b>highlighted</b> 78:5 <b>Highway</b> 63:19 244:25 245:7 <b>hikers</b> 168:10 <b>Hills</b> 2:4 <b>hire</b> 27:23 57:8, 11 101:25 102:1	108:12 126:23 127:20 128:22 168:21 232:3 <b>hired</b> 15:8 44:9 55:2 57:15, 20 58:4, 4 84:9 114:14 116:13 127:3 139:11 141:11 <b>hires</b> 57:3, 14, 18 58:1 62:24 108:17 <b>Hiring</b> 4:6 56:23 111:14 114:12, 18 115:10 133:12, 15 136:13 141:14 145:20 147:25 148:2, 12, 15 149:9, 15 <b>hit</b> 30:5 36:22, 24, 25 93:25 94:3 146:17 165:14 195:20 201:1 205:11 210:6, 20 211:24 <b>hitch</b> 168:10 <b>hits</b> 210:17 <b>hold</b> 45:24 90:20 116:14 122:10 129:10 219:22 229:22 <b>holder</b> 11:18, 20 60:5, 13, 23 61:11, 22 <b>home</b> 10:19 51:23 63:15 71:23, 25 91:22 150:22 159:15 198:14, 24 199:7, 17 251:3, 7 <b>homeowner</b> 37:2 <b>homes</b> 45:14 <b>homicide</b> 147:18 <b>honor</b> 46:7 <b>hope</b> 100:15 241:16 <b>hopefully</b> 113:22 250:21 <b>hoping</b> 80:14	<b>hospital</b> 24:21 43:3 50:6 183:5 186:20 <b>hospitals</b> 48:8, 10 50:15 <b>hour</b> 58:7 66:20 121:7 185:22, 25 <b>hours</b> 50:6 53:11 55:3 115:3 120:21, 21, 21 155:21 173:13 174:1 179:16 180:5 181:23, 24 182:1, 10, 10 186:2 187:10 222:17 <b>house</b> 36:11, 14 46:23 47:18 118:20 <b>HR</b> 229:17 <b>human</b> 229:16, 18 230:6 231:6, 16 <b>hundreds</b> 122:12 <b>hung</b> 202:15 <b>hurts</b> 226:15  < I > <b>I-20</b> 199:14, 17 200:16 245:11 <b>ID</b> 252:17 <b>idea</b> 60:22 61:6 74:23 83:12 135:11 139:18 140:22 167:17 170:22 192:3 194:15 220:20 229:14 234:23 <b>identification</b> 70:15 73:8 77:15 80:4 81:21 123:14 125:5 130:11 137:18 142:21 149:10 151:9 171:20 183:25 236:16 246:3 248:13 <b>identify</b> 80:14 131:6 132:2 187:21
---	--	--	---

<p><b>illegal</b> 167:11, 23, 25 168:1, 3</p> <p><b>immediately</b> 172:10, 13 209:12, 20 213:16, 19</p> <p><b>impair</b> 167:11, 22</p> <p><b>important</b> 129:17 141:12, 15 162:4, 11 186:3, 23 187:9, 13, 17 189:11, 20 216:4, 9, 12</p> <p><b>impounded</b> 234:25</p> <p><b>improper</b> 36:23 37:5</p> <p><b>inappropriate</b> 154:3</p> <p><b>incidences</b> 132:21</p> <p><b>Incident</b> 4:14 24:24 29:15 35:5 37:22 38:5, 6 94:7 100:19 183:24 184:5 238:25 239:4, 15, 25</p> <p><b>include</b> 98:23 117:9 124:23 210:4, 6</p> <p><b>included</b> 101:23 117:24 128:15 155:3</p> <p><b>includes</b> 98:21 124:15 149:23 150:2</p> <p><b>including</b> 122:18 150:6 154:25</p> <p><b>incorrect</b> 177:17</p> <p><b>incorrectly</b> 126:6</p> <p><b>Indian</b> 78:6</p> <p><b>indicate</b> 71:22 128:14</p> <p><b>indicated</b> 79:13</p> <p><b>indicates</b> 178:4</p> <p><b>individual</b> 51:23 58:8</p> <p><b>individually</b> 57:21, 24</p>	<p><b>individuals</b> 49:15</p> <p><b>industrial</b> 63:19</p> <p><b>industry</b> 15:14</p> <p><b>inferred</b> 95:18</p> <p><b>influence</b> 167:10</p> <p><b>information</b> 26:15 79:16 160:19 186:25 204:22 225:9 226:15 229:2 250:6</p> <p><b>informed</b> 195:12 237:25 249:9</p> <p><b>in-house</b> 116:14</p> <p><b>initially</b> 241:12</p> <p><b>injure</b> 49:5</p> <p><b>injured</b> 18:7, 9 26:12, 14 31:11 32:17 51:12 54:4, 5 93:17 100:8 196:21 201:3, 6 204:4, 7, 8 216:16</p> <p><b>injuries</b> 18:23 19:4, 18 24:13, 20 29:24 182:14 203:24, 25 205:20 209:16</p> <p><b>injury</b> 182:17</p> <p><b>inside</b> 150:12 154:17 217:4 236:22</p> <p><b>inspect</b> 52:17</p> <p><b>inspected</b> 165:3 241:11, 25 242:18</p> <p><b>inspecting</b> 114:5</p> <p><b>inspection</b> 68:18 164:8, 11, 19 165:1, 21 166:6, 10 218:25 219:1 240:18, 19 241:12 242:23 243:1, 3</p> <p><b>inspections</b> 68:7 92:2, 2 165:12, 25, 25 243:7</p> <p><b>install</b> 118:9, 10</p> <p><b>installer</b> 15:6, 10</p> <p><b>installing</b> 46:21</p> <p><b>Institute</b> 74:6</p>	<p><b>instruct</b> 23:16 27:24 100:11 101:12 104:24 105:4 109:23 175:21 210:12 239:13</p> <p><b>instructed</b> 23:20 100:10 112:1 176:9 178:3 180:7 181:6, 10, 11, 15 183:10 209:4, 8, 9, 18, 19, 25 210:9 239:7, 10</p> <p><b>instruction</b> 111:11 112:22</p> <p><b>instructive</b> 110:8, 10, 14</p> <p><b>instructor</b> 8:12 11:17 46:11 47:1, 2, 20 62:21, 22 202:5</p> <p><b>instructs</b> 101:4 130:22 183:17</p> <p><b>insurance</b> 27:11 96:16, 18, 20 97:1, 6, 7, 16, 16, 21, 22, 23 100:12, 13, 14 175:12 233:5</p> <p><b>intend</b> 110:3</p> <p><b>intention</b> 12:9</p> <p><b>intentions</b> 11:8</p> <p><b>interaction</b> 116:10 163:10</p> <p><b>interesting</b> 110:6, 8</p> <p><b>internet</b> 88:6</p> <p><b>interpretation</b> 225:12</p> <p><b>interrupt</b> 18:20</p> <p><b>interrupting</b> 21:12</p> <p><b>interruption</b> 23:23</p> <p><b>Interstate</b> 42:16 210:19 211:24</p> <p><b>interview</b> 44:1, 5 139:22, 24 140:2, 13 141:5, 6, 7, 8, 8, 9</p>	<p><b>interviewing</b> 115:23</p> <p><b>interviews</b> 43:17</p> <p><b>intimidated</b> 206:11</p> <p><b>intimidating</b> 206:13</p> <p><b>Intrepid</b> 53:1, 3</p> <p><b>introduce</b> 5:21</p> <p><b>inventory</b> 52:18 65:3</p> <p><b>investigate</b> 93:1, 4 94:5 174:11 190:12, 13, 18 193:2, 7, 19 194:2 226:7</p> <p><b>investigated</b> 93:8, 11, 22 94:10 187:10</p> <p><b>investigating</b> 57:14 92:22 114:2 189:17</p> <p><b>investigation</b> 29:6 35:2 37:24 94:13, 20 95:19 96:9, 15, 21, 25 97:25 173:12 174:1 177:18, 24 178:2 179:15 180:5 184:5 186:4, 13 187:14, 18, 21 188:2 189:12, 20, 21 190:7, 24 191:6 239:15</p> <p><b>investigations</b> 93:19 94:23 226:11, 13</p> <p><b>investigators</b> 189:17</p> <p><b>invoice</b> 117:11</p> <p><b>Invoices</b> 117:1</p> <p><b>invoicing</b> 117:1, 23</p> <p><b>involve</b> 46:17, 22 56:3 118:23</p> <p><b>involved</b> 17:10, 15, 21 27:8 30:16 36:4 38:1 41:13 47:9 51:6</p>
---	--	---	--

52:20 53:5 54:1  
55:18 56:7 57:8  
59:8 93:5, 12, 24  
99:4 106:24  
111:18 114:2, 5  
115:10 133:12,  
15 136:4 168:15  
175:12 176:7  
178:11 190:15  
204:22 208:25  
209:10, 17 210:1  
233:6

**involves** 124:20

**involving** 54:21

94:11 103:10

112:24 147:3

195:3 219:7

233:1 239:2

**issue** 53:25

60:24 61:11

157:5

**issued** 16:23

99:6 131:3

144:8 150:3

170:20 178:23

185:11 214:4, 14

221:20, 22

235:14, 15

237:25 238:1

**issues** 97:12

100:1 170:15

**italics** 82:17

**Italy** 41:7

**its** 85:1 145:16

171:12 172:3

< J >

**jack** 154:15

218:8

**JAMES** 1:1 2:13

28:12, 14 33:13,

16 37:13, 14

55:10 115:11, 16

116:3 118:6, 14

119:2 120:16

122:14 123:4, 21

125:12 137:23

143:17 145:2

151:14 153:16

165:22 170:20

193:22 195:3, 4,  
18 198:3, 12, 22  
199:24 200:2

201:20 203:16

204:3, 4, 6 219:7

220:14, 18

221:18 222:1

223:2, 7 224:4

233:4, 9, 12

234:4, 9, 18

236:21 237:8, 18,

21 238:15

240:17 241:4, 20

245:9, 23 248:18

249:12 250:25

251:2

**January** 1:1 5:15

10:1 252:7

**Jimmy** 43:20

84:7, 8

**job** 8:1 14:1, 4

15:8, 16, 19

16:16 26:4

40:14, 15 51:25

60:1 61:15, 17

68:17 75:1

88:13 91:19, 20

93:3 100:8

107:23 115:24

117:2, 21 118:17

119:1 135:10

136:10, 21

159:25 168:4

198:24 201:22

246:20, 21, 21

251:3

**jobs** 27:25 28:1,

1 40:17 118:23

120:23 135:7

246:24

**Jody** 9:8

**J-O-D-Y** 9:10

**JOEL** 1:1 3:3

5:9, 14 6:22 9:3

24:9 76:2 78:21

110:12

**Joey** 9:12

**JOHN** 1:1

**Johnson** 58:22

60:11

**journeyman** 63:2

**journeyman's**

45:17

**Judge** 21:15, 24

244:21

**Judge's** 20:9, 12,

18 21:4, 14

22:12, 19 23:19

96:2

**judgment** 210:14

**jump** 67:3 122:2

**June** 242:11

**junior** 15:15

54:11

**Jury** 7:3, 3

< K >

**keep** 15:2 48:22

53:22 90:12

106:2, 11 118:25

121:9 157:14

173:2 212:16

213:21 217:3

226:4

**keeps** 230:23

**Keith** 58:11, 19

60:7, 21, 22 61:6

75:14, 18, 23

76:12 99:25

140:15 251:14

**Ken** 58:22 60:11

**Kennesaw** 72:19

**kept** 149:21

**key** 65:10, 11

**keys** 104:3

215:5, 15

**Kimberly** 184:20

**kind** 7:2 25:3

29:16 31:13

35:6 37:21

49:18 52:25

82:4 90:10

92:25 119:19

132:13 185:10

189:14 210:2

248:20

**kitchen** 46:18

**knew** 67:14

146:2 158:14

215:5

**knife** 154:19

**Knighthen** 2:11

**knocked** 36:20

**know** 7:16 14:13

19:5 25:18

26:16 29:5 30:2

32:15, 19 33:16

35:11, 14, 20, 23

36:21, 22, 24

38:11, 16, 23

39:4, 22, 25 40:1

42:9 46:19 47:9

48:2 49:4, 11

51:19, 21 52:18

55:5 56:24 57:9,

13 59:16 61:10

62:9, 13 64:2

66:9, 12 67:19,

20 69:1, 14, 15,

17, 19, 19, 21, 23,

24 70:1 72:2

76:8 78:11 79:2,

7 80:21, 23, 24

82:1 83:15

84:17 86:11, 15

88:19 89:1

92:18 93:23

95:22 98:16, 19,

23 101:18, 18, 22

103:16, 19

105:11 106:24

111:8 112:4, 9

113:10 114:9, 16,

17, 17 115:23

116:1, 12, 17

117:16 118:21

127:22 128:1, 19

130:25 131:1, 2,

2, 15 132:4, 6, 18,

19 133:12 134:9,

16 136:11 138:2

143:20 144:23

148:24 149:5

152:14, 18

153:22 154:16,

18, 20 156:15, 24

159:5 160:7

<p>161:4, 5, 24  163:12, 20 164:5,  24, 25 165:17, 18  167:21 169:12,  17 171:10  172:19, 20 179:5,  8, 9, 11, 12, 21  182:5 183:6  186:18, 18, 19, 21,  22 188:6, 18  191:2, 9, 20, 22  192:19 194:8, 15,  19, 22, 23, 25  195:1, 10 196:22  197:1, 14, 16  198:4, 6, 8, 11  199:13, 20, 21  200:22 201:4, 6,  8, 10, 22 202:3  203:9, 24, 25  204:2, 2, 3 209:5  211:16 213:19  214:11 215:3, 3,  15 216:13  221:20, 21 223:3,  5 226:9, 9 228:8,  9, 21, 22, 23  229:3 230:14, 16,  17 231:12, 12, 23  232:13, 25 233:7,  11 234:14, 16  236:5, 24 237:7,  20 238:19  239:21, 23 240:6  242:9 243:14  245:9, 16, 20  247:3 249:13, 16  250:2, 13, 15, 24  <b>knowledge</b> 46:11  114:10 117:5, 24  143:15 232:2  245:8  <b>knowledgeable</b>  61:9  <b>known</b> 9:4 83:21,  23 135:6  <b>knows</b> 63:18  76:25 77:1  <b>Krol</b> 38:19</p>	<p>168:23, 25 231:9  <b>K-R-O-L</b> 38:19  <b>Krols</b> 169:14    &lt; L &gt;  <b>lab</b> 14:10, 19, 20  49:24 101:11  <b>labeled</b> 31:15  79:21 197:12  213:23 239:16  <b>labels</b> 213:24  <b>lag</b> 242:7  <b>laid</b> 15:21 43:9  <b>lane</b> 26:7 211:24  212:6, 7, 14, 15,  17 244:25 245:6  <b>language</b> 7:14  <b>laptop</b> 86:1, 2  <b>large</b> 135:16  137:7 162:6  <b>larger</b> 26:6, 8  <b>Lasted</b> 14:8 16:1  <b>late</b> 195:16  210:9, 21 241:23  <b>latest</b> 164:6  <b>law</b> 68:25 69:4, 8  97:18 102:6  113:25 130:25,  25 131:4 167:6  179:4  <b>laws</b> 92:8 97:21  103:14 113:8, 10  119:9  <b>lawsuit</b> 240:14, 15  <b>lawyer</b> 59:8  111:22 250:4  <b>lawyers</b> 56:12  143:23  <b>lay</b> 15:16 225:5  <b>layoffs</b> 15:15  54:10  <b>lead</b> 191:15  <b>leak</b> 154:13  159:6, 6, 10 218:3  <b>leaking</b> 154:11  159:3, 4, 8  <b>leaks</b> 159:7  <b>learn</b> 198:15  238:1</p>	<p><b>learned</b> 237:8  239:18, 18  <b>leather</b> 155:7  <b>leave</b> 12:23  104:14 146:15  225:5 244:25  245:3, 6  <b>leaves</b> 150:21  210:19  <b>leaving</b> 188:7  <b>lecture</b> 55:3  104:7, 9  <b>lectures</b> 55:13, 15  <b>left</b> 18:11 26:4, 7  32:21 36:13  80:11 146:18  162:18 192:14  196:13 207:16  211:10, 24 237:4  245:11  <b>left-hand</b> 26:10  71:10 74:10  <b>legal</b> 167:25  225:5 229:9  <b>Leland</b> 6:22, 23  9:3  <b>L-E-L-A-N-D</b> 6:24  <b>lenient</b> 207:24  208:3  <b>Lens</b> 14:19, 22  49:19, 19, 20, 22,  23 51:24 52:11  <b>L-E-N-S</b> 49:22  <b>lenses</b> 49:24  <b>letter</b> 169:7  <b>level</b> 18:2 46:21  <b>levels</b> 65:4  <b>L-E-Y</b> 98:11  <b>Liabilities</b> 4:12  151:8  <b>Liability</b> 152:6  175:4 176:22  177:4 225:21  <b>liable</b> 94:19  <b>liaison</b> 60:1  <b>license</b> 11:18, 19,  21 16:21, 25  17:2, 5, 7 40:25  41:3, 5, 6 45:16  60:4, 7, 13, 15, 16,</p>	<p>23 61:1, 3, 7, 11,  22 63:2 111:15,  16 113:16 131:3  175:11 214:14  233:4  <b>licensed</b> 14:3, 11  43:3 44:24  <b>lied</b> 15:25  <b>life</b> 9:5 182:18,  19  <b>light</b> 26:6, 9 30:6,  8 31:5 42:2, 5, 6  53:18  <b>lights</b> 154:4  156:16, 17, 21  158:17, 21, 24  195:10 200:19,  20 217:17, 22, 24  218:1  <b>limit</b> 19:21  <b>limited</b> 55:22  76:19 116:10  <b>line</b> 67:19 176:19  <b>lines</b> 9:22  <b>list</b> 71:7 82:3  116:21 123:22  149:24 154:24  155:4, 18 216:22  <b>listed</b> 83:8 228:2  <b>listen</b> 24:10  59:18 78:23  105:16 245:14  <b>literally</b> 230:8  <b>Lithonia</b> 79:8, 13  <b>litmus</b> 48:20  <b>little</b> 81:3, 4  121:5 152:3  161:20 213:7  <b>live</b> 10:9 42:19  45:13  <b>lived</b> 10:4, 16  <b>load</b> 65:6 87:21,  24  <b>local</b> 39:6 69:13  168:8  <b>locally</b> 102:2  <b>located</b> 79:19  109:11  <b>location</b> 39:21, 22  43:22 44:2</p>
--	--	--	--

59:13 63:22 64:1, 7 65:15 66:1, 4 67:17 68:14, 18, 20, 22 71:24 78:5, 9, 11 79:3, 9 81:1, 3, 9, 9 83:15, 21, 25 84:1, 9, 15, 23 85:10 87:13 88:3, 10 140:16 <b>locations</b> 68:4 71:19 72:1, 4 74:4 75:11 80:17, 18, 21, 24 81:8 83:23, 25 84:3, 6 <b>location's</b> 71:11 <b>Locust</b> 45:12 <b>log</b> 48:22 88:9 <b>logo</b> 26:25 31:17 158:5 <b>logos</b> 154:3 217:11 <b>long</b> 8:19 10:4, 15, 16 14:15, 22 16:25 44:11 45:21 52:8 63:25 114:22 120:20, 22, 23 161:2, 3 189:9 216:2 220:1 226:3 242:10 <b>longer</b> 12:11 18:8 28:8 33:23 58:25 231:4 237:9, 11 <b>look</b> 29:23 38:25 62:5 69:8 71:2 81:2 117:19 127:13 129:13 137:12, 24, 25 153:2, 25 161:19 171:3, 25 192:15 226:19 235:3 236:25 241:14 250:10 <b>looked</b> 131:13 132:8, 10 171:2 212:12	<b>looking</b> 73:11 88:17 128:9 134:3 161:7 226:22 229:7, 9 230:7 <b>looks</b> 7:5 34:2 78:2 81:3 131:17, 23 134:5, 11 140:1, 5, 10 142:10 152:18 172:15 174:8 206:2 236:22 237:2 <b>Lord</b> 104:5 <b>lot</b> 18:1, 2, 3 64:7 98:2 100:16, 17, 18 106:5 122:17 128:10 134:25 135:1 161:24 172:19 173:1 201:20 202:3 218:21 234:25 235:1, 2 <b>low</b> 39:16 156:8 <b>Lucent</b> 15:4 43:9 52:13, 20 54:8 <b>lumber</b> 14:7 51:7, 19, 20  < M > <b>machine</b> 16:6 154:23 <b>machinery</b> 49:16 52:7 <b>machines</b> 49:17, 18, 19, 20, 20, 24, 25 50:13 235:13, 17 236:2 <b>Macon</b> 14:11, 12 68:24 69:1, 12 <b>mail</b> 42:10 <b>mailbox</b> 36:8, 9, 17, 20, 25 54:3 210:6, 17 <b>main</b> 45:8 117:6 118:24 166:25 <b>maintain</b> 48:13 151:18 152:22 <b>maintained</b> 166:7	<b>maintaining</b> 153:20 <b>maintenance</b> 43:4 97:17 157:16 <b>major</b> 24:20, 20 145:23 146:7 147:16, 19 154:2 159:6 166:25 167:1 <b>making</b> 14:19 50:18 57:5, 10 62:10 120:9, 24 148:19 187:7 216:25 <b>man</b> 49:14 54:14 65:19 <b>management</b> 34:1 45:23, 25 46:9 47:4, 22 51:17 59:11, 17, 23 60:3 86:4 88:5 90:12, 12 91:24 111:5 157:14 158:13 160:20 <b>manager</b> 14:20, 20 15:11, 15 38:21 44:7 51:19 54:11 56:23 57:3 58:12, 12, 14, 23 59:2, 21, 25 60:2, 2 61:8, 13 62:6 84:24 85:15 86:4 92:15, 21 97:11 98:6, 15 99:1, 15, 18, 20, 24 101:3, 14 114:19, 19 117:17, 19 125:19 140:16 141:25 144:13 148:16 157:14, 15 163:8, 9, 25, 25 165:4 166:7 169:1, 2 172:9, 13 173:23 176:9 177:20, 20 179:19 180:15,	15, 16 181:21 185:5 193:25 202:20 232:16, 17 240:3 <b>Managers</b> 59:20 86:3, 8 91:25 98:17 165:18 238:8 239:22 241:14 <b>manager's</b> 233:2 <b>manila</b> 149:20 <b>Manual</b> 3:24 128:12 130:10 <b>Map</b> 3:13, 16 73:7, 21, 23 80:3, 18 81:2, 8 <b>March</b> 123:4 125:13 149:17 151:16 153:15 241:20 242:10 <b>marginal</b> 156:13 <b>Marietta</b> 1:1 2:8 <b>mark</b> 70:8 <b>MARK'D</b> 3:10 4:2 <b>marked</b> 70:14 73:7 77:14 80:3 81:20 123:13 125:5 130:10 131:8 137:17 142:21 143:1 149:10 151:9 171:19 183:25 236:11, 15 246:3, 6 248:12 <b>marketing</b> 75:6 77:2 <b>marking</b> 143:3 <b>marks</b> 126:14 <b>mask</b> 155:6 <b>master</b> 11:21 27:16 <b>Mastin</b> 240:10 <b>Mate</b> 50:4, 9 <b>material</b> 216:13 <b>math</b> 10:7, 16 34:11 <b>matter</b> 209:14, 15, 16, 18 252:7 <b>maximum</b> 92:6
--	---	--	--

<p><b>mean</b> 8:22, 24 13:16 16:17 18:25 19:6 26:10 28:23 61:25 73:12 74:20 78:14 84:20 94:2 106:13 117:10 119:12 124:5 127:19 129:17 132:1 153:13 155:7 158:4 163:6 182:16 190:23 193:12, 22 195:13 224:11, 23 228:1 231:15 240:14 249:22</p> <p><b>meaning</b> 8:3 83:25 96:19 145:15 158:19 165:12</p> <p><b>means</b> 49:12 126:14 160:8 194:12 252:21</p> <p><b>meant</b> 12:13 25:7 146:3 159:13</p> <p><b>measures</b> 188:3 189:13</p> <p><b>mechanical</b> 199:25</p> <p><b>medical</b> 48:8, 10 59:4</p> <p><b>medication</b> 167:18</p> <p><b>medications</b> 167:11, 15, 22</p> <p><b>medicine</b> 49:25 50:1</p> <p><b>meet</b> 84:24 115:20, 22</p> <p><b>meeting</b> 160:17</p> <p><b>meetings</b> 86:15 87:4, 7, 9 160:14, 16</p> <p><b>memory</b> 104:8 132:15, 21, 24, 25 133:2, 8 215:14</p>	<p><b>mentioned</b> 36:3 58:11 67:12 68:19 89:14 102:14 109:15 111:21 145:9 168:24 222:16 240:22 245:23</p> <p><b>MERIT</b> 1:1 252:9</p> <p><b>message</b> 207:16 239:22</p> <p><b>met</b> 5:20 48:21, 22</p> <p><b>metal</b> 16:4</p> <p><b>metro</b> 63:6 68:22 69:24 70:3 72:11, 13 76:9 122:7 165:8</p> <p><b>MICHAEL</b> 2:3 5:21</p> <p><b>middle</b> 146:16 188:8 204:18 211:11, 19</p> <p><b>midnight</b> 50:8, 10 182:2 195:17</p> <p><b>Mike</b> 20:21 23:15 225:19 250:9</p> <p><b>mile</b> 247:24</p> <p><b>Mileage</b> 4:20 247:20, 21, 23 248:11, 17, 22, 25 249:1</p> <p><b>Military</b> 13:12, 12, 14 14:11 43:2, 4 47:24 48:5, 19 49:4, 25</p> <p><b>mind</b> 189:4</p> <p><b>minimum</b> 92:5</p> <p><b>minor</b> 38:15 39:2 145:23 146:1, 7, 11, 20 147:4, 13 159:10 226:19 227:2</p> <p><b>minute</b> 16:14 129:24</p> <p><b>minutes</b> 109:21 208:5 251:15</p> <p><b>mischaracterizes</b> 95:15 207:1</p>	<p><b>misdeemeanor</b> 39:3</p> <p><b>Misheard</b> 90:24</p> <p><b>misquoted</b> 134:15</p> <p><b>missed</b> 165:19</p> <p><b>misstate</b> 211:9, 16</p> <p><b>Misstated</b> 134:15 211:14</p> <p><b>misstating</b> 212:11</p> <p><b>MOD</b> 50:3 202:18, 20 239:23</p> <p><b>moment</b> 5:20, 24 11:24 203:23</p> <p><b>monitor</b> 167:14</p> <p><b>month</b> 64:9 68:7 108:16, 18 132:11 160:16, 22 165:11, 14</p> <p><b>monthly</b> 92:3 142:6 160:22</p> <p><b>months</b> 14:8, 16 15:10 25:22 28:24 51:7 68:9 165:13, 21 242:3 243:2</p> <p><b>morning</b> 16:10 50:8 53:10 81:16 90:2 100:6, 7 195:14 203:11 207:15 209:1 234:3 238:4</p> <p><b>motor</b> 17:10, 15, 21 41:13 49:16, 17 52:10, 14, 20 53:4 56:3, 8 93:5, 13 94:10 99:4 100:25 103:8, 9, 10, 14, 23 109:23 110:20 111:11, 12 112:23, 24 124:15, 21, 24 147:19 150:16 155:10, 15 167:9 168:11 170:10 178:25 183:14 184:11, 16 194:5, 12 221:11 222:20 223:9</p>	<p>224:16 228:13 229:7, 19 232:5, 10, 12 233:1 239:1</p> <p><b>mouth</b> 224:25</p> <p><b>Move</b> 22:15, 21 46:9 133:14 165:16 211:12</p> <p><b>moved</b> 13:22 43:24 47:21 84:14</p> <p><b>movements</b> 248:1 249:6</p> <p><b>moving</b> 11:8, 11 41:20, 23 47:3 145:15 226:4 227:5</p> <p><b>Mt</b> 31:6</p> <p><b>multiple</b> 135:2, 3</p> <p><b>MVR</b> 38:11 168:23 227:24 228:2, 3, 10, 13, 16 229:10, 12 230:8, 10 232:14</p> <p><b>MVRs</b> 114:22 231:25 232:1</p> <p><b>&lt; N &gt;</b></p> <p><b>name</b> 5:21 6:21 28:14 51:8 98:8 112:9, 19 123:22 125:20 134:4 155:20 235:16</p> <p><b>named</b> 101:3</p> <p><b>names</b> 9:4 132:19 175:11 233:4, 5</p> <p><b>Naples</b> 41:7</p> <p><b>narrow</b> 76:25</p> <p><b>nature</b> 32:8</p> <p><b>Navy</b> 13:15, 18 14:2 33:8 41:4 48:7 50:1</p> <p><b>NCOIC</b> 49:10</p> <p><b>neat</b> 153:21 154:16 156:4 217:4</p> <p><b>neatness</b> 154:16</p> <p><b>necessary</b> 23:5</p>
--	--	--	---

<p><b>need</b> 12:2 21:23 64:12 65:8 76:15, 18 82:10 89:24 90:1 107:3, 11 115:7 121:3 129:18 147:7 161:25 206:5 208:9 217:3 220:11 251:15 <b>needed</b> 12:19 61:18 88:4 99:13 241:8 251:7 <b>needs</b> 207:22 243:4, 6 <b>negligence</b> 225:23 <b>negligent</b> 147:18 <b>nets</b> 52:9 <b>never</b> 146:4, 5 157:5, 11 189:4 221:4 232:12 243:17, 20 <b>new</b> 14:20 27:23 33:7 46:11 57:8, 10, 14, 18 58:1 62:23 91:11 101:25 102:1 108:12, 17 115:20 126:23 127:20 128:21 143:18 162:22, 23 237:10, 12 <b>nickname</b> 9:6, 11 <b>nicknames</b> 9:15 <b>night</b> 50:7 53:9 71:8 195:16 197:3 203:7, 9 204:11, 14, 18 210:10, 21 213:13 233:19 <b>nighttime</b> 156:23 <b>nine</b> 157:10, 18 158:8, 15 <b>nitrile</b> 155:7 <b>nolo</b> 228:17 <b>non-call</b> 246:24 <b>Non-Commissioned</b> <b>d</b> 49:13</p>	<p><b>noncompete</b> 152:13 <b>non-injuries</b> 209:16 <b>non-sleeping</b> 181:24 <b>Non-Work</b> 246:15 <b>Noonan</b> 45:11 <b>Norcross</b> 43:21 44:2 63:10, 22 65:15 68:12 80:22 81:8 83:25 84:4, 7, 10 88:21 89:2 <b>normal</b> 181:23 202:8 <b>normally</b> 144:4 157:6 204:10 241:18 <b>North</b> 13:8 63:9 78:6 82:23 85:1 89:10, 16 <b>Notary</b> 252:17 <b>Note</b> 244:16 <b>notes</b> 252:6 <b>noticed</b> 152:15 195:9 245:13 <b>notification</b> 240:11 <b>notified</b> 202:17, 17 238:6, 9 240:11 <b>notify</b> 33:3 37:6 172:8, 12 173:23 175:9, 10 176:7 209:11, 25 213:15 <b>number</b> 6:6 10:20 11:6 12:1, 5, 23 40:19 54:13 66:3, 13, 18 67:17, 20 74:20 78:14 79:5, 7, 12, 13 122:10 127:24 129:7 138:4 165:14, 15 166:17 167:5, 8 169:25 170:22, 25 180:25 181:14 193:5</p>	<p>198:17 199:12 208:1 248:16 <b>numbered</b> 127:15 <b>numbers</b> 67:10, 13, 18, 21, 21 75:9 77:2 128:19 131:21 172:19 233:5 245:24 <b>numerous</b> 224:3  &lt; O &gt; <b>obey</b> 131:4 168:7 <b>object</b> 7:20 18:25 21:10 23:11, 21 71:15 81:10 89:21 97:2 103:1, 15 105:13 107:5 146:21 187:1, 23 190:4, 20 191:19 206:25 209:6 210:24 213:14 221:2 222:2, 23 223:13 225:17 231:21 242:21 244:8 <b>objected</b> 95:20 211:13 221:8 <b>objecting</b> 212:16 <b>objection</b> 19:10, 11, 21 24:5 95:1, 4 107:15 110:21 113:1, 5 157:19 173:4 177:6, 12 179:2 180:8 181:2, 5 182:23 183:19 186:5 188:15 190:9 191:1 205:12, 22 211:2, 5, 6 212:1, 4, 21, 25 213:2 215:22 224:17 <b>objections</b> 6:13 19:21 21:17 95:22 <b>observation</b> 138:25 <b>observations</b></p>	<p>91:18 <b>obtain</b> 180:14 <b>obviously</b> 73:12 237:4 <b>occasions</b> 165:19 <b>occur</b> 68:8, 11, 16 87:5 <b>occurred</b> 25:5 68:13 87:7 100:9 175:17 193:21 200:23 201:11 204:20 <b>occurrences</b> 132:21 <b>occurring</b> 49:8 <b>occurs</b> 86:25 172:7 175:19 184:17 <b>o'clock</b> 26:20 90:2 100:7 238:3, 5 <b>October</b> 8:21 <b>offense</b> 16:17 <b>offers</b> 15:24 <b>office</b> 47:6, 13, 15 59:15 63:9 64:15, 18, 20, 21 65:8 66:7 67:23 68:12, 25 69:4, 13, 16 70:2 72:6, 21 74:24 84:11, 12, 13, 14, 18 85:1, 12, 14, 15, 24 86:23, 24 88:21 89:2, 3, 10, 14, 16, 17 109:3, 13 150:22 165:24 180:25 231:17 <b>Officer</b> 49:13 53:16 102:8 191:18 222:8, 20 224:5, 8, 16 <b>offices</b> 63:5, 7 69:8 89:25 98:25 <b>office's</b> 98:25 <b>official</b> 56:25 98:14 179:5 <b>Oh</b> 11:12 18:8 30:10 37:1</p>
---	---	--	---



<p>41:25 78:1 91:13 94:16 104:5 229:9 <b>Ohio</b> 98:7 <b>Ohl</b> 184:20 185:8 229:15 240:8 <b>oil</b> 154:11, 13 159:3, 4, 8 218:3 <b>okay</b> 6:9 8:5, 9 10:24 12:16, 21 19:12 21:6, 16 25:17 26:17 29:12 31:6 33:24 36:1 58:6 59:6 66:8 67:11, 22 69:2 70:23 72:7 73:20 74:2, 13, 15 75:21 76:17 79:15 80:13 82:13, 19 83:16 84:19 87:23 90:9 96:17 99:7, 14, 25 100:4, 11 102:17 107:1, 10 108:8 109:1, 20 110:18 111:7 112:5 113:6 116:12, 16, 18 117:11 118:4, 16 119:18 124:10, 19 134:1, 14 136:14 137:11 138:2 139:12 141:21 144:16 145:25 146:9 147:1, 6, 10, 23 149:4, 13 157:17 162:15 166:13 168:24 170:7 173:20 178:7 179:8, 21 184:9 186:19 187:12 189:4, 7 191:4 193:6, 23 196:20, 21 198:21 199:20 210:15 211:21 213:8, 9, 17 215:7, 12</p>	<p>217:25 219:14 220:1, 17 221:24 224:13 226:5, 11, 17, 21, 23 227:7, 9, 25 228:5, 19 241:19, 24 242:17, 25 245:19 246:13, 16 248:24 249:10 250:23 251:5 <b>once</b> 12:25 21:9 39:13 45:16 46:20 48:22, 23 64:11, 20 66:10 160:16 170:2 202:2 233:13 <b>ones</b> 9:16 30:5 124:12 <b>online</b> 39:9 42:12 88:7 <b>open</b> 32:11 64:23 65:9, 11 66:1 85:7 90:3 <b>opened</b> 109:2, 14 <b>opens</b> 84:22 86:12 <b>operate</b> 61:5 111:11 143:24 167:9 <b>operated</b> 19:3 49:16 <b>operating</b> 155:14, 19 171:14 172:4 <b>operation</b> 103:23 110:20 112:24 <b>operations</b> 14:7, 7 50:6 111:4 <b>operators</b> 174:3 214:10 <b>opinion</b> 175:3 176:21 177:14, 15 224:2 245:1 <b>opportunity</b> 7:10 14:16, 18 15:9 34:5 47:23 <b>opposed</b> 8:4 <b>opposite</b> 26:11 <b>optical</b> 14:10 49:24</p>	<p><b>optician</b> 14:3, 11 43:3 48:7 <b>option</b> 169:23, 23 <b>Order</b> 20:13, 18 21:5, 15, 21 22:4, 12, 19 23:3, 20 95:11, 12 102:2 103:4 117:19 186:11 211:17 227:14 244:21 <b>ordered</b> 64:12 101:8 <b>Ordering</b> 91:16 <b>orders</b> 102:1 <b>organization</b> 82:2 <b>organized</b> 154:17 <b>orientation</b> 57:7 <b>original</b> 70:18 <b>OSHA</b> 55:21, 21, 22, 25 56:3 185:11, 14, 16 <b>outlining</b> 172:1 <b>outside</b> 16:9 46:12, 15 150:12, 15 154:2 158:5 217:5 230:24 <b>outsmarted</b> 143:3 <b>outstanding</b> 169:15 <b>overlap</b> 69:20 <b>oversees</b> 57:4, 4 <b>owned</b> 27:4 35:24 93:3 94:9, 11, 14, 15, 24 158:1 173:17, 18 174:3, 10, 18, 21, 25 175:1, 7, 8 176:16, 17, 19, 24 177:4, 11, 16 178:9 181:4, 15 185:21 192:24 204:21 205:3, 6, 19 206:23 207:14 208:24 209:20, 22 210:1, 10, 13, 17, 22 214:9 219:2, 3 243:7 247:13, 16 <b>owns</b> 206:21</p>	<p>&lt; P &gt; <b>PAGE</b> 3:2 71:25 82:14 125:15 131:20 137:4 138:10, 13, 16, 16 139:21, 23 141:15, 23, 23 142:5, 8 144:6 146:6, 20 147:16 152:15, 18 162:14 164:7, 7 167:4 174:20 246:11, 14, 14 <b>PAGES</b> 1:1 138:17 140:12 <b>paid</b> 37:25 39:4, 8 42:12 102:3, 3 228:18, 18 <b>pains</b> 18:11 <b>paper</b> 112:14 153:10, 17 184:16 186:12, 17 <b>paperclip</b> 77:10 <b>paperwork</b> 57:8 61:2 84:25, 25 88:4 93:23 103:2, 4 117:6, 7, 10, 14, 15, 16, 19, 25, 25 118:3, 5, 15 120:25 126:23 127:20 134:18 135:16 <b>Paragraph</b> 21:4 150:19, 20 248:20 249:5 <b>paraphrased</b> 193:10 <b>parenthesis</b> 152:7 <b>Park</b> 63:13, 19, 25 64:20, 22 66:1, 4, 18 67:14 68:13 80:23 81:2, 9 84:1, 15 88:3 89:5, 20 90:7 159:11, 12, 13, 16 214:6 <b>parking</b> 18:1, 2, 3 188:8 214:25</p>
--	---	--	---

<p>215:1, 4, 6 217:22  <b>Parkway</b> 63:13  <b>part</b> 49:7 62:23  70:3 75:24 97:6  101:18, 20  104:24 107:17,  18 113:16 118:4,  23 119:17 120:2,  23, 24 121:1  127:11, 18  135:16 144:17  155:10 160:18  169:11 249:25  <b>particular</b> 39:22  42:25 75:23  116:13 117:4  188:6 193:13  204:22  <b>parties</b> 175:12  233:6  <b>parts</b> 89:23  117:4, 23 235:13  236:2, 4  <b>pass</b> 55:7 111:12  <b>passed</b> 45:17  <b>passing</b> 16:4  26:7  <b>pat</b> 16:4  <b>patience</b> 251:12  <b>pay</b> 85:11  159:21 170:6  <b>paying</b> 106:25  178:1 214:22  <b>payment</b> 28:1, 2  <b>penny</b> 156:11  <b>people</b> 16:4  27:21 46:7, 12  50:14 51:15  57:25 61:17  82:9 92:17  106:15 113:18  117:18 122:11  134:25 135:1  165:16 191:23  216:16  <b>percentage</b> 40:17  <b>perfect</b> 90:25  <b>perfectly</b> 34:20  67:22</p>	<p><b>perform</b> 97:13  100:10  <b>performance</b>  169:9  <b>performs</b> 225:3  <b>perimeter</b> 80:15  <b>period</b> 27:23  156:20 157:10  <b>periodic</b> 162:22  <b>periodically</b>  114:23  <b>periods</b> 159:7  <b>PERLA</b> 1:1 252:9  <b>permits</b> 61:23  <b>person</b> 26:14  28:25 32:6  33:14 36:13  43:15 53:18  55:12 59:24, 25  61:24 75:15, 20,  20 99:22 100:3  101:11 120:13  139:5 146:16  158:14 194:23  205:11, 20  208:12 233:8, 9  239:19, 24  <b>personal</b> 11:3  25:4 91:16  155:2, 12, 13  157:12, 12 158:6  159:19 213:23  214:5 224:1  225:11 228:3  245:1  <b>personally</b> 158:9,  10  <b>personnel</b> 59:16  137:23 148:9, 11,  23 150:23 169:3  <b>persons</b> 54:1  <b>perspective</b> 114:3  <b>pertinent</b> 250:6  <b>phase</b> 132:14  <b>Phoenix</b> 2:11  <b>phon</b> 9:19 69:17  <b>phone</b> 10:22, 23  11:4 12:1, 4, 22  29:21 44:4  65:20 66:3, 5</p>	<p>67:10, 13 74:20  75:9 77:2 78:14  79:5, 12, 13  116:24 117:22  170:9, 20, 22  171:1, 6, 7, 8  195:19, 25 196:3  201:21 202:7  203:18 233:20  234:5, 5, 11  <b>phones</b> 170:15  <b>Photograph</b> 4:17,  23 236:15  <b>phrase</b> 180:21  193:12  <b>physically</b> 112:2  <b>physicals</b> 102:16  103:5  <b>pick</b> 9:16 72:16  168:10 195:25  <b>picked</b> 196:3  <b>pickup</b> 18:3 31:8  32:11  <b>picture</b> 236:19,  20, 23 237:3  <b>Pictures</b> 191:8  241:18  <b>piece</b> 153:10  184:16 186:11  <b>pinned</b> 30:11  <b>pinpoint</b> 82:11  <b>pins</b> 79:18  <b>pipe</b> 46:17  118:20  <b>PLACE</b> 1:1 7:5  34:2 41:8 58:8  59:9 86:23, 25  87:4  <b>places</b> 79:19  <b>Plaintiff</b> 1:1 2:2  <b>Plaintiff's</b> 3:11,  13, 14, 16, 17, 18,  21, 23 4:3, 3, 6, 8,  10, 12, 14, 17, 18,  19, 22, 23 70:10,  12 71:5 73:4, 6,  11, 12 77:8, 12  79:25 80:2, 12  81:15, 19 123:8,  10 125:2 130:7</p>	<p>137:15, 21  142:19, 24 149:7  151:5 171:17  183:23 236:14  246:1 248:9  <b>play</b> 216:9  <b>playing</b> 133:2  <b>plead</b> 228:17  <b>please</b> 7:12, 22  8:2 20:5 23:8,  13 24:6, 7  102:22 192:5  229:1  <b>plenty</b> 169:14, 15  <b>plug</b> 86:1, 2  <b>plumber</b> 27:13,  16 62:25 68:24  69:10, 11, 12  82:11 136:22  <b>Plumbing</b> 3:11  8:12 11:17  45:17, 18, 19  46:11, 13, 15  47:2, 20 48:15  49:3 54:22  58:23 60:15  62:17, 17, 21, 22  64:12 69:16  70:13 84:21  117:5, 24 118:17,  22, 23, 25 119:1  124:18 135:9, 9  202:4, 5  <b>PM</b> 25:2  <b>point</b> 9:4 21:1  22:20 33:3, 9  38:9, 14 40:16  47:11 65:12  66:10 101:13  106:13, 14  145:16, 24  146:20 147:17  151:22 152:21,  21 165:11 166:5,  17 171:5 172:15  173:10, 10 174:9,  25 175:1, 5, 6, 8  178:10 179:13  180:3, 25 181:9,  14 185:20</p>
---	---	---	--

<p>192:22, 24  193:11 194:19  200:22 202:16  228:3 233:21  234:2 242:1  <b>pointed</b> 246:9  <b>pointing</b> 134:1  <b>points</b> 38:12, 23,  24 47:9 114:15  145:14, 15 146:2  147:4, 14, 20  149:24 169:4, 4,  6, 16, 18, 20, 22  170:1 176:15  177:17 178:5  183:9 226:20  227:1, 2 228:11,  11, 12 229:21  231:11 242:1  <b>pole</b> 36:8  <b>police</b> 31:25  32:19, 22 36:18  37:2, 3 53:16, 23  102:8 175:16, 18  176:8, 8, 10  178:14, 18 179:1  187:12 189:16  190:19, 25 191:7,  9, 17 195:9  200:18, 19 201:6,  13, 15 202:14  204:21 221:12,  14 222:8, 13, 20  223:8 224:5, 7,  15 233:13  238:17 245:9, 13,  17, 21  <b>policeman</b> 39:7  175:14 196:23  <b>policies</b> 54:23  109:19 127:12,  15 128:12, 13  131:15 161:24  162:3, 11, 12  172:19, 23 173:1,  3, 21 180:20, 22  187:8 214:21  <b>Policy</b> 3:22, 23  4:5, 8 39:25  54:8 92:23 94:6</p>	<p>98:5 99:3  100:23 113:23  119:3, 4, 8, 17  125:4, 9, 13  126:16, 22, 25  127:5, 8, 10, 24  128:16 129:2, 3,  9 130:9, 15, 16,  20 131:5, 10, 12,  21, 23 132:8  133:17 136:11,  17 142:17, 20  143:7, 16, 23  144:6, 18 145:5  146:15, 17 147:5  151:13 160:7, 9,  15 161:7, 18, 22  162:16 165:9  166:2 170:9  172:2, 15 174:5,  6, 13, 17 175:10  181:16 183:18  185:6 192:1  193:9 194:1, 4  219:9 222:1, 10  223:6, 22, 23, 25  224:2, 8 225:8,  10, 13, 14 227:15  247:4  <b>polishing</b> 49:20  <b>polite</b> 206:16  <b>poor</b> 156:8  <b>portion</b> 117:8  119:20  <b>position</b> 8:10  11:12, 15 14:9  16:2 19:25 20:8,  9 27:12, 14, 17  33:20 34:1, 8  44:8 45:15 48:1,  2 50:2 51:17  90:12, 13, 13, 20  <b>positions</b> 45:24  <b>positive</b> 141:16  <b>possibilities</b> 88:18  <b>possibility</b> 72:15  199:1  <b>possible</b> 92:23  112:2 148:14</p>	<p>189:25 190:1  196:11 202:6  <b>post-accident</b>  178:12  <b>potential</b> 141:10  <b>pounds</b> 154:23  <b>POWERPoint</b>  55:4 110:24  111:21 120:8  <b>PP</b> 155:9  <b>PPE</b> 91:17, 20  154:25 155:1, 3,  10, 13 159:18, 24  217:1 218:19  236:5  <b>PPEs</b> 155:15  <b>practices</b> 124:13,  15, 17  <b>Precision</b> 32:11  <b>precursor</b> 82:3  <b>premarked</b> 70:9  71:4 73:3 77:8  79:25 81:14  123:7 184:3  <b>premise</b> 221:23  <b>Prepaid</b> 249:1  <b>prepared</b> 138:22  <b>presence</b> 138:24  <b>present</b> 67:1  121:14 130:5  161:14 192:12  <b>presentation</b> 55:4  110:24  <b>presented</b> 108:15  <b>president</b> 185:3  <b>pressure</b> 156:8  <b>pretty</b> 24:18  45:7 47:20 54:16  <b>preventability</b>  35:10, 15 192:1,  16, 18 194:11, 11,  17, 20 243:12, 21  <b>preventable</b>  174:12 193:8, 12,  20 194:3  <b>prevented</b> 193:15  <b>Prevention</b>  161:18 174:14</p>	<p><b>previous</b> 60:23  83:15 171:5  249:24  <b>print</b> 144:5  <b>printed</b> 71:8  77:19 143:13  184:8  <b>printing</b> 80:9  <b>printout</b> 81:15  <b>prior</b> 25:22  30:16 34:18  43:2 46:10 48:9  111:13 116:3  139:11 232:6  <b>priority</b> 171:15  <b>privilege</b> 6:15  <b>privy</b> 26:15  79:15 220:22  <b>probably</b> 8:25  25:21 34:4 46:7  63:2 66:5 83:14  92:18 109:6  125:18 128:15  171:11 195:6, 24  198:17 201:4  215:17 225:19  249:15  <b>problem</b> 61:20  75:24 132:23  133:7 142:15  188:17 223:20  244:3, 7  <b>Procedure</b> 3:24  6:2 130:9  173:18 174:10,  21 178:9 185:20  <b>procedures</b>  109:19 171:14  172:4  <b>PROCEEDINGS</b>  5:2 66:24  121:12 130:3  161:12 192:10  252:4  <b>process</b> 44:5  47:10, 10 57:8,  11, 16 97:7  117:2 152:4  226:16 242:24</p>
---	--	---	---

<b>processes</b> 126:4	230:10, 17	87:14 89:12	<b>RAFI</b> 2:3 3:4
<b>produce</b> 250:14	231:10, 25 232:1	90:24 91:3	5:6, 13, 19, 21, 25
<b>produced</b> 128:6	235:9, 18 237:6	100:15, 20	6:12, 19 12:17
129:14 137:24	<b>pulled</b> 114:23	102:10, 18	18:21 19:9, 20
<b>product</b> 236:4	213:2, 5 229:12	110:12 118:13	20:5, 17, 22 21:3,
<b>production</b> 128:7	235:22 236:6	133:4, 6 143:19	7, 22 22:2, 8, 11,
<b>products</b> 65:4	237:1	175:23 179:25	17, 25 23:7, 13,
<b>professional</b>	<b>pulling</b> 210:7	186:11 189:10	18 24:3, 12
101:11	235:24	207:5, 17 211:9	25:12 28:13
<b>Program</b> 3:19	<b>pumps</b> 65:3	212:19, 23 213:7	29:10, 13 36:2
28:3 46:12, 14	<b>punishment</b>	214:16 215:9	40:8 41:12 42:7
48:9 122:16	191:11	216:19, 19, 21	50:12 56:16, 18
123:12, 17	<b>purchase</b> 200:6	219:16, 18, 24	59:22 66:21
153:14 161:19	237:10, 12 240:20	221:6, 9, 19	67:2 69:5, 7
166:15 174:15	<b>purchased</b> 34:22	223:2, 18 225:17	70:8, 17, 21, 24
177:24 182:5	200:5 241:4	230:2 231:6	71:3, 18 73:2, 10
237:17, 19	242:4	233:25 238:13	75:2, 4, 17 76:7,
<b>progress</b> 142:6	<b>purchases</b> 241:16	243:5, 16 245:15,	17 77:4, 6, 17
<b>progressive</b>	<b>purged</b> 250:12	15 249:18 250:19	79:1 80:6 81:13,
191:13	<b>purpose</b> 107:13	<b>questions</b> 5:23	23 85:23 89:18
<b>project</b> 48:17	<b>purposes</b> 6:3	7:11, 20 16:15	90:5 91:1, 10
49:2, 9	94:6	21:19 22:6, 24	95:3, 8, 12, 16, 21
<b>promulgated</b>	<b>pursuant</b> 6:1	24:1 55:6 56:12	96:1, 4, 8 98:1
92:11	<b>put</b> 48:12 50:25	61:23 62:12	99:12 102:11
<b>proper</b> 156:5	61:2 104:14	67:5 78:21	103:7, 18 105:24
158:24 221:9	132:22 137:5	100:16, 17, 19	106:8, 12 107:9,
<b>properly</b> 154:21	156:25 158:21	105:18 106:6	16 109:10
214:13	169:3 250:1	116:9 121:18, 21	110:15 111:20
<b>property</b> 91:22	<b>puts</b> 247:10	132:16 133:1, 19	112:20 113:3, 7,
93:2 159:9	<b>putting</b> 46:19	184:15 186:21	20 115:1, 6, 9
205:9, 20	91:21 205:19	197:23 202:4	116:8 121:3, 15
<b>propose</b> 6:5	224:25	204:10 206:5, 14,	123:16 125:7
<b>protect</b> 23:5	<b>&lt; Q &gt;</b>	16 207:23 208:7,	127:1, 23 128:4,
91:22 162:6, 8	<b>quarter</b> 166:3	19 216:2 219:25	9, 20 129:5, 16
<b>protection</b> 118:22	243:1	244:7 250:22	130:13 131:25
155:2, 6 159:19	<b>quarterly</b> 164:11,	251:11	132:7 133:25
<b>protective</b> 91:17	12 165:1, 2, 24	<b>quick</b> 53:23, 24	137:3, 10, 20
155:12, 13	166:1, 2, 6, 10	187:20 188:1	138:6, 9, 12
<b>protruding</b> 218:13	166:1, 2, 6, 10	189:11 190:6	142:9, 12, 23
<b>provide</b> 141:16	<b>question</b> 6:14	<b>quickly</b> 166:23	143:2, 4 146:25
<b>provided</b> 67:9	7:12, 14, 22, 23	187:15 189:21, 25	147:11 149:12
<b>provides</b> 130:22	18:19 19:5	<b>quite</b> 19:1 32:20	151:11 156:1
<b>providing</b> 162:22	20:15, 23, 24	<b>quizzes</b> 55:5, 5,	157:23 161:15
<b>provisional</b>	21:8 22:15, 18	10	164:17 168:1, 2
250:13	23:6, 8, 9 24:2, 4,	<b>quote</b> 172:16	171:22 172:24,
<b>Pub</b> 74:4	13 25:10 35:14	<b>quoted</b> 248:21	25 173:9 175:24
<b>public</b> 162:6	41:11 59:19	<b>&lt; R &gt;</b>	176:4 177:9, 13
190:3, 8 252:17	62:1, 4 67:3, 5	<b>rack</b> 31:18	179:7 180:12
<b>pull</b> 61:23	69:5 74:25	154:10, 11 240:22	181:7 183:7
196:10, 12 228:2	75:18 78:24		184:2 185:24

<p>186:9 187:5, 25  188:19, 25 189:8  190:5, 11, 17, 22  191:3, 24 192:4,  13 197:4, 19, 22  198:1 205:15, 25  206:7, 12, 18, 19  207:4, 8, 22  208:2, 4, 8, 17  209:13 211:1, 7,  15, 20 212:3, 7,  13, 20, 24 213:4,  8, 10 214:8  215:10 216:3, 7,  20 219:15, 20  220:7 221:7  222:6 223:1, 16,  24 224:22  225:22 226:5, 6  229:1, 5 230:5,  23 231:3, 5, 24  232:9 234:1  236:10, 18  238:14 242:22  243:17, 20, 24  244:3, 8, 12, 16,  19, 23 245:18  246:5 248:6, 15  249:21 250:17,  20 251:10  <b>ramp</b> 200:17  201:8  <b>ran</b> 26:8 30:6  196:9, 15 197:7  198:12 199:8, 10,  17, 21 219:8  220:14  <b>rate</b> 39:15 40:6,  7, 11, 13, 15  <b>rates</b> 82:2  <b>reach</b> 154:18  170:2  <b>read</b> 20:13, 17  23:7, 10 83:10  91:1, 4 96:5  119:4 126:24  127:10, 11  132:10 144:3, 5,  20 162:1 165:5  172:18, 19</p>	<p>174:15 227:10  243:10 246:22  247:1  <b>readily</b> 46:23  154:18  <b>reading</b> 18:1  83:1  <b>ready</b> 5:7 22:14  121:16 138:10  <b>real</b> 132:20  <b>realized</b> 196:18  <b>really</b> 30:10 55:7  143:19 157:6  175:13 176:18  <b>rear</b> 18:4 30:22,  23, 24 35:3, 16  53:6, 9, 12 196:19  <b>reason</b> 7:13 12:2,  18 17:8 60:16  62:6 126:5  199:3 204:13, 16,  19 232:8, 10  <b>reasonably</b> 182:2  <b>rebuild</b> 118:9  <b>rebuilding</b> 46:16  <b>recall</b> 32:18 38:8,  25 163:12 166:4  202:11 203:21  204:11 215:12,  17, 18, 19, 20, 23  216:5 221:19  233:16, 17, 22  234:12, 14, 22  235:21 238:7, 22,  23  <b>recalling</b> 76:18  215:18  <b>REC'D</b> 3:10 4:2  <b>receive</b> 90:17, 20  222:15 230:17  <b>received</b> 103:22  169:1 223:2, 8  240:11  <b>receives</b> 222:19  <b>receiving</b> 222:25  <b>reclamation</b> 48:13  <b>recognize</b> 12:5, 23  <b>reconvened</b>  66:25 121:13</p>	<p>130:4 161:13  192:11  <b>record</b> 19:16  20:6 22:13  36:19 39:1  66:23 121:11  127:18 130:2  139:6 145:11  150:2 151:18, 19  161:11 169:5  192:9 228:14  244:20  <b>records</b> 114:6, 12  <b>red</b> 26:8 30:6, 8  31:5 42:5 74:7  80:19 81:7  <b>reevaluate</b> 76:14  <b>reference</b> 33:16  215:5  <b>referenced</b> 185:14  <b>referencing</b>  150:24  <b>referred</b> 148:8  <b>referring</b> 21:20  30:25 35:19  109:17 139:23  <b>refers</b> 129:7, 12  <b>regard</b> 92:20  171:13 172:3  194:12  <b>regarding</b> 28:17  49:9 50:16, 24  102:7 103:8, 23  109:23 112:23  130:23 150:15  170:9 210:12  247:4  <b>regardless</b>  175:20 220:9  <b>Region</b> 60:2  98:19, 20 99:23  <b>Regional</b> 98:15,  16, 25 99:15, 21,  24 101:3 177:20  185:7  <b>Registered</b> 252:17  <b>re-go</b> 133:23  <b>regular</b> 202:8  <b>regulation</b> 168:8</p>	<p><b>Regulations</b> 4:11  55:23 102:20  128:23 151:7  152:6 194:6, 13,  17  <b>rehash</b> 85:3  <b>reimbursed</b>  247:19, 21, 23  251:8  <b>reimbursement</b>  247:18 248:23  <b>reinspect</b> 156:14  <b>reissue</b> 159:20  <b>related</b> 87:9  88:11, 13 97:12  99:25 100:1  120:11 155:10  183:15  <b>relationship</b> 8:16  <b>relays</b> 99:24  <b>release</b> 48:24  <b>released</b> 15:17  <b>relevant</b> 19:17  21:19 22:6, 23  28:7  <b>rely</b> 189:16 191:8  <b>remain</b> 20:5  <b>remains</b> 131:21  <b>remember</b> 30:21  34:6 37:4, 12  123:24 132:12  196:6 199:11  235:16, 24  <b>remembered</b>  12:25  <b>Remind</b> 250:24  <b>reorder</b> 85:5  <b>repair</b> 236:4  <b>repaired</b> 28:20  <b>repairing</b> 43:5  46:18  <b>repeat</b> 20:3  <b>rephrase</b> 207:4  213:6 221:6  <b>rephrased</b> 175:6,  7  <b>replacing</b> 46:19  <b>report</b> 29:15, 15,  18 35:5, 6 37:22,  22 38:21 47:5</p>
--	--	---	---

<p>58:17, 19 61:17 97:11 99:21 111:1 113:15 142:6 158:13 168:12 173:22 182:4, 7 184:5 186:1 212:12 228:10 229:8 231:9 238:25 239:15 245:10 <b>reported</b> 33:11 99:16, 17, 19 186:14 195:7 <b>Reporter</b> 1:1 5:4 252:17, 22 <b>Reporting</b> 4:14 56:8 103:9 110:25 112:11, 15, 24 119:21 120:8 122:18 124:12, 20 134:20 171:19, 24 172:16 173:18, 24 174:21 175:15 178:8 <b>reports</b> 38:17 99:25 185:7 191:9 <b>represent</b> 5:22 <b>represented</b> 12:9 <b>Representing</b> 2:9, 13 12:11 <b>reprimand</b> 38:3 <b>reprimanded</b> 191:12 <b>reproduction</b> 252:21 <b>require</b> 101:12 <b>required</b> 27:10 29:7 39:17 55:8 60:14 96:22, 23, 24 97:8, 10, 17 99:3 104:22 105:12, 15 106:16, 17, 18 108:7, 9 109:9, 24 110:25 111:15, 18 113:18 145:4, 5,</p>	<p>8 155:19 160:18 162:24 170:4 173:17 174:20 175:13, 16, 18 176:6 184:12 203:13 214:20 218:21 219:10 242:25 <b>requirement</b> 92:3 175:20, 25 176:1, 2 185:21 192:6 240:23 <b>Requirements</b> 4:14 145:12 167:4 171:19, 24 173:15 174:2 <b>requires</b> 100:23 244:21 247:24 <b>research</b> 249:15, 22 <b>reserve</b> 6:12 <b>resident</b> 13:23 <b>residential</b> 36:9 135:9 159:15 <b>resigned</b> 33:19 34:4 47:23 61:1 <b>resources</b> 229:16, 18 230:6 231:7, 16 <b>respond</b> 21:8 199:16 207:22 250:19 <b>RESPONDENTS</b> 3:10 4:2 <b>response</b> 53:23 250:13 <b>responsibilities</b> 49:1 50:24 51:2, 3, 11 61:10, 21 91:11 <b>responsibility</b> 48:16 55:19 75:5, 8 151:17 171:13 172:3 194:2 214:1 216:24 233:2 <b>responsible</b> 49:7, 15 50:5, 13, 16 51:14, 25 52:10, 13, 16 57:9, 10,</p>	<p>13 92:1, 7, 10, 16, 19, 22 100:13 102:5 103:3 117:15 133:17 148:14, 19 157:16 162:21 <b>responsiveness</b> 6:14 <b>rest</b> 51:23 104:16 197:3 <b>restaurants</b> 74:5 <b>result</b> 24:14 78:3 82:22 232:10 <b>Retired</b> 13:19 14:2 33:8 <b>retiree</b> 15:24 <b>retirees</b> 15:24 <b>retirement</b> 48:9 <b>return</b> 59:5 <b>returning</b> 196:17 <b>reversible</b> 44:16 <b>Review</b> 3:22 4:14 117:20 125:4, 9, 13 144:22 160:21 169:9, 9 183:24 <b>reviewed</b> 161:23 <b>reviews</b> 138:2 <b>revised</b> 143:7 149:17 <b>revision</b> 143:20 <b>revisions</b> 143:18 <b>revoked</b> 17:8 <b>Ride</b> 4:3 27:22 44:13 111:8 119:7 120:13 134:22, 25 135:1, 4, 25 136:5, 12, 15, 19, 25 137:16 138:13 139:2, 4, 16 141:6 <b>riding</b> 120:24 136:3, 21 <b>right</b> 7:18 8:1, 10 9:17 10:9 14:25 18:10 23:1 32:10 34:13, 14 40:13, 14, 16, 18 43:23 50:5 54:13 59:6</p>	<p>61:8 63:16, 18, 20 71:13 74:14 76:20 79:17, 22 82:6 95:21, 24 97:19 99:16, 20 100:5, 7 111:3, 5 119:7 120:25 123:4 124:16 126:18 127:11 129:20 134:11 140:20 141:2 146:3, 8 150:24 151:23, 24 152:16 154:6 155:16, 17, 22 156:14, 25 158:20, 25 162:9, 17 166:1 167:6 169:2, 10 170:8 173:19 174:5, 15 177:21, 22, 23 179:19, 23 180:16 181:24 182:2 186:17 188:4, 14 190:13 191:14 195:6, 11 196:14 199:11 200:21 201:3 202:4 204:16 206:11 209:21 210:17 211:16 212:14 213:18 214:7 224:21 225:2 228:6, 10 230:18 241:21 244:2, 16 248:18 249:1 251:7 <b>right-hand</b> 53:19 <b>River</b> 26:5 <b>Road</b> 2:4, 11 18:2, 5, 9 26:5, 11 47:7, 14 55:9 68:10 82:24 84:10, 14 103:17 104:1 106:25 113:24 131:2 146:16, 19 156:12, 18 157:9 158:23 159:12, 13, 13 164:19</p>
---	--	--	--

<p>167:2 188:8, 10, 11, 13 196:11, 13 199:13 211:11, 19 219:4  <b>road</b>, 166:19  <b>roads</b> 103:21  <b>roadway</b> 160:11 245:11  <b>rode</b> 116:15  120:15 130:25  135:12 139:6  <b>role</b> 75:5, 8  102:19, 23 133:2 158:11  <b>roof</b> 32:13  <b>room</b> 104:16  129:20 183:2  <b>rooms</b> 182:12  <b>ROOTER</b> 1:1, 1 2:9 128:11  165:8 173:1  <b>rosters</b> 150:6  <b>ROTO</b> 1:1, 1 2:9 128:11 165:8 173:1  <b>Roto-Rooter</b> 3:11, 14, 18, 21, 23  4:19 8:11, 13, 14, 15, 17, 20, 21, 24, 24 11:4, 16, 21 15:20 16:12, 13 17:16, 22 25:6, 15 26:3, 25 28:2, 16 29:5, 21  30:12, 18 31:15, 21 33:4, 17, 18, 22 35:2 36:5  37:6, 24 38:1, 3, 10, 24 39:12, 18  40:23 41:14, 18, 24 42:22, 25  43:7, 11 44:9  54:22 58:15  61:4, 4 62:3  68:20, 24 69:10, 12 70:2, 13  72:10 74:8, 11, 24 76:5 77:13, 20 78:4, 5, 12  80:11, 17, 18</p>	<p>82:17, 23 83:4, 7, 20 85:10 87:10  91:9 92:12, 23  93:5 94:3 96:19, 25 97:20 98:12  102:6, 19, 23  103:11, 25  104:18, 20 107:3, 11 108:13  109:11, 16  113:23 114:10, 11 116:7, 9, 11  119:3 123:11  125:3 127:9, 15, 16 128:10 130:8  135:20 141:1, 19  143:5, 18 144:11  145:4, 16 146:18  147:3, 12 150:13  152:14 155:20  157:14, 15, 18, 22, 24 158:1, 4, 11, 23 165:23, 23  167:2, 14 169:6  170:15 171:12, 24 172:1 175:25  176:6, 20 177:3, 10 178:20 180:4, 11 183:17 184:4, 23 187:7, 14, 18  189:22 190:18, 23 191:5, 16  192:1, 18 194:21  197:11 198:5  200:12, 12 203:1, 4 205:8, 17  206:20, 22  209:10, 19 210:1  211:23 213:18, 22, 24 214:9, 21  216:5, 11 219:2  220:9, 25 221:10, 14 222:1, 10, 11, 19 223:6, 21  224:8, 9, 10, 14  225:2, 7 226:7, 10 227:12, 16, 19, 20, 22 229:12  230:7 231:7, 19, 20 232:1, 5</p>	<p>233:9 235:3, 14  237:16 239:2, 14, 20 240:18  242:20 243:4, 6  246:8 247:4, 7, 10 248:10, 16  <b>Roto-Rooter.com</b>  71:11 74:17  <b>R-O-T-O-R-O-O-T-E</b>  <b>-R.com</b> 74:18  <b>Roto-Rooter's</b>  27:24 71:9  126:21 160:6  174:6  <b>roughly</b> 8:22  14:24 195:13  <b>RPR</b> 252:9  <b>RRSC</b> 4:10  151:6 152:5  <b>rubber</b> 155:7  <b>rule</b> 107:8  <b>Rules</b> 4:11 22:3  55:23 92:11  102:25 103:13, 16 104:1 113:24  128:22 130:24  151:7 152:6, 13  188:10, 11, 12  <b>run</b> 60:15 153:11  220:12  <b>running</b> 62:9  84:16 198:3  <b>Russ</b> 56:20  58:19 60:9  86:12 114:18  115:13 125:24, 25 134:6, 6, 18  140:1 141:25  142:3, 4 193:24  240:5  <b>Russet</b> 56:19</p>	<p><b>Safety</b> 3:19, 21  4:3, 8 11:17  27:8 28:5 33:13  34:8 47:25 48:4, 6 49:1, 3, 3, 4, 8  50:25 51:3, 6, 11, 15, 25 52:4  54:17, 20, 20, 22, 23 55:16, 17, 18  56:2, 8 58:7  60:1, 2 62:20  90:14, 14 91:15, 16, 17, 18 92:11, 17, 23 97:10, 11  98:6, 15, 16 99:1, 15, 20, 25 100:2  101:3 102:7, 21, 25 103:8 106:23, 24 109:2, 7, 13, 16, 23 117:4, 23, 24 118:3, 5, 11, 15, 19, 21, 23  119:3, 5, 6, 11, 13, 14, 16, 17, 20  120:11 122:1, 16, 17, 21 123:12, 17  124:7, 8, 24  125:3, 8, 12  126:16, 21, 21  129:2, 9 142:17, 20 143:7, 16  144:18 145:5  147:5 150:3, 6, 15, 16 151:13  152:25 153:2  155:5, 6, 11  160:14, 16, 21, 25  162:3, 11, 16, 18, 23, 25 163:4, 7, 9, 16, 21, 24 165:2, 3 166:7 167:4  169:20, 24 170:4  171:13, 15 172:2  176:9 177:20  179:19, 23  180:15 181:21  183:15 184:21, 22 185:6 194:6, 13 205:7 232:18,</p>
---	--	--	---

<p>22  <b>salary</b> 59:24, 24  <b>sales</b> 40:15  223:22  <b>salvageable</b> 236:3  <b>sample</b> 238:24  <b>San</b> 10:3  <b>sanding</b> 49:19  <b>Sandy</b> 84:10, 12  <b>sat</b> 55:25  <b>satellite</b> 64:23  <b>Saturday</b> 65:18, 23, 24  <b>saw</b> 53:17 55:10  108:14 200:18  234:20, 22  <b>saying</b> 49:21  87:17 90:12  96:23 116:20  157:15 179:10,  18 201:18  213:21 224:2  247:22  <b>says</b> 71:10, 22,  23 74:7, 10  75:23 77:20  78:6 82:14  95:13 124:11  130:21 131:11  138:19 139:12  141:16, 23  145:11, 14  147:15 149:16,  17, 20 150:19  162:17, 20, 23  165:7 166:5, 17  168:7 170:12  173:11 174:4  180:11 188:9  193:2, 18 228:25  249:4  <b>scale</b> 40:16  160:23  <b>scene</b> 32:1  176:8 195:8, 11  196:18  <b>schedule</b> 197:15  <b>schedules</b> 65:22  <b>school</b> 13:6, 7</p>	<p>111:17  <b>Scott</b> 2:11  <b>screen</b> 178:12  <b>screening</b> 133:15  <b>Sean</b> 240:10  <b>Search</b> 3:15, 17  4:22 77:14, 18,  21, 25 78:3  80:10 81:20  <b>searched</b> 77:19  80:11 82:14, 15,  15, 16, 17  <b>seat</b> 167:5  <b>second</b> 14:4  34:18 54:25  63:12 67:19  78:17 118:16  129:11 142:14  146:6 147:17  152:18 161:9, 17  172:12 174:20  176:17 227:5  248:20  <b>section</b> 162:18  173:16  <b>sections</b> 176:16  <b>security</b> 33:6  <b>see</b> 25:20 28:7  36:16 53:12  64:11 65:4 71:9,  22 73:15, 16  74:4, 5, 7, 8, 12  75:22 76:6  77:20, 22 79:17,  20, 23 80:10, 19  82:20 83:1  128:11, 13 129:6,  23 131:5 135:14  140:21 142:2  143:11 145:11,  18 147:6, 10  152:15 154:11  156:23 160:4  166:5 215:17  226:22 246:8, 17,  18  <b>seeing</b> 31:20  66:13</p>	<p><b>seen</b> 38:17  144:3 150:9  153:5, 6  <b>sees</b> 168:14  <b>sell</b> 27:25 40:17  <b>selling</b> 40:14  135:10  <b>Semiannual</b>  165:25  <b>semiannually</b>  165:12, 24  <b>send</b> 111:22, 23  117:21 129:1  183:4 231:10  <b>Senior</b> 13:8  49:14  <b>sense</b> 58:10  62:8 188:9  219:5 220:8  227:15 249:1  <b>sent</b> 149:2  150:22 151:1  168:25 182:11  239:22 241:18  <b>sentence</b> 150:20  171:25 249:4, 5  <b>separate</b> 76:4  101:22 127:17  129:12  <b>sequentially</b> 6:7  <b>serious</b> 146:11  182:14, 17  <b>seriously</b> 171:13  172:3 216:16  <b>serve</b> 72:2  <b>Service</b> 3:12 4:6,  10 13:16, 25  27:13 36:15  39:1 43:2 46:13  62:19 68:4 70:6,  14 71:13, 20  72:4, 10, 12, 12,  17, 19, 19 87:18,  20, 20 127:18  128:11 139:24  140:12 148:2, 14  149:8, 15, 21  151:6 152:5, 12  155:20 173:18  174:18 178:9</p>	<p>182:3 192:24  193:24 247:19  248:23  <b>SERVICES</b> 1:1  2:9 3:18, 23  4:19 8:13, 15, 20,  21, 24 58:15  70:3 72:10 76:5  82:4, 17, 23 83:4,  8 96:19 97:1  98:12 123:11  130:8 136:24  165:8 172:1  184:5, 23 203:4  229:13 239:14  248:11, 17  <b>session</b> 120:11  <b>sessions</b> 150:7,  12  <b>set</b> 92:4, 4  160:23 187:7  223:23, 25 225:8  250:21  <b>sets</b> 169:7  <b>setting</b> 7:1, 2  115:19 153:23  225:10  <b>seven</b> 84:17  208:5  <b>severity</b> 156:10  <b>sewage</b> 65:3  <b>sewer</b> 44:25  48:25 135:9  154:22 235:13,  17 236:1  <b>Shannon</b> 10:13  <b>sharp</b> 154:18  218:12  <b>Sheet</b> 3:20  123:13, 18 126:7,  10  <b>SHERMAN</b> 1:1  5:22  <b>shift</b> 120:22  <b>shifts</b> 120:20  <b>shirt</b> 39:23  <b>shoe</b> 91:21  <b>shop</b> 60:15 90:4  <b>shoulder</b> 212:10</p>
--	--	--	--



<b>show</b> 7:15, 15 37:3 57:18 68:17 71:19 72:8 79:18, 24 106:22 108:5, 6, 7, 9, 10, 11, 23 109:9, 23 110:2 119:22 145:2 160:18 214:19, 20, 21, 22 215:7 217:14 236:11	145:7, 10, 13 146:13, 13 147:15 162:9, 13 167:20 173:19 174:7, 16, 19, 23 180:17 181:13 187:6, 9 189:3, 19, 25 190:2 194:4 208:5, 18 214:17 219:5, 16 220:2, 13, 16 222:16 223:5, 25 226:12 227:18 228:23 230:11 232:20, 20, 21, 24 238:22 239:13 241:10 243:5, 8, 24 244:24 245:2, 8 247:5, 9 248:18 250:22 251:12	<b>Smith</b> 104:1, 4, 9, 22, 25 105:11, 21, 24 106:14, 15, 17, 20 107:4, 12, 20, 25 108:3, 20 110:4, 17 119:6, 25 120:2, 8 122:19 163:18 214:17, 25 <b>sold</b> 34:20, 20, 23 <b>solder</b> 118:20 <b>sole</b> 27:19 85:1 <b>somebody</b> 111:19 112:6 188:7 195:20 196:18 242:6 <b>somebody's</b> 36:11 <b>someone's</b> 44:13 145:21 210:7 <b>somewhat</b> 116:2 <b>soon</b> 29:20 32:20 33:5 37:11 54:13 <b>sorry</b> 11:14 14:5 18:20 25:11 27:2 40:15 59:2 69:3 71:17 85:20 90:24 110:18 118:13 132:11 142:25 176:3 206:13 226:25 227:1 229:24 230:3 243:9 <b>sort</b> 38:2 152:13 186:12 <b>sound</b> 14:25 34:13 82:6 123:4 202:7, 7, 10 241:21 <b>sounds</b> 34:14 41:8 <b>South</b> 45:5, 6, 7, 7, 8 63:13 64:19 81:3 89:2, 11, 14, 17 <b>southern</b> 45:12 64:13 84:22 86:13 <b>Spanish</b> 9:18	<b>spare</b> 154:15 218:6 <b>Sparky</b> 43:7 <b>speak</b> 33:11 196:24 201:7 202:14 219:21 221:14 233:8 234:4, 9, 13 240:9 244:9 251:13 <b>speaking</b> 29:9 55:17 80:12 <b>specialized</b> 50:2 135:8 <b>specialty</b> 26:23 <b>specific</b> 18:23 25:18 49:1 59:12 65:17 175:23 <b>specifically</b> 7:21 180:18 <b>specifics</b> 38:16 <b>specified</b> 85:24 <b>speculation</b> 179:6, 10 <b>speed</b> 32:9 <b>speeding</b> 227:3 228:5 <b>spell</b> 6:23 9:9 28:14 <b>spelled</b> 169:7 <b>SPENCER</b> 1:1 5:22 203:17, 20, 22 204:4, 7 <b>spent</b> 246:20, 21 <b>spoke</b> 27:7 28:6, 17 37:12 117:25 233:13 234:6, 17 <b>spoken</b> 203:6 240:8, 10 <b>spot</b> 51:20 55:5 <b>spots</b> 154:1 <b>spread</b> 136:24 <b>Springs</b> 84:11, 12 <b>Sprint</b> 171:9 <b>spun</b> 18:5 <b>squared</b> 142:14 <b>Stack</b> 14:7 51:21 109:3
<b>showed</b> 79:6 238:24 <b>showing</b> 110:4 246:6 <b>shown</b> 108:12 119:6 <b>shows</b> 71:12 72:9 74:23 139:15 228:14 <b>side</b> 18:6, 11 26:10, 11 27:1 31:18 79:17 159:16 196:10 246:8 <b>sign</b> 126:24 127:14 144:24 145:1 152:12 <b>signals</b> 154:5 <b>signature</b> 141:24 142:11 251:14 <b>signed</b> 134:4, 12 142:5 144:4 150:2, 5, 6 151:16, 22 249:14 <b>signs</b> 69:9 <b>simple</b> 7:9 <b>single</b> 122:11 <b>sink</b> 46:18 <b>sir</b> 22:10 24:11 33:15 37:20 43:13 44:15, 18 55:24 65:13 74:19 79:20 82:8 88:14, 22 94:16 117:8 122:20 126:15 131:14 132:6 133:5 136:18 139:17 142:9	228:23 230:11 232:20, 20, 21, 24 238:22 239:13 241:10 243:5, 8, 24 244:24 245:2, 8 247:5, 9 248:18 250:22 251:12 <b>sirens</b> 201:14, 16 <b>sit</b> 47:7 55:2 115:25 135:13 231:3 <b>site</b> 26:4 50:21 65:7 82:24 85:11 88:5 91:19, 20 93:3 159:25 201:12 <b>sites</b> 64:18 68:17 <b>sitting</b> 18:1 28:24 198:11 <b>situation</b> 12:10, 20 86:17 93:7, 8, 11 100:5 188:18, 20, 24 189:1 214:24 <b>six</b> 14:8, 16 34:25 51:7 68:7, 9 84:17 104:3 117:22 147:19 165:11, 13, 21 169:22 <b>slammed</b> 31:8 <b>slated</b> 54:12 <b>sleep</b> 50:11, 21 <b>slice</b> 154:19 <b>small</b> 73:18 <b>Smart</b> 171:8		

<p><b>stain</b> 20:10  <b>stand</b> 57:2 248:4  <b>standard</b> 131:21  153:7  <b>standards</b> 40:12  54:22 55:23  152:22, 24 153:1,  19, 20  <b>Standing</b> 20:12,  18 21:5, 14 22:3,  12, 19 23:3, 19  95:11, 12 244:21  <b>staple</b> 77:9  <b>stapled</b> 138:4  <b>start</b> 5:23 6:20  241:9  <b>Started</b> 15:6, 9,  14 33:17, 18, 22,  25 34:6, 12  40:10 41:24  45:18 54:10  56:24 241:5  <b>starting</b> 6:6  <b>STATE</b> 1:1, 1 7:3  16:23 19:10  61:3, 12, 20 72:9  92:8 97:18, 21  102:6 103:13  111:16 113:8, 10,  24 119:8, 8  130:25 131:3  145:14 167:6  168:8 214:14, 15  228:4  <b>stated</b> 222:14  243:8  <b>statement</b> 96:2  182:16 243:9  <b>States</b> 13:15  41:1 246:19  <b>stating</b> 6:20  <b>station</b> 200:2  <b>stationed</b> 41:6  <b>statuses</b> 201:22  <b>stayed</b> 30:8  233:19  <b>stenographic</b>  252:6  <b>step</b> 34:25</p>	<p>104:16 118:16  <b>steps</b> 118:18  <b>Steve</b> 58:24  202:19, 22  <b>stick</b> 9:17 30:23  <b>sticker</b> 137:4  <b>sticking</b> 154:19  <b>stipulations</b> 5:5  <b>stocking</b> 65:4  <b>stop</b> 84:12  105:18 106:3  129:17 165:15  188:7 209:24  216:6 230:21  238:12 243:9  <b>stopped</b> 31:7  37:1 242:8  <b>storage</b> 84:21  85:6 109:12  <b>store</b> 64:13  <b>story</b> 208:9  <b>straight</b> 225:14  <b>streamline</b> 89:12  <b>street</b> 32:14  42:17, 18  <b>streets</b> 159:16  <b>strike</b> 90:17  147:23 198:2  <b>struck</b> 196:19  <b>structured</b> 139:22,  24 140:13  <b>Stuck</b> 16:9  <b>Stuff</b> 7:4 14:21  22:7, 23 38:13  46:21 47:12, 25  52:7, 18 57:6  91:18 102:2  109:19 111:2, 10  119:21 121:1  131:1 132:19, 20,  22 144:15  153:22 154:1, 3,  6, 20 156:15  159:16 192:20  201:22 235:15  <b>subject</b> 207:2  <b>submit</b> 178:11  231:9  <b>submitted</b> 48:23  <b>substance</b> 176:18</p>	<p><b>Substandard</b>  166:17  <b>substates</b> 131:11  <b>Suite</b> 2:4, 12  82:24  <b>sum</b> 113:22  <b>superiors</b> 92:5  <b>supervision</b>  252:21  <b>Supervisor</b> 172:9,  12 173:22, 23  174:10 175:9, 10  193:2, 7, 16, 19, 24  <b>supplies</b> 85:5  87:21  <b>Supply</b> 14:5  51:9, 10 86:19,  21, 22  <b>supposed</b> 110:16,  19 139:6 149:25  164:24, 25 165:1,  3, 18 168:19, 22  172:8 196:25  <b>Sure</b> 6:10 12:19  19:1, 13 21:25  31:2 32:18 34:9  42:3 48:21  50:18 52:4  56:10, 14, 17  57:5, 10 62:10  63:16 71:2, 6  85:21 88:17  91:19, 20 96:4  102:13 110:7  112:13 115:17  117:15 120:25  122:9, 25 127:13,  21 133:1, 13  134:24 135:14  138:11 148:19  152:20 153:24  154:4, 14 164:19  169:25 171:11  172:18 185:4  186:3 187:13  188:1, 2 190:3, 7  203:22 208:22  214:2 216:25  221:8 223:10, 11,</p>	<p>14 228:7 241:15  242:4  <b>surgeries</b> 18:15  <b>suspended</b> 17:8  <b>sustained</b> 29:24  <b>SUV</b> 18:4, 5  201:1  <b>sworn</b> 5:10  <b>system</b> 38:9  48:25 102:1  104:4, 10, 15, 22,  25 105:11, 21, 24  106:15, 15, 17, 20  107:4, 12, 21, 25  108:3, 21 110:4,  17 118:9 145:16  214:18 225:6  228:3 229:9  247:8, 25 248:22  249:4, 6 251:6</p> <p>&lt; T &gt;  <b>tab</b> 71:12  <b>tailor</b> 208:18  <b>take</b> 11:3, 3 12:4,  24 13:4 16:16  22:25 28:1  35:13, 14 55:8  57:19 58:8  61:14 64:19  65:6 66:10, 20  71:1 91:11  101:13 104:14  118:8 121:4  137:24 156:11,  17 167:15  174:12 175:11  178:5 179:25  180:1 192:4  193:8 195:21  197:5 215:25  220:3 236:23  <b>taken</b> 6:1 59:9  182:20 188:3  189:13 191:8  246:7 252:6  <b>takes</b> 171:12  172:2  <b>talk</b> 19:1 42:21  44:4, 6 59:7</p>
--	--	---	--

76:2 109:20 111:9 121:20, 23 134:20 135:13 142:16 161:25 172:10 186:15 201:24 <b>talked</b> 32:22, 23 37:1 67:10 85:3 89:5 114:22 172:2 173:21 174:13 185:8 201:20 208:5 <b>talking</b> 21:17, 18 55:11 122:1, 11, 11 130:15 135:12 138:14 164:9 166:20 168:6 188:20, 24 216:15 230:23 231:1 <b>talks</b> 214:22 <b>tank</b> 48:24 <b>tapped</b> 18:4 36:17 <b>Tara</b> 31:5 32:13 42:15 53:6, 20 <b>T-bone</b> 54:4 <b>T-boned</b> 26:9 53:10, 14 <b>tea</b> 16:10 <b>teach</b> 62:25 111:18 117:6 118:6, 14, 17 119:16 144:20 <b>teacher</b> 116:2 <b>tech</b> 44:24 45:19, 21, 22, 24 46:4 47:17 <b>technical</b> 13:10, 13 65:22 <b>technically</b> 65:8 84:18 <b>Technician</b> 4:6 27:13, 15 38:18, 21 56:1 82:11 97:9, 12 99:19 100:12 111:8 117:20 132:11 134:4 136:22, 25 139:24 140:13	143:13 148:2, 15 149:8, 15, 21 165:19, 20 169:8 173:17, 18 174:2, 9, 18, 25 175:7 176:16, 24 177:11, 16 178:9 181:4, 15 182:4 185:21 186:16 191:10, 11 192:24 221:17 224:12 238:7 249:7, 25 <b>technicians</b> 46:14 57:6 88:9 97:5 127:11, 12 144:12 152:12 160:17 202:3 <b>Technician's</b> 4:10 151:7 152:5 182:20 246:19 <b>Technologies</b> 15:4 43:9 <b>technology</b> 112:2 <b>techs</b> 14:21 64:13 84:22 86:13 88:5  <b>telecommunication</b> 15:7, 14 <b>telephone</b> 10:19 <b>tell</b> 7:21 17:24 19:7 20:16, 20, 21 22:9 23:16 24:7, 15 36:7 39:14 40:9, 10 48:6 49:12 51:22 66:3 67:15 70:19 76:14 89:9 104:3 106:20 107:24 126:16 130:21 133:1 134:1 143:10 148:5 153:18 156:6, 24 157:4 158:15, 19 159:4, 10 160:14 164:22 174:24 176:24 192:17	196:1, 4 197:9, 11 198:20 199:10, 15, 19, 22, 24 200:11, 25 202:13 203:18, 20 208:20 214:5, 9 234:19 239:25 <b>telling</b> 24:1 25:23 44:16 72:5 78:2 122:14 180:14 201:11 <b>tells</b> 11:11 24:6 75:19 176:20 179:22 <b>term</b> 86:20 184:25 194:11 <b>terminal</b> 85:25 <b>terminated</b> 169:19 170:3 232:5 <b>termination</b> 94:6 169:18, 23 191:15 <b>terminology</b> 178:21 241:1 <b>terms</b> 81:1 <b>Test</b> 4:3 45:17 48:19, 20 94:1, 4 97:13 99:3 100:10 101:5, 7, 16, 19, 20, 24 111:13 136:5, 12 137:16 138:13, 21 139:1, 4 141:6 156:11 167:21 170:4 177:23 178:23 179:23 181:20 182:22 222:15, 16 225:3 237:21, 24 238:3, 16 <b>tested</b> 100:24 101:17 102:14 182:8 <b>testified</b> 5:10 76:8 114:21 115:3 <b>testimony</b> 95:15 107:2 177:19 207:1 216:23	<b>testing</b> 101:23, 23, 25 181:25 182:4 <b>tests</b> 101:10, 13 167:21 <b>Texas</b> 10:3 <b>text</b> 131:17 239:22 <b>Thank</b> 13:16, 17 53:16 56:16 59:14 134:9 151:3 181:18 182:15 207:5 234:8 251:11 <b>they,</b> 94:2 <b>thing</b> 9:15 21:9 32:3, 5 89:25 117:6 184:18 195:18 203:11 215:4 216:23 225:3 227:2, 5, 8 <b>things</b> 5:23 48:14 55:1 61:14 87:24 88:10 89:1, 4, 15 94:20 114:8 117:4, 13 118:14 119:19 132:20 135:14 143:3 149:23 153:19 154:25 155:18 190:13 216:15 217:1 <b>think</b> 7:24 11:23 12:12 14:24 24:8 34:10 39:2 40:4 59:17 62:17 66:12 75:24 76:13, 15 77:1 85:18 87:17 90:8, 25 106:5 113:21, 21 114:24 125:25 127:22 128:5, 6, 17, 18 129:16, 18 146:2 191:23 204:1 216:12, 14 225:18 230:14 236:24 250:7 <b>thinking</b> 32:7
---	--	--	---

<p><b>third</b> 79:8 123:22 179:13 212:14 227:8 <b>thorough</b> 94:20, 23 95:18 96:9, 14, 20, 25 187:20 188:2 189:12 190:6, 24 <b>thoroughly</b> 187:18 189:22 190:1 <b>thought</b> 69:11 113:14 153:3 204:6 <b>threatened</b> 33:6 <b>threatening</b> 32:7 <b>Three</b> 9:21 25:22 27:18 28:24 47:14, 16 63:1 93:23 163:7 169:17 173:10, 10, 21, 25 220:18 221:22 228:7 235:17 242:3 243:1 <b>threshold</b> 170:3 <b>throwing</b> 16:6 <b>throws</b> 11:10 <b>Thursdays</b> 66:2 85:8 86:14 <b>ticket</b> 30:3 36:23 37:4, 6 39:9 42:10 99:5 198:17 221:17 228:5 238:6 <b>ticketed</b> 27:9 36:18 97:10, 13 100:9, 24 <b>tickets</b> 30:5 <b>tie</b> 52:5, 6 154:15 <b>TIME</b> 1:1 4:18 7:16, 16, 19, 19 8:23 13:25 14:3 15:21 17:13, 18, 20 19:4 24:23 25:1, 7 26:18 27:7, 12 28:6 36:24 38:6, 6 39:5, 12, 14 40:22 43:14</p>	<p>44:13, 20 46:14 49:6 53:23 54:9 58:2 61:13 62:7 64:5 71:2 83:14 86:14 91:4 93:6, 12, 21 99:5 108:14 114:22 115:15 117:17 122:25 126:22 132:8, 10, 13 136:8, 15 143:22 145:20 153:9 156:2 161:2, 3, 4 166:15 168:16 176:11, 12 177:24, 25 178:1 183:14, 15 185:17 186:16, 20 195:5 196:24 197:14, 16, 18 198:2, 3, 5, 7, 8, 25 199:5, 19 203:10, 14 204:23 208:5 209:14, 15 225:15 226:4 230:1 234:17, 20 240:17, 20 242:7, 19 246:2, 15, 17, 20, 20, 21, 24, 25 247:4 248:1, 25 249:7 251:1 <b>time</b>, 153:12 <b>timeframe</b> 15:13 25:8 31:2 228:6, 9 <b>times</b> 43:24 207:2 208:1 211:12 224:4 243:15, 19 <b>T-I-N-S</b> 98:10 <b>Tinsley</b> 98:9 101:3, 8 164:3, 4 183:8, 12, 13, 16 184:18, 24 185:2, 6, 18 203:5 204:13, 17, 23, 25 206:24 207:9, 13 208:24 209:25 211:23 213:12</p>	<p>229:14 239:9, 13 240:7 <b>Tinsley's</b> 98:19 <b>tire</b> 218:6 <b>tires</b> 50:14 153:24, 25 156:7 214:3 216:25 217:7 <b>title</b> 27:19 48:2 57:1 62:16 98:14 <b>titles</b> 27:18 <b>Tobin</b> 2:3 <b>today</b> 7:9 13:1 94:8 132:17 153:5, 6 157:3 198:11 215:21 <b>toilet</b> 118:7 <b>toilets</b> 46:15 118:9 <b>told</b> 27:8 34:18 57:20 72:22, 25 77:2 79:6 93:20 95:5 98:2 106:16 107:20 112:22 124:13 130:16 131:9 164:2, 2 176:17 183:13 184:17 195:18 198:14 199:2, 5, 7, 16, 16, 19 200:3, 4, 5, 15 203:14, 16, 22, 23 204:1, 4 208:23 219:11, 21 222:11, 21 230:8 233:12 235:10 238:25 239:20 242:8 245:12 <b>ton</b> 241:2, 2, 3, 3 <b>top</b> 31:18 42:15 67:15 74:10 77:20 80:11 140:19 149:17 162:18 173:15, 16 <b>topic</b> 76:19 <b>topics</b> 124:11 160:21, 23, 24 194:16 <b>total</b> 169:25</p>	<p>236:3 <b>totaled</b> 28:21 <b>touch</b> 47:8 <b>tough</b> 230:1 <b>Toyota</b> 26:8 <b>track</b> 173:2 247:25 249:6 <b>tracked</b> 251:6 <b>tracker</b> 247:10 <b>Tracking</b> 4:18, 20 246:2 247:8 248:12, 17, 22 249:8, 12 <b>Tracks</b> 250:12 <b>traditional</b> 31:20 <b>traffic</b> 39:2 42:1, 5 84:23 168:8 <b>train</b> 27:21 44:24 46:7 47:11 63:4 91:7 106:15 113:18 115:18 119:2, 2 138:20 141:10 214:18 216:13 <b>trained</b> 14:20 91:9 115:19 116:22 119:11 123:3, 21 143:17 179:24 185:13, 16 214:13 <b>Trainee</b> 44:10 150:2 <b>trainees</b> 47:6 91:7 126:3 144:25 155:5 <b>trainer</b> 27:20 44:17, 19 46:3 47:19 55:20 56:6 91:7 116:5, 16 122:6 136:9 140:2 185:14 <b>Training</b> 3:19, 21 4:7 13:10, 13 27:23 44:23 47:9, 10 49:6 54:20, 21 55:18, 22, 25 56:3, 7 57:3, 5, 23 58:8 62:23 68:1 86:16, 25 90:10,</p>
--	--	--	--

<p>16, 19, 21, 22, 23 91:5, 12, 13 103:8, 22, 24 107:17, 18 109:7, 8 111:16, 17 114:19 116:3, 4, 14, 15, 22 117:7 120:10 121:2 122:15, 22, 23 123:12, 17, 24 124:3, 6, 8, 16 125:4, 9, 12, 18 126:12 135:19 141:1, 2, 3, 25 144:11, 13, 18 147:25 148:3, 6, 7, 8, 12, 15, 16, 23 149:9, 15 150:7, 12, 15 157:16 161:1 162:20, 21, 23, 25 163:4, 13, 21 169:2 193:25 242:3, 5, 5, 7, 8 <b>training</b>, 124:5 <b>trainings</b> 87:9 <b>trains</b> 106:8 <b>trample</b> 19:7 <b>transcript</b> 252:9, 20 <b>translate</b> 47:3 <b>transported</b> 50:14 <b>trash</b> 153:22 <b>trauma</b> 24:18 <b>travel</b> 211:24 212:6, 15, 17 244:25 245:6 <b>traveling</b> 26:4 31:14 32:10 246:20 <b>travelling</b> 30:7 <b>tread</b> 153:25 156:8 <b>treatment</b> 18:12 <b>tried</b> 196:10 211:12 <b>Trover</b> 28:12 33:13, 17 37:13, 14 47:23 <b>T-R-O-V-E-R</b> 28:15</p>	<p><b>truck</b> 18:3 24:17 25:4, 21 26:6, 8 28:21, 23, 23 31:8 32:11, 12 154:22 235:9, 11 236:7 242:14 <b>true</b> 65:14 113:4 145:20 156:16 158:17 179:17 199:3 217:2 247:13 <b>Trust</b> 206:17 <b>try</b> 32:5 80:8 129:13 135:10 165:20 182:9 189:14, 22 202:6 225:15 <b>trying</b> 19:25 76:25 89:11 113:11 132:2 190:7 224:24 225:1, 4 <b>TSA</b> 15:22 16:2 42:24 43:6 <b>Tuesday</b> 64:6 65:18, 22, 24 <b>Tuesdays</b> 66:2 85:7 86:13 <b>Tune</b> 32:11 <b>turn</b> 26:7, 7 28:2 53:19 84:24 117:14, 16, 18, 20 154:5 <b>turned</b> 34:22 <b>turning</b> 53:20 117:18 <b>turns</b> 86:13 <b>twice</b> 64:11, 20 86:12 202:2 <b>Two</b> 14:23 15:16 30:19 47:5, 7, 13, 14, 17 53:10 60:19 63:7 64:16, 17, 23, 25 83:24 84:7, 11 85:7 114:8 123:1, 2 138:17 146:2, 20 147:4, 14 164:12 173:24 176:12,</p>	<p>16 178:5, 10 181:1, 9 204:11, 12 222:16 226:25 235:17 236:1 242:1 246:15 249:5 <b>two-page</b> 70:24 <b>type</b> 189:23 <b>types</b> 171:8 <b>typically</b> 115:20, 22  &lt; U &gt; <b>uh-huh</b> 8:4 71:24 123:19 133:9 139:25 140:7 151:15 152:1 155:23 162:7 207:7 218:2, 16 <b>ultimately</b> 57:4 92:1, 15 140:25 <b>unable</b> 183:3 <b>underlined</b> 173:16 <b>understand</b> 7:12, 13 19:24 22:22 27:18 53:13 62:15 77:5 78:19 82:5 115:7 116:20 126:25 180:1, 17, 19, 20 205:16 224:3 225:13 230:11 <b>understanding</b> 82:6, 12 98:4 99:2 100:23 101:2 112:21 123:3 131:22 136:17 214:23 237:13, 15 242:2 247:20 249:2, 11 250:9, 11 <b>understands</b> 151:17 <b>Understood</b> 106:10 115:8 <b>undisputed</b> 211:3 <b>unfortunately</b></p>	<p>100:18 226:15 <b>uniform</b> 39:17 <b>unit</b> 235:19 249:23, 24 <b>United</b> 13:15 <b>units</b> 48:14, 18 249:16 <b>unpack</b> 98:3 <b>unt-huh</b> 8:4 <b>unwire</b> 235:19 <b>update</b> 164:6 <b>updated</b> 164:5 <b>UPS</b> 247:10 <b>Urgent</b> 182:11 <b>usage</b> 116:24 117:22 <b>use</b> 7:14 38:20 61:6 85:15 88:5 104:16 107:20 144:7, 10 145:16 147:18 153:14 156:10 167:5 170:12 182:6 210:14 214:12 225:19, 22 <b>uses</b> 75:9 141:1 247:7 248:21 <b>Usual</b> 5:4 <b>usually</b> 43:12 68:9 115:25 160:2 162:1 181:23 187:12 228:16  &lt; V &gt; <b>van</b> 26:22, 23 31:15, 17, 20, 23 34:20, 21, 24 35:25 68:18 92:2 97:16 135:12 136:2 152:22, 22, 24 153:1, 7, 18, 20 154:16 155:19 157:18, 22 158:2, 4, 4, 6, 23 160:25 162:25 163:3, 16, 20 165:21 195:20 196:13, 19 197:12 201:1,</p>
--	---	---	---

11 205:8, 10, 11,  
18, 18, 19 240:18,  
23 241:3 247:19  
248:23  
**vans** 157:24  
**veered** 32:10  
**Vehicle** 4:12  
17:11, 16, 21  
18:6 19:4 25:3,  
14 26:21 27:4,  
23 28:20 30:17  
31:13 34:19  
36:4 38:10 39:6,  
7 44:14 52:21,  
25 53:4 54:12  
65:6 68:7 91:8  
93:3, 6, 13, 18  
94:10, 14, 15, 19,  
22, 22, 24 99:5  
100:9, 25 103:9,  
9, 23 104:20  
109:23 110:20  
111:5, 12, 13, 19  
112:23 114:5  
116:16 119:10  
124:15, 24  
146:15, 17, 18  
147:19 150:16  
155:11, 15  
156:17 157:16  
161:18 164:8, 19  
166:6, 18 167:3,  
9 168:12 171:14,  
18, 23 172:4  
174:3, 10, 14, 25  
175:1, 7, 8 176:7,  
16, 17 177:2, 17  
178:25 181:4, 15  
183:14 184:11,  
17 185:21 192:2,  
25 195:3 199:23,  
25 200:16  
204:21, 24 205:4  
206:21, 23  
207:14 208:25  
209:10, 11, 19, 21,  
23 210:10, 17, 20,  
22 211:10, 18, 23,  
25 213:18, 22, 23,  
25 214:4, 5, 6, 10

215:21 216:25  
217:3, 11, 14  
218:3, 6, 8, 12, 15,  
17, 19, 22, 25  
219:1 220:10, 12  
221:12 222:20  
223:9 224:16  
228:13 229:8, 19  
231:19, 20 232:6,  
11, 12 233:1, 10  
234:24 235:4, 19,  
25 236:21  
237:10, 12, 14  
239:1, 19 240:18,  
19, 21 241:4, 8,  
12, 15, 17, 25  
242:9, 10, 12, 18  
243:22 244:25  
245:3, 6, 10  
248:1 249:6, 12  
**vehicles** 41:14  
49:16, 17 52:10,  
14, 16 56:4, 8  
87:19, 20, 21, 25  
94:9, 11 97:20,  
24 103:10, 14  
112:25 113:19  
124:21 159:6  
165:3 170:10  
173:17, 19  
174:18, 22  
176:12, 19 177:1,  
4, 11 178:9  
210:1, 13 219:2  
237:16 243:7  
247:11  
**verbal** 38:7  
40:21 160:2  
186:15, 18  
**verbally** 8:2  
**verbatim** 104:6  
215:13  
**verify** 156:25  
**versus** 94:22  
248:4  
**vest** 155:6  
**VHS** 161:3, 6  
**victim** 54:2  
**video** 104:2, 11,  
12, 17 105:3, 4, 5,

7 106:22 107:22  
108:5, 7, 11, 14,  
15 109:11, 25  
110:4, 6, 7  
112:13 119:6, 23,  
24, 25, 25 120:2,  
8 122:19 161:2,  
3, 5, 6 163:11, 15,  
17, 21 164:1  
214:19, 19, 21, 22,  
25 215:11 216:8  
218:22  
**videos** 55:3  
109:3, 8  
**violate** 183:17  
**violated** 219:6  
**violation** 38:15  
40:2 146:20  
147:4, 14, 19  
219:9  
**violations** 38:13  
41:20, 23 42:19  
92:23, 25 93:3  
145:15, 24 146:1,  
7, 8, 10, 12  
147:17 166:23  
226:20 227:2, 6  
**vision** 243:2  
**voice** 12:24  
**voicemail** 12:6  
**voices** 201:15, 17  
**VP** 185:7  
**vs** 1:1  
  
< W >  
**wait** 14:4 37:3  
158:14 188:21,  
21 216:19 238:12  
**waiting** 20:19  
142:13 233:20  
**wake** 50:21  
213:12  
**walk** 26:24 34:25  
164:16, 18  
**walked** 200:2  
**walkie-talkie**  
171:8  
**walking** 195:8  
200:15 244:4

245:12  
**wall** 46:13, 15, 17  
**Walter** 98:9  
101:3, 8 185:16,  
18 240:6  
**want** 19:16  
20:20, 22 21:2  
22:1, 13 49:5  
72:2 76:3, 22, 24  
79:24 87:17  
88:7 98:2  
100:21 115:4  
118:19, 20  
133:13 137:12  
142:16 144:22  
146:14 154:12  
162:14 180:1, 20  
195:6 197:20  
208:6, 8, 20  
214:12 219:24  
221:8 223:11  
226:19, 19  
230:11 244:11, 13  
**wanted** 34:24  
47:12 133:22  
196:24 201:7  
202:14  
**wanting** 43:8  
**wants** 213:19  
**warehouse** 250:3  
**warrant** 96:13  
**warrants** 96:10  
**Washington** 1:1  
2:8  
**waste** 48:8, 10  
**watch** 50:7  
104:11, 12, 15  
105:3, 5, 7  
106:14 120:9  
215:11, 18  
**watched** 104:13  
110:7 215:12  
**watching** 104:17  
122:18  
**water** 46:21  
48:12, 13, 20  
65:3 87:22 88:1  
89:25 90:1, 3  
118:8

<p><b>way</b> 6:7 10:25 11:2 19:17 24:23 25:14 27:16 43:12 56:4 63:21 78:3 102:3, 3, 5 105:21 116:19 131:16 133:17 140:5, 10 145:21 167:14 179:10 180:23 206:17 242:13 245:24 248:7 249:13 <b>wear</b> 39:17, 20 118:21, 22 154:1 <b>wearing</b> 52:5 91:20 <b>web</b> 144:6 <b>website</b> 71:9 74:16, 18, 19 81:17 83:9, 9, 13 88:7, 8, 9 <b>week</b> 28:3 47:5, 10, 13 58:4, 5, 5, 9 64:11, 20, 24 65:17 85:7 86:12 <b>Weekly</b> 202:1 <b>weeks</b> 44:12 <b>weighs</b> 154:23 <b>Well</b> 16:3 19:12 22:2 31:4 40:13 41:2 51:18 53:16 98:5 99:10 102:12 106:1 118:16 134:20 164:13 172:22 177:18 181:14 187:12 189:5 205:16 <b>went</b> 13:24 14:10 31:9 32:13 39:8, 9 42:5 45:22 53:18, 18 60:25 71:11 72:1 109:4 196:16 234:2 235:9 <b>West</b> 14:5 51:9, 10</p>	<p><b>we've</b> 24:8 37:17 64:17 174:13 217:1 <b>white</b> 31:17 240:23 <b>whiz</b> 112:4 <b>wife</b> 11:10 <b>willing</b> 105:6 226:14 <b>winch</b> 154:22 218:15 235:18 <b>wise</b> 80:9 100:2 112:2 167:18 <b>withdraw</b> 212:20, 24 <b>WITNESS</b> 1:1 12:16 23:21 24:11 25:11 28:12 35:22 40:6 42:1, 4 49:23 59:15, 20 66:17 67:1 71:17 73:1 75:3 76:7, 18 78:22, 25 81:11 85:20 89:13, 23 91:5 97:4 103:2, 16 105:14 106:3 107:7 109:1 110:13, 23 112:10, 16, 18 113:6, 13, 15 121:14 126:20 128:1 129:8 130:5 132:5 133:22 138:2 142:10 146:23 147:9 155:25 157:21 161:14 164:15 173:6 177:7 179:4 180:10 181:6 182:25 183:21 186:7 187:3, 24 188:16, 23 190:10, 16 191:2, 22 192:12 196:9 205:13, 24 206:10 209:7 213:15 215:23</p>	<p>219:14, 19 220:2, 5 221:4 222:4, 24 223:14, 21 224:19 229:2, 3, 24 230:3 231:22 236:1 245:16 249:19 <b>WITNESSES</b> 3:2 <b>wonder</b> 161:17 <b>wood</b> 51:12 <b>word</b> 8:3 9:18 69:11 110:8 127:6, 6 130:17, 17 131:17 168:24 196:5, 5 214:12 215:13, 13 225:20, 22 <b>wording</b> 132:19 <b>words</b> 108:1 201:5 224:25 <b>wore</b> 52:4 <b>work</b> 14:10 20:1 27:24, 25 36:11 43:22 45:13 46:18 50:2 53:10 60:25 62:10 63:1 64:15 65:9, 17, 21, 22 83:4 88:4 93:6 99:5 124:13, 15, 17 135:10 141:19 154:5 156:17 157:9 170:7 221:23 231:20 234:2 237:11 246:25 248:1 249:7 <b>worked</b> 14:4 15:2 43:2 51:7, 24 52:3 83:20 143:17 <b>worker</b> 155:21 <b>workers</b> 93:13, 21 <b>working</b> 17:16, 22 25:6 33:17, 18 36:16 37:15, 18 41:14, 24 43:10 46:15 47:16, 18, 25 48:8 61:2</p>	<p>160:1 165:5 181:23 197:14 198:4 202:2 217:18 220:11 241:5, 9, 20 242:9 <b>workmen's</b> 93:2, 10, 24 <b>works</b> 11:22 43:12 53:13 62:3 76:6 106:20 202:22 217:14 <b>worried</b> 177:3, 10 202:10 205:10 207:18 <b>worries</b> 134:17 <b>worse</b> 100:18 <b>Worsham</b> 2:11 <b>worthy</b> 164:20 <b>wound</b> 16:5 <b>wreck</b> 26:12 31:11 233:6 243:13 <b>Wrecking</b> 235:1, 2 <b>write</b> 70:20 125:20 <b>writes</b> 250:1 <b>writing</b> 117:11 134:12 215:7 <b>written</b> 126:6, 10 153:9 160:3, 4 186:17 198:23 <b>wrote</b> 39:8  &lt; X &gt; <b>X-ray</b> 49:24  &lt; Y &gt; <b>yard</b> 51:8, 22 <b>Yeah</b> 9:12 15:1 18:8 33:2 37:1 42:13 51:5 65:2 104:23, 23 105:1 112:16 115:1 126:2 128:17 129:22, 22 130:24 139:12 150:10 159:15 164:14 165:7 190:16 192:7</p>
--	--	--	---

202:9 204:9  
235:2, 7 243:23  
**year** 15:18 16:1,  
11 31:3 34:17,  
19 35:19, 21, 23,  
24, 25 38:22  
46:10, 25 150:21  
168:20 169:6  
193:23 228:7  
**yearly** 38:11, 20  
169:8 232:6  
**years** 8:22 10:6,  
18 11:9 13:12  
14:23 15:12, 16  
33:19 34:8, 12,  
21 41:15, 17, 21,  
24 60:19 63:1  
83:17, 18 84:17  
103:20 137:1  
163:7 169:17  
204:11, 12 228:7  
**yell** 206:5  
**yelling** 206:7  
**yellow** 171:8  
**yesterday** 77:19  
132:12

< Z >

**Zion** 31:6  
**zip** 72:14 83:1