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Respondent.

APPELLANT'S APPENDIX VOLUME X PAGES 1821-2034

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Case No. 65935

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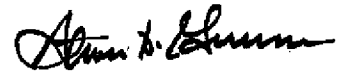
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CLERK OF THE COURT

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,	.	CASE NO. C-245739
	.	CASE NO. C-249693
Plaintiff,	.	
	.	DEPT. NO. 5
v.	.	
	.	TRANSCRIPT OF
STEVEN DALE FARMER,	.	PROCEEDINGS
	.	
Defendant.	.	
.....	.	

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

JURY TRIAL - DAY 7

PARTIAL TRANSCRIPT
(EXCLUDES SEALED BENCH CONFERENCE)

TUESDAY, FEBRUARY 11, 2014

APPEARANCES:

FOR THE STATE:	JACQUELINE M. BLUTH, ESQ. BRIAN J. KOCHVAR, ESQ. Chief Deputy District Attorneys
FOR THE DEFENDANT:	JEFFREY S. MANINGO, ESQ. RYAN J. BASHOR, ESQ. Deputy Public Defenders

COURT RECORDER:

LARA CORCORAN
District Court

TRANSCRIPTION BY:

VERBATIM DIGITAL REPORTING, LLC
Englewood, CO 80110
(303) 798-0890

Proceedings recorded by audio-visual recording, transcript
produced by transcription service.

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WITNESSES

<u>NAME</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
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STATE'S WITNESSES:

Kevin Slaughter	7	26	38	40	
Roxanne Cagnina	43	77	152/167	163	
Karen Goodhart	170	190	198		
Michele Casper	208	211			

EXHIBITSDESCRIPTION:ADMITTEDSTATE'S EXHIBITS:

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1 LAS VEGAS, NEVADA, TUESDAY, FEBRUARY 11, 2014, 9:03 A.M.

2 (Outside the presence of the jury)

3 THE COURT: All right. Good morning. This is State
4 of Nevada versus Steven Farmer. We are outside the presence
5 of the jury. The defendant is present with his counsel. The
6 Deputies District Attorney prosecuting the case are present,
7 as are all officers of the court.

8 Will counsel so stipulate?

9 MS. BLUTH: Yes, Your Honor.

10 MR. MANINGO: Yes, Your Honor.

11 THE COURT: Is there a matter outside the presence?

12 MR. KOCHVAR: Just one scheduling item, Judge. We
13 have Dr. Slaughter who is the ER physician here first thing
14 this morning who will be testifying he was the ER physician
15 that treated the victim Roxanne Cagnina. Following that we're
16 going to be asking the Court for a 10, 15 minute break.
17 Roxanne will be -- is coming to be the next witness. We would
18 just like the opportunity to be able to talk with her for a
19 minute, make sure she's feeling okay before we bring her in
20 here on the stand. Other than that, we're ready to go.

21 THE COURT: All right.

22 MR. MANINGO: Oh, yes, that's fine, Your Honor.

23 THE COURT: That will be fine. And anything else?

24 MR. KOCHVAR: Nothing from the State.

25 THE COURT: We've got -- we've got witnesses to take

1 us through to 4:00 today with a lunch break, of course?

2 MS. BLUTH: I anticipate so. We -- we called

3 everybody last night. We're still missing nurses, but I know

4 that my investigators are going to do that today. But, you

5 know, if Roxanne is feeling good and she takes the stand, I

6 think both Mr. Maningo and I are going to have quite awhile

7 with her.

8 THE COURT: Okay.

9 MR. MANINGO: Agreed.

10 THE COURT: Okay.

11 MR. MANINGO: And I'm --

12 Are you done?

13 MS. BLUTH: Yeah. Yeah.

14 MR. MANINGO: And the only thing I have is just a

15 tech question.

16 THE COURT: Okay.

17 MR. MANINGO: If I want to put something on the --

18 on the Elmo, do we have like a clear sheet or should I have

19 someone bring one over if I want to write something.

20 THE RECORDER: You'll have to bring one. I don't

21 have one.

22 MR. MANINGO: Okay. So we can just put a clear

23 sheet and that'll just show up normal like a regular overhead;

24 right? I sound -- I sound like a caveman because I don't

25 know.

1 THE COURT: I remember we had one trial, you know,
2 it had to do with computer records and I thought counsel just
3 wrote on a blank sheet of paper.

4 MR. MANINGO: Oh.

5 THE COURT: I don't --

6 MR. MANINGO: Okay. Yeah, that would work.

7 THE COURT: Because it really just photographs and
8 projects it onto the screen. I don't think you need like the
9 old style where there was a clear transparency type thing.

10 THE RECORDER: Is that what you're asking?

11 MR. MANINGO: Yeah.

12 THE COURT: Why don't you try it out?

13 MR. MANINGO: Yeah, let's see.

14 THE COURT: Yeah.

15 MR. MANINGO: I mean, I'll -- I'll write larger.

16 This is just my notes, but --

17 THE COURT: Right.

18 MR. MANINGO: -- okay. Yeah, we can do that. Yeah,
19 that'll work. Great. Thank you.

20 THE COURT: Okay. I had one other question and
21 maybe -- I just kind of wanted to find out if you worked that
22 out, and that's the video that we did of the now deceased
23 victim.

24 MS. BLUTH: We did, Your Honor. So what we did is
25 -- and I can't remember if we spoke about this on the record

1 or not, but there were portions of it that showed Mr. Farmer
2 in his jail clothes. So what I had -- I took it down to our
3 court exhibits and they blacked out the screen any time it
4 showed anything but Marcia speaking. And so I made a copy for
5 Mr. Bashor because I want to make it's, you know, done
6 perfectly for them and it goes along with the transcript. And
7 so that's at the very end of the trial we're playing that, and
8 so Mr. Bashor is going to look through it and make sure
9 everything is okay.

10 MR. BASHOR: Yes, Your Honor, eventually. I
11 promised I would.

12 THE COURT: All right. I just wanted to make sure
13 that we didn't have any problems with that because I knew
14 there were some technical snags that had happened because JAVS
15 wasn't working properly that day --

16 MS. BLUTH: Yeah.

17 THE COURT: -- as it turned out.

18 MS. BLUTH: That's okay.

19 THE COURT: All right. Great. Let's bring them in.

20 (Inside the presence of the jury)

21 THE COURT: Good morning. Please be seated. The
22 record will reflect we are back within the presence of the
23 jury. How are you all this morning?

24 JURY PANEL: Good.

25 THE COURT: Everything good? Good. All right. No

1 problems getting into the courthouse this morning?

2 ALTERNATE JUROR NO. 2: There was accidents on the
3 95, so --

4 THE COURT: Oh, yes. I heard about those. But,
5 gosh, you really made it here because I heard there were
6 three. Like NASCAR on the freeway. All right.

7 All right. We are back within the presence of the
8 jury. This is the continuation of State of Nevada versus
9 Steven Farmer. The defendant is present with his counsel, the
10 Deputies District Attorney prosecuting the case are present,
11 as are all officers of the court.

12 And the State may call its next witness.

13 MS. BLUTH: Thank you, Your Honor. The State calls
14 Dr. Kevin Slaughter.

15 KEVIN SLAUGHTER, STATE'S WITNESS, SWORN

16 THE CLERK: Please be seated. If you would please
17 state and spell your first and last name for the record.

18 THE WITNESS: Kevin, K-E-V-I-N, last name Slaughter,
19 S-L-A-U-G-H-T-E-R.

20 THE COURT: You may proceed.

21 MS. BLUTH: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. BLUTH:

24 Q Good morning, Dr. Slaughter. How are you employed?

25 A Right now I'm an independent contractor with Advance

1 Care Emergency Services.

2 Q Okay. And in 2008 were you employed in that same --

3 A No, I was an employee at EmCare/DEMS, which is
4 Desert Emergency Services.

5 Q Okay. And in that position were you an emergency
6 physician in multiple hospitals in the area?

7 A Yes, ma'am.

8 Q And which hospitals were those?

9 A That was the Valley Health System, which is Valley,
10 Desert, Summerlin, Spring Valley, and Centennial Hills, and
11 then also Desert View Hospital in Pahrump, Nevada.

12 Q Okay. And you were an independent contractor, thus
13 you were not an employee of Centennial Hills Hospital during
14 that time period?

15 A I was an employee of EmCare. We were contracted
16 through Centennial Hills to provide services.

17 Q Okay. And what type of training and education did
18 you receive in order to hold your position as an emergency
19 room physician?

20 A I was an undergraduate in exercise physiology, four
21 years of medical school at the College of Osteopathic Medicine
22 of the Pacific, and then four years of an emergency medicine
23 residency at the University of Oklahoma, and then a fellow at
24 the American College of Emergency Physicians.

25 Q And have you testified as an expert before here in

1 Las Vegas?

2 A Yes.

3 Q How many times would you say?

4 A Several times. I don't know exactly.

5 Q And have you also testified in depositions as part
6 of civil lawsuits?

7 A Yes.

8 Q I'd like to turn your attention to May 15th of 2008.
9 Were you working at Centennial Hills Hospital on that day?

10 A Yes, ma'am.

11 Q And did you treat a patient by the name of Roxanne
12 Cagnina?

13 A Yes.

14 Q Did Ms. Cagnina arrive on her own to the hospital,
15 or did she arrive via ambulance?

16 A Via ambulance.

17 Q And why was she seeking treatment that day?

18 A For a seizure.

19 Q When she arrived to the hospital -- first of all, do
20 you remember about what time it was that she arrived?

21 A I want to say it was about 8:40 in the evening.

22 Q Okay. And when she arrived, do you kind of do an
23 assessment to see if she's oriented, how she's feeling,
24 etcetera?

25 A Yes.

1 Q And do you remember how she was doing at that point?

2 A Yeah, she had just had a seizure, so she was mildly
3 postictal, meaning she was sedated, wasn't quite aware of her
4 surroundings, but that resolved over time.

5 Q And when you say that resolved a time later, did you
6 notate to her being -- to her being alert --

7 A Yes.

8 Q -- and responsive? Now, you stated she had a
9 seizure. Do you know how many seizures she had before she
10 arrived at the hospital?

11 A I believe it was two. She had one at home, and then
12 she had on in the ambulance on the way into the hospital.

13 Q In regards to the one in the ambulance, was she --
14 did she lose consciousness during that seizure?

15 A From what the medics said, yes.

16 Q And was she completely unresponsive to the medics
17 treating her?

18 A From what they documented, yes.

19 Q Did she appear in the hospital to have any injuries
20 from the seizure that she had suffered from?

21 A She had a contusion on the back of her head, the
22 occipital region, and she had an abrasion on her tongue. I
23 believe it was the right side, but I don't have the note in
24 front of me.

25 Q Okay. And just for those of us that are lay people,

1 the occipital region of your head is where?

2 A The back of the head.

3 MS. BLUTH: And, Your Honor, may the record reflect
4 he patted the back center of his head?

5 THE COURT: It will.

6 MS. BLUTH: Thank you.

7 BY MS. BLUTH:

8 Q Is it abnormal for a seizure patient to fall, hit
9 their head, bite their lip --

10 A Not at all.

11 Q -- their tongue?

12 A No.

13 Q Okay. While you were treating her in the emergency
14 room, did she have any seizures?

15 A She had one seizure while she was in the emergency
16 room with us, yes.

17 Q And that was witnessed by yourself?

18 A Correct.

19 Q And do you remember about what time that seizure was
20 at?

21 A I want to say it was about 2200.

22 Q So about 10:00 p.m.

23 A Correct.

24 Q Ultimately, was Ms. Cagnina admitted into the
25 hospital?

1 A Yes, ma'am.

2 Q And when we talk about, you know, checking in versus
3 admitted, when someone comes to the emergency room for
4 treatment, technically they're not admitted into the hospital
5 at that point; is that correct?

6 A That's correct.

7 Q But once seen in an emergency room and a physician
8 makes the decision to admit them, that's when they're formally
9 admitted as a patient?

10 A Correct.

11 Q Was the decision made in regards to Ms. Cagnina to
12 admit her into the hospital on the 15th?

13 A Yes, ma'am.

14 Q And who made that decision?

15 A I did.

16 Q And why did you make that decision?

17 A She had had several seizures. By that point it had
18 been three that I knew of. She still had a fairly significant
19 headache, and that's always concerning with a seizure because
20 headaches aren't normal with seizures as a general rule. So I
21 wanted to make sure we weren't missing some other pathology in
22 her brain, something else going on, a bleed, a tumor,
23 something.

24 Q Thank you. Now, did you see her either right before
25 she was checked into the hospital or right afterwards, around

1 that same time period?

2 A I probably saw her right before she went into the
3 hospital, I mean, before I admitted her into the hospital.

4 Q And do you know what time it was that she was
5 formally admitted?

6 A I want to say 1:00, 1:20, 1:30 in the morning.

7 Q And --

8 A Maybe a little later.

9 Q -- this is six years later so no one expects you to
10 have a perfect memory, but would looking at the medical
11 records help refresh your recollection to --

12 A Yes.

13 Q -- when that time was?

14 MS. BLUTH: May I approach, Your Honor?

15 THE COURT: Yes.

16 BY MS. BLUTH:

17 Q Okay. And look at those and just let me know when
18 you're done. It actually looks like I spoke to the admitting
19 doctor at 2:00 a.m.

20 A And so when you say -- so looking at those, that
21 helped refresh your recollection?

22 A Yes.

23 Q And so you said when you spoke to the admitting
24 doctor, what does that mean?

25 A I don't actually admit patients.

1 Q Okay.

2 A Technically emergency physicians don't have
3 admitting privileges. So there is a physician, whether it's a
4 hospitalist or in a very rare situation your family medicine
5 doctor who might admit you to the hospital. But I basically
6 hand the baton to that person and say this is what I've done
7 up until now, this is the workup, they need to move forward
8 with a more complete exam than I can do.

9 Q Okay. And who was the admitting physician?

10 A I believe it was Shuja or Siddiqui. Excuse me,
11 Siddiqui.

12 Q All right. And so you let them know what's going
13 on, how your treatment has gone, and that you believe the most
14 appropriate thing is to admit her --

15 A Correct.

16 Q -- and then they formally admit her into the
17 hospital?

18 A Correct.

19 Q So when you see her shortly after you said 2:00
20 a.m., would that be correct?

21 A Yes.

22 Q What medications was she receiving during the time
23 period you are treating her?

24 A During the time that I was treating her, she
25 received Ativan during her seizure, I added Cerebyx, which is

1 an IV formulation of Dilantin, which is an anti-seizure
2 medicine. Because she had a pretty significant both from the
3 contusion she had and possibly from the seizure, she got some
4 morphine 5 milligrams, and a milligram of Dilaudid.

5 Q Okay. And did the notes discuss any Phenobarbital?

6 A Yes, I also gave her 500 milligrams of Phenobarbital
7 about 3:00 in the morning.

8 Q Okay. So if we could just talk about each of those.
9 In regards to Ativan, what type of medication is that?

10 A It's benzodiazepine. It's similar to Ativan -- or,
11 excuse me.

12 Q That's okay.

13 A It's very similar to Ativan. Somewhat similar to
14 Valium, actually. Same class of drugs. It's a sedative agent
15 used for anxiety, but it also works very well when somebody is
16 having a seizure to stop the seizure.

17 Q Okay. And what type of effects, if any, does that
18 have on an individual's perception?

19 A It can sedate them. It can put them to sleep in
20 some situations, depending on how tolerant they are. So
21 people who are used to taking these medications or other
22 things similar to it like Phenobarbital, people who drink
23 alcohol don't get as -- aren't as affected by these medicines
24 as somebody who doesn't take anything.

25 Q Okay. And in regards to the amount you gave her,

1 I'm sorry, how much?

2 A Which medication, the Ativan?

3 Q The Ativan.

4 A 2 milligrams.

5 Q And --

6 A Which is a pretty standard dose.

7 Q Okay. In regards to the Dilantin, first what type
8 of medication is Dilantin?

9 A Dilantin is an anti-seizure medicine. It's -- it's
10 an old medicine, tried and true. It has some side effects,
11 but most of them are long term problems. It doesn't sedate
12 people very much. It's very good at stopping seizures, and,
13 as I said, tried and true drug that's been used for years.

14 Q And so, like you said, the side effects are more
15 long term in nature, so --

16 A Right.

17 Q -- it doesn't really affect your perception while
18 this is going on?

19 A Correct.

20 Q The morphine, I know a lot of us hear morphine all
21 the time, but if you could explain the type of drug that is.

22 A Yeah. Gave her morphine. It's the pretty typical
23 narcotic. Again, another one that's been around for years. 5
24 milligrams is not a very big dose. A 50 kilo person, that's
25 barely a minimal dose for them to start trying to relieve

1 their pain. Again, somebody who -- and 50 kilos is about a
2 hundred and, gosh, ten pounds-ish, just for an idea. It's
3 used very commonly. It can sedate. It can make people
4 sleepy, things like that, but, again, not a very big dose.
5 And if someone is used to Phenobarb or alcohol or other
6 things, it's not going to affect them too much.

7 Q And that was given to her, you said, earlier for her
8 headache; is that correct?

9 A Correct. It looks like at about 10:09 is when I --
10 10:09 looks like when the nurse gave it.

11 Q And the next medication you discussed was Dilaudid.

12 A Correct.

13 Q And what type of medication is Dilaudid?

14 A Dilaudid is a little stronger form of morphine, so
15 it's also a narcotic medication, again, a little stronger to
16 help the headache. She was continuing to have headaches and
17 it just wasn't getting any better, so I was trying to relieve
18 her pain. She was awake, coherent, could tell me that she was
19 having a headache, and without any other side effects of the
20 medicine she was given.

21 Q In regards to the headache, I just want to back up
22 for a second, she had fallen and hit her head; correct?

23 A Correct.

24 Q And you did note a contusion to the back of her
25 head?

1 A Correct.

2 Q So did it surprise you that she was complaining
3 about this headache?

4 A Not too much, but that wasn't where most of her
5 headache was. Most of her headache was more frontal area,
6 which is the front of the head.

7 Q Okay. And then lastly you discussed Phenobarbital.

8 A Correct.

9 Q What type of drug is that?

10 A That's a barbiturate. Old school drug again. Not
11 used as often in adults because it can be sedating, but once
12 you get on it for awhile you gain a tolerance to it that those
13 sedative effects tend to go away. It's great at stopping
14 seizures. You know, just the side effects kept people from
15 using it a lot.

16 Q So the point of Phenobarbital, though, it's an
17 anti-seizure medication, it's to prevent the seizures?

18 A Correct.

19 Q When you do your initial patient assessment, when
20 someone comes into the emergency room, do you discuss with
21 them medication that they, you know, daily take?

22 A Correct.

23 Q And in regards to Roxanne Cagnina, was she already
24 taking Phenobarbital?

25 A Yes.

1 Q As prescribed by a physician?

2 A Correct.

3 Q And did she take that daily?

4 A Yes.

5 Q And how many times a day did she take it?

6 A Twice a day. She took a single dose of about 62
7 milligrams in the morning. She took a half a dose of that at
8 night, so 31-ish milligrams, half a tablet at night.

9 Q Okay. And when someone comes in taking
10 Phenobarbital and you're deciding, you know, how much to give
11 them in the emergency room, is it common for you to test their
12 levels while they're being treated in the emergency room?

13 A Yes.

14 Q And did you do that with Ms. Cagnina?

15 A Yes, I did.

16 Q And after receiving those results, what did you see?

17 A That her levels were sub-therapeutic. They were too
18 low. Her actual level was 10.3, I believe it's in micrograms
19 per deciliter there. The units can vary from lab to lab
20 depending on what they use, but it was 10.3. The normal
21 dosing on that is about 20 to 50, I believe, on that lab.

22 Q Okay. So she came in with levels that are too low
23 for an individual with this type of seizure disorder taking
24 Phenobarbital?

25 A Yes.

1 Q And so then you decided to give it to her at the
2 hospital?

3 A Correct.

4 Q Earlier you stated that Phenobarbital can have an
5 effect, you know, on you and I. We don't -- I'm assuming we
6 don't take Phenobarbital, and so the effect Phenobarbital may
7 have on you and I could be very great; correct?

8 A Correct.

9 Q Someone who takes it daily, in fact twice a day, the
10 impact would not be as great on that individual?

11 A Correct.

12 Q Did -- according to the medical records, did Ms.
13 Cagnina suffer from any seizures while at the hospital, but
14 after the seizure you witnessed?

15 A I believe she did about 2:00 in the morning.
16 Actually, I don't see anything. I see the headache continued
17 to be documented here, but not a seizure.

18 Q Okay.

19 A Yes.

20 Q Not while you're -- besides the one while in your
21 care?

22 A Correct.

23 Q She didn't suffer any while you were treating her?

24 A Correct.

25 Q And then after she is formally admitted into the

1 hospital and moved out of the emergency room, do you treat her
2 again after that?

3 A No, I don't.

4 Q I'd just like to ask you some basic questions in
5 regards to seizures. Are there different types of seizures?

6 A Yes.

7 Q Okay. Can you explain some of them for us?

8 A Yeah. Ms. Cagnina had what's called a grand mal
9 seizure or a tonic-clonic seizure. And this is the one we all
10 think of where the person's eyes roll up in the back of their
11 head, their arms and legs flop and things like that. Kids can
12 have something called an absence seizure, and that is where
13 there's an absence of movement. So they may stand there
14 perfectly rigid. They actually maintain that posture, but
15 they don't move. It lasts a few seconds, they don't even
16 realize they had it, and then they move forward and keep doing
17 things.

18 You can have partial seizures. Some people will
19 have an arm, a leg, something like that. And then there's
20 something called a Jacksonian march. And that's where
21 somebody starts to have a seizure in an extremity, it goes
22 into the body, and then they have a full tonic-clonic seizure.
23 So they go from a very simple seizure to that. And then
24 there's lots of subsets of these that are beyond the usual
25 concerns that we have in the emergency department and that's

1 why neurologists and all of those guys spend more time.

2 Q So out of the ones you just discussed briefly right
3 there, the grand mal, the clonic-tonic, are those pretty much
4 the most severe out of the seizures that you see in the
5 emergency room?

6 A Yes.

7 Q And that's the type of seizure that Ms. Cagnina
8 suffers from; correct?

9 A Correct.

10 Q Is this -- would you consider this to be a serious
11 health issue, a concern as a physician?

12 A Absolutely.

13 Q And because of that do seizure patients have to take
14 certain precautions?

15 A Absolutely.

16 Q And what types of precautions are those?

17 A They're not allowed to drive for a period of time
18 until they're proven to not have seizures. They shouldn't go
19 up ladders, they shouldn't fly planes, they shouldn't swim,
20 you know, anything that if they had a seizure their injuries
21 would be more significant than just falling down and hitting
22 their head, which can be significant enough. But you don't
23 want them behind the wheel of a car tooling down I-15.

24 Q Understood. Can certain seizure patients -- can
25 something indicate to them that they are about to have a

1 seizure? Do they see signs of a seizure oncoming?

2 A A lot do. It's called an aura. Sometimes they
3 smell funning things, some see flashing lights a lot like
4 people with migraines do. Some may hear something, they may
5 feel a tingly sensation. Sometimes they're family members are
6 very in tune to it. They'll see them staring off into space
7 and they know, you know, so and so is about ready to have a
8 seizure. So it's not uncommon to have an aura before the
9 seizure.

10 Q Okay. In regards to a patient's discharge plan,
11 when they're discharged from your care or from the hospital in
12 general, do they leave with kind of set of instructions in
13 regards to what they should do with their health after they
14 leave the hospital?

15 A Yes.

16 Q And do you remember the plan in Ms. Cagnina's case?

17 A I was not involved in the planning of it, but my
18 observation of the was, one, to deal with her anxiety and
19 depression over what occurred. There were also just general
20 discharge instructions, things she should do on a daily basis,
21 you know, seizure -- anti-seizure stuff, too.

22 Q Okay. And when you're talking about dealing with
23 her anxiety and fear over what occurred, you're talking about
24 the assault that occurred?

25 A Yes.

1 Q Okay. In the emergency room you obviously treat
2 both males and females. And in regards to females, when you
3 need to perform some type of, you know, medical procedure or
4 you need to check a female's -- either her breasts or her
5 inner thigh genitalia, do you try to use discreet methods in
6 doing so?

7 A Yes.

8 Q And why do you choose to do that?

9 A One, because it's more comfortable for the patient.
10 I mean, that's just -- you know, our goal is not to make their
11 experience miserable or anything else when they're in the
12 department and that's just showing basic respect. I try to
13 always have a female nurse present with me if I have to do,
14 you know, a more thorough exam. I try to expose the minimal
15 amount of skin that I can for a given exam. And for the most
16 part you can be very discreet in all of that.

17 Q Okay. If you have to work on a female and maybe an
18 EKG lead or wire either, you know, above the breast or below
19 the breast, there's an issue with one of those, do you pull
20 open the entire gown exposing both of their breasts?

21 A No.

22 Q What do you do?

23 A Normally what you can do is -- and we put the gown
24 on backwards, you know, the joke about the butt flapping in
25 the breeze kind of thing, but normally what you can do is just

1 pull down the top a little bit and make sure the leads are
2 placed. They should be up high for these leads. Anything
3 down low you can pull the -- the, you know, dress up, keep the
4 sheets over the rest of the body and make sure the leads are
5 placed underneath the breast where they ought to be.

6 Q Okay. In regards to, you know, having to touch a
7 breast, for instance, if the lead was underneath the breast
8 so, therefore, you needed to lift the breast, are you -- are
9 you someone who -- do you do skin to skin contact with the
10 breast, or do you prefer to use the gown to touch the breast?

11 A I use the gown whenever possible.

12 Q Going back, I should have asked you this earlier in
13 regards to the discharge plan, and I can approach with those
14 if you don't remember them word by word, but one of the issues
15 was patient will demonstrate a reduction in somatic and/or
16 psychosocial signs and symptoms. What is somatic?

17 A It's physical signs of emotional stress or trauma.
18 So somebody who is very depressed might have an achy back or
19 achy muscles or chest pain, and that's their somatic sign of
20 their depression. And so the goal is whatever her somatic
21 symptoms were, to try to reduce those as an outpatient.

22 Q Okay. And was there anything in regards to when you
23 tested all of her labs, you know, the levels of everything in
24 her body, did you have any issues or concerns with any of the
25 drugs levels you saw in those results?

1 A Not that I remember seeing.

2 Q And besides the one that was obviously too low that
3 we've --

4 A Right.

5 Q -- already spoken about.

6 A Yeah, I don't remember seeing anything else that --
7 that I was concerned.

8 Q Thank you, Doctor.

9 MS. BLUTH: I'll pass the witness, Your Honor.

10 THE COURT: Cross.

11 MR. MANINGO: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MANINGO:

14 Q Hi, Doctor. A few follow up questions. Let's start
15 with the medications. Ms. Cagnina was given Phenobarbital?

16 A Correct.

17 Q And that's a barbiturate?

18 A Correct.

19 Q And as part of the barbiturate family, for lack of a
20 better term, it's a sedative?

21 A Correct.

22 Q Okay. Can Phenobarbital become habit-forming?

23 A Yes.

24 Q Okay. Phenobarbital can also have certain side
25 effects; correct?

- 1 A Yes.
- 2 Q The side effects can include confusion?
- 3 A Yes.
- 4 Q Irritability?
- 5 A Yes.
- 6 Q Susceptibility to bruising?
- 7 A Yes.
- 8 Q Okay. And in some situations, although these seem
- 9 to be extreme, hallucinations are possible?
- 10 A Possible.
- 11 Q Okay. Ms. Cagnina was also given morphine; correct?
- 12 A Correct.
- 13 Q And that is a narcotic?
- 14 A Yes.
- 15 Q And it's an opiate?
- 16 A Yes.
- 17 Q So when I say opiate, that means it -- it's --
- 18 obviously the root word is from opium or something along those
- 19 lines, it's that type of drug?
- 20 A Correct.
- 21 Q Okay. And morphine can also be habit-forming?
- 22 A Yes.
- 23 Q Okay. Now, morphine is a pain killer?
- 24 A Yes.
- 25 Q She was also given Dilaudid?

- 1 A Yes.
- 2 Q And that is also a pain killer?
- 3 A Yes.
- 4 Q Also a narcotic?
- 5 A Correct.
- 6 Q Also an opiate?
- 7 A Yes.
- 8 Q Okay. And that can also be habit-forming?
- 9 A Yes.
- 10 Q Now, both those medications, morphine and Dilaudid,
- 11 they can also have certain side effects?
- 12 A Yes.
- 13 Q And one of those side effects could be sleepiness?
- 14 A Yes.
- 15 Q And another one of those side effects could be
- 16 confusion?
- 17 A Yes.
- 18 Q And you had stated that when Ms. Cagnina had first
- 19 arrived into the ER, she -- and I'm sorry I'm not familiar
- 20 with the word postictal.
- 21 A Postictal, yes.
- 22 Q Postictal. Okay. Postictal symptoms?
- 23 A Yes.
- 24 Q Okay. And that -- that include confusion?
- 25 A Yes.

1 Q So when she first came in she was already suffering
2 from some confusion because of her seizures?

3 A Yes, but it was short-lived.

4 Q Okay. Now, she also, during her intake, expressed
5 to you that she had some elevated stress in her life.

6 A I don't remember that. I don't have it documented
7 here.

8 Q No, that's okay. Would it refresh your memory if I
9 -- if I were to show you the -- well, let me first ask you,
10 you remember testifying in a deposition in this matter?

11 A That was awhile ago.

12 Q Okay. But you -- you do remember that you --

13 A Yeah.

14 Q -- testified? Okay. And would it refresh your
15 memory if I were to show you your testimony --

16 A Sure.

17 Q -- from that? Okay. Great. Let's see.

18 MR. MANINGO: For counsel, I'm looking at page 14.
19 BY MR. MANINGO:

20 Q Let's see. If you want to just pick it up here at
21 the top and read that page down. And let me know if that
22 helps.

23 A Yes, lines 5 through 7.

24 Q Okay.

25 A Okay.

1 Q So during that deposition when you testified you
2 were shown some -- some of the medical records; correct?

3 A Yes.

4 Q And in referencing those at that time, you pointed
5 out that Ms. Cagnina had expressed to you some elevated stress
6 levels in her life?

7 A Yes.

8 Q Okay. And this was when she first came in; correct?

9 A Correct.

10 Q So it was before any kind of alleged assault or
11 anything else?

12 A Yes.

13 Q Okay. She didn't mention to you what type of
14 stress, whether it was financial or marital or anything like
15 that?

16 A Not that I remember.

17 Q Okay. You mentioned that when she first checked in
18 she had a contusion on her head.

19 A Correct.

20 Q A contusion, is that a bump or a bruise?

21 A It can be a bruise, you know, it can be a little
22 swollen, a lot swollen.

23 Q Okay. And then there was a tongue abrasion?

24 A Correct.

25 Q We're assuming from biting her own tongue --

1 A Right.

2 Q -- during a seizure? Okay. Now, you had no reason
3 at that point to examine Ms. Cagnina's genital area; correct?

4 A No.

5 Q Okay. So -- so obviously you didn't, then?

6 A Correct.

7 Q So you would not be aware of any preexisting
8 injuries that she had at that point?

9 A That's correct.

10 Q Okay. Just to clarify, you testified that her
11 admission from -- from ER into the hospital was around 2:00 in
12 the morning?

13 A I believe I spoke to the admitting doc about 2:00 in
14 the morning, yes. Yes.

15 Q Okay. And then at that time, obviously, whether
16 she's still in the ER or -- or upstairs in the hospital, she's
17 still receiving medication; correct?

18 A Correct.

19 Q Okay. And at 3:00 a.m. on May 16th of 2008, she
20 received Phenobarbital; correct?

21 A Yes.

22 Q Okay. And then approximately 20 minutes later at
23 around 3:20 she received a dose of Dilaudid?

24 A Correct.

25 Q Okay. So when she received these medications,

1 obviously that means someone had to -- to give them to her;
2 correct?

3 A Yes.

4 Q Okay. So that would be a nurse or another doctor?

5 A Correct.

6 Q Okay. And so they would actually have contact with
7 Ms. Cagnina at 3:00 a.m.?

8 A Yes.

9 Q And they would have contact with Ms. Cagnina at
10 3:20?

11 A Yes.

12 Q Okay. Working in the emergency room you also work
13 with CNAs; correct?

14 A Yes.

15 Q And when I say a CNA, we're talking about a
16 certified nursing assistant?

17 A Correct.

18 Q Okay. You don't remember on that date actually
19 working with Steven Farmer?

20 A Not specifically, no.

21 Q Okay. Okay. You're aware of what the -- the role
22 or duties of a CNA are?

23 A Yes.

24 Q Okay. And one of those duties is to transport
25 patients?

1 A Yes.

2 Q Okay. And one of those duties is to help patients
3 undress?

4 A Yes.

5 Q Okay. And another one of those duties can be to
6 help set up monitors or -- or that type of thing?

7 A Yes.

8 Q Okay. You spoke a little bit on direct examination
9 about treating both males and females, obviously?

10 A Yes.

11 Q Emergency rooms are busy, is that fair to say?

12 A Absolutely.

13 Q Okay. You don't get to make a choice and say I'm
14 only going to -- I'm only going to treat the males?

15 A No.

16 Q Okay. You -- you take them as they come in?

17 A Correct.

18 Q Okay. If someone does want -- let me rephrase that.
19 If someone is only comfortable with a female nurse, can they
20 request that?

21 A Yes.

22 Q And if they request that, can you accommodate that?

23 A Usually, yes.

24 Q Okay. You don't remember Ms. Cagnina ever
25 requesting a female nurse?

1 A Not to my recollection.

2 Q Okay. And you don't have any documentation or
3 notations showing that any time during that evening that she
4 requested a --

5 A I didn't see that, no.

6 Q Okay. You were speaking a little bit about the EKGs
7 and the heart leads or the -- is that the proper terminology?

8 A The leads, yeah.

9 Q Okay. Can you show me -- actually, more
10 importantly, can you show the jury where on your body you
11 would place those leads?

12 A Okay. Do you want me to stand up or --

13 Q Yes, please. And -- and go slowly because I'm going
14 to interrupt you so that we can make a record as you place
15 your hand.

16 A Okay.

17 Q Okay.

18 A So you the first four leads usually go up here just
19 underneath the shoulders. And then --

20 Q Okay. And -- and -- I'm sorry. Here's my
21 interruption. Go ahead and put your hands back where --

22 MR. MANINGO: And let the record reflect that the
23 doctor is pointing on both his left and right side around the
24 collarbone area.

25 THE WITNESS: Correct.

1 THE COURT: It will.

2 BY MR. MANINGO:

3 Q Thank you. Go ahead.

4 A And then right -- right above the hips is the ideal,
5 kind of lower abdomen --

6 Q Okay.

7 A -- would be the other two leads.

8 MR. MANINGO: And please let the record reflect that
9 the doctor has both hands on each side of his waist right
10 above his belt line.

11 THE COURT: It will.

12 THE WITNESS: And then if you're doing a full --
13 those are -- those are rhythm strips. So if you're just
14 sitting in bed waiting, doing things, those are normally what
15 you have on. If they're doing a full EKG, those start two
16 kind of in between the breast.

17 MR. MANINGO: And please let the record reflect that
18 the doctor has put both hands in the middle of his chest area,
19 just to the left and right of his sternum.

20 THE WITNESS: Between the second and third ribs.

21 THE COURT: All right. It will so reflect. Between
22 the second and third ribs, okay.

23 THE WITNESS: And then the next four leads are going
24 to go underneath and around to just underneath the armpit, the
25 axilla.

1 MR. MANINGO: And please let the record reflect that
2 the doctor, with his left hand, made a half circle motion
3 underneath his left breast area down towards his ribcage.

4 THE WITNESS: Yeah.

5 THE COURT: It will. And then on up to the armpit
6 area.

7 MR. MANINGO: And on up to the armpit.

8 BY MR. MANINGO:

9 Q And that would go on both sides?

10 A No, usually just one side.

11 Q Just one side?

12 A Yeah.

13 Q Okay.

14 A You do left-sided.

15 Q Okay. Great. Okay. Thank you, Doctor. You can
16 sit back down. Now, you -- there are times when you have to
17 adjust leads and that kind of thing yourself; correct?

18 A Correct.

19 Q Okay. And this may sound like a silly question, but
20 you obviously have a bit more training and experience than a
21 CNA does.

22 A I'd like to think so.

23 Q Okay. Okay. Right. So -- and you've had more
24 training and experience in doing these types of things?

25 A Yes, sir.

1 Q Okay. Now, you had testified that -- that Ms.
2 Cagnina was suffering from seizures?

3 A Yes.

4 Q And seizures are a very serious condition?

5 A Yes.

6 Q Seizures can be unpredictable?

7 A Yes.

8 Q You may not know unless they're actually hooked up
9 by a neurologist exactly when a seizure is going to happen, is
10 that fair to say?

11 A Correct.

12 Q Okay. And as you've already stated, someone who is
13 having a seizure could -- could harm themselves; correct?

14 A Correct.

15 Q Okay. So if someone is suffering from a seizure
16 condition and they're in the ER, you keep an eye on them, is
17 that fair to say?

18 A Yes.

19 Q Okay. You want to keep watch and observe them
20 because anything could happen; correct?

21 A Correct.

22 Q Okay. Same with when they're admitted into the
23 hospital, you keep an eye on an individual who is having
24 seizure conditions, don't you?

25 A Yes.

1 Q Okay. This isn't someone who you would just, you
2 know, sort of leave on their own, maybe like someone who had a
3 sprained ankle?

4 A Yes.

5 Q Okay. So whether it's the ER or they're in the
6 hospital room, it's someone that's going to be observed and
7 nurses on a regular basis?

8 A Yes.

9 Q Okay. Thank you, Doctor.

10 A Thanks.

11 THE COURT: Redirect.

12 MS. BLUTH: Just briefly.

13 REDIRECT EXAMINATION

14 BY MS. BLUTH:

15 Q Mr. Maningo had asked you some questions about
16 Phenobarb and causing hallucinations. In regards to Ms.
17 Cagnina, did you recognize her suffering from any
18 hallucinations?

19 A No.

20 Q When you make the decision to admit an individual,
21 and I think you stated a couple of times that that was around
22 2:00 a.m.

23 A Correct.

24 Q That doesn't necessarily mean like at 2:00 a.m. they
25 shoot up to the floor; right?

1 A No, that's an ER doc's dream, but it doesn't happen.

2 Q Mr. Maningo asked you some questions about the

3 placement of EKGs and how you do that. If you were having any

4 issues with one of the leads or wires while you were in an

5 elevator that other people could access, would you ever find

6 it appropriate to open the gown at that time exposing both

7 breasts and working on it in that elevator?

8 A No.

9 Q Okay. Nothing further. Thank you, Doctor.

10 THE COURT: I have one question.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: Do you see a lot of seizure patients in

13 the ER?

14 THE WITNESS: Yes.

15 THE COURT: All right. Could you quantify it for us

16 now?

17 THE WITNESS: I probably see two to three a week.

18 THE COURT: Two to three a week?

19 THE WITNESS: Yeah.

20 THE COURT: How many patients total would you see?

21 THE WITNESS: I see six to 7,000 a year.

22 THE COURT: Okay. Thank you.

23 Any questions as a result of my question?

24 MR. MANINGO: Just as a result of the State's very

25 quickly.

1 RECROSS-EXAMINATION

2 BY MR. MANINGO:

3 Q Regarding whether or not you saw Ms. Cagnina have
4 any type of hallucinations or anything like that, you didn't
5 see Ms. Cagnina once she was transported upstairs?

6 A No, sir.

7 Q Okay. A different doctor took over at that point?

8 A Correct.

9 Q Okay. And you didn't transport Ms. Cagnina or
10 anyone else who had their gown opened up on the elevator that
11 night?

12 A No.

13 Q If you had seen any kind of that behavior going on
14 in your emergency room, you would have --

15 A Ripped them a new one.

16 Q Okay. Ripped them a new one, as well as probably
17 call the police or a supervisor or something?

18 A I would have written them up.

19 Q You would have reported it?

20 A Yeah.

21 Q Okay. And you didn't see any of that go on?

22 A No.

23 Q Okay. And you didn't hear from any of your patients
24 that night that any of that was going on?

25 A No, but once they leave the department I may not.

1 Q Okay. Great. Thank you, Doctor.

2 MS. BLUTH: Nothing further. Thank you, Your Honor.

3 THE COURT: Thank you. May this witness be excused?

4 MS. BLUTH: Yes, Your Honor.

5 THE COURT: Thank you very much for your testimony.

6 THE WITNESS: Thank you. You want me to leave this

7 here or --

8 MS. BLUTH: Oh, I'll -- I'll get that.

9 THE COURT: We'll retrieve that for you. Thank you.

10 Ladies and gentlemen, it's 9:50. We're going to
11 take just a ten minute recess for you to use the restroom
12 because we anticipate the next witness will take longer. And
13 so we'll take this opportunity while we have it.

14 Ladies and gentlemen, we're going to take a ten
15 minute recess. During this recess it is your duty not to
16 converse among yourselves or with anyone else on any subject
17 connected with the trial, or to read, watch, or listen to any
18 report of or commentary on the trial by any person connected
19 with the trial or by any medium of information, including,
20 without limitation, newspaper, television, radio, or Internet,
21 and you are not to form or express an opinion on any subject
22 connected with this case until it is finally submitted to you.

23 We will be in recess for ten minutes.

24 (Jury recessed at 9:50 a.m.)

25 THE COURT: The record will reflect we are outside

1 the presence of the jury. Are there any matters outside the
2 presence before we recess?

3 MS. BLUTH: No, Your Honor.

4 MR. MANINGO: No, Your Honor.

5 THE COURT: Thank you very much. We'll be in recess
6 for ten minutes.

7 (Court recessed at 9:51 a.m., until 10:11 a.m.)

8 THE COURT: Everyone just be at ease. Thank you.

9 (Pause in the proceedings)

10 (Jury reconvened at 10:13 a.m.)

11 THE COURT: Thank you. Please be seated. The
12 record will reflect we are back within the presence of all 12
13 members of the jury, as well as the four alternates. The
14 defendant is present with his counsel, as are the Deputies
15 District Attorney prosecuting the case, and all officers of
16 the court.

17 Will counsel so stipulate?

18 MS. BLUTH: Yes, Your Honor.

19 MR. MANINGO: Yes, Your Honor.

20 THE COURT: And we also have the State's next
21 witness in the witness stand, and State will just state her
22 name for the record as calling her.

23 MS. BLUTH: For the record, Your Honor, the State
24 calls Roxanne Cagnina.

25 THE COURT: Thank you.

1 Ms. Cagnina, if you'll stand to be sworn.

2 ROXANNE CAGNINA, STATE'S WITNESS, SWORN

3 THE CLERK: Please be seated. If you would please
4 state and spell your first and last name for the record.

5 THE WITNESS: Roxanne Cagnina; R-O-X-A-N-N-E
6 C-A-G-N-I-N-A.

7 THE COURT: You may proceed.

8 MS. BLUTH: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. BLUTH:

11 Q Good morning, Ms. Cagnina.

12 A Good morning.

13 Q Are you doing okay?

14 A Uh-huh.

15 Q Okay. If at any time you're not, just let me know
16 and we will take a recess, okay.

17 A Okay.

18 Q We'll ask the Court if we can take a recess. Okay.
19 I'd like to turn your attention back to the year of 2000.
20 Right around that time period did you fall and incur an
21 injury?

22 A Yes.

23 Q Okay. And where was it that you fell?

24 A At the Gold Coast.

25 Q And after your fall, shortly thereafter did you

1 start suffering from seizures?

2 A Yes.

3 Q And so then did you see doctors and were you treated
4 for those seizures?

5 A Yes.

6 Q And because of your recurring seizures, were you put
7 on some medications?

8 A Yes.

9 Q And what medications were you put on originally?

10 A I was put on Phenobarbital, Dilantin, and Topamax.

11 Q Okay. And how often back then, if you remember, I
12 recognize that that's 14 years ago, were the seizures pretty
13 often?

14 A At the very beginning, yes, they were pretty often.

15 Q And then once you -- once you got situated with the
16 medications, did you feel some type of relief in regards to
17 the seizures?

18 A Yes, they slowed down a lot.

19 Q Okay. During this time period were you married?

20 A Yes.

21 Q And what was the name of your husband?

22 A Scott Cagnina.

23 Q And did you have children?

24 A Yes.

25 Q And I'm not going to ask you the names of your

1 children, but were they boys or girls?

2 A Girls.

3 Q And when were they born, in what year?

4 A '96 and '97.

5 Q Now I'd like to fast-forward from 2000 into 2008.

6 Were you still suffering from that seizure disorder in 2008?

7 A Yes.

8 Q And because of that were you still taking, you know,
9 those certain medications to -- to help you combat those
10 seizures?

11 A Yes.

12 Q Can you kind of explain to us when you would have a
13 seizure, you know, what would happen? Did you know they were
14 coming on? How would you feel?

15 A A lot of times I would feel them coming on. I would
16 feel dizzy. I know my husband, a few days prior to them my
17 speech would get kind of slurred, so he kind of knew that they
18 were coming on.

19 Q Okay. And so in that time period in 2008 when your
20 seizures would hit, would you always go to the hospital?

21 A No.

22 Q How often do you think you would have to go to the
23 hospital because of a seizure during that time period?

24 A I would normally go to the hospital if there was no
25 one there with me when I had a seizure.

1 Q So if you felt it coming on, you would alert
2 someone?

3 A Yes.

4 Q Now, specifically I would like to turn your
5 attention to May 15th of 2008.

6 A Okay.

7 Q Did you have a seizure on that day?

8 A Yes.

9 Q Was anyone home with you?

10 A No.

11 Q And so because of that, did you call for help?

12 A Yes.

13 Q And do you remember how you called? Was it your
14 phone, your cell phone, the alarm system?

15 A I believe it was the alarm system. I had an alarm
16 system where you can call -- you can push a button and either
17 call the fire department or the paramedics or the police. So
18 I believe I pushed the button.

19 Q Okay. And then did the paramedics arrive?

20 A Yes.

21 Q And did they take you to a hospital here in Las
22 Vegas?

23 A Yes.

24 Q And which hospital was it that they took you to?

25 A Centennial Hills.

1 Q And when you were taken to Centennial Hills shortly
2 thereafter, which department did you -- were you taken to?

3 A To the ER.

4 Q When you were treated in the ER, did you have a male
5 nurse or a female nurse?

6 A I had both.

7 Q Do you see someone that treated you that day here in
8 the courtroom?

9 A Yes.

10 Q Can you please point to that person and describe an
11 article of clothing that he's wearing.

12 A He has a blue tie on.

13 MS. BLUTH: Your Honor, may the record reflect that
14 the witness has identified the defendant?

15 THE COURT: It will.

16 BY MS. BLUTH:

17 Q Does the defendant look the same today as he did in
18 2008?

19 A No.

20 Q Okay. How does he look different?

21 A He looks thinner.

22 Q Okay. I'm going to show you something that's
23 already in evidence as State's Exhibit 9. Is that a more
24 accurate picture of the way -- and I don't know if the --

25 MS. BLUTH: May I approach to see if her computer is

1 open --

2 THE COURT: Yes.

3 MS. BLUTH: -- or on?

4 THE WITNESS: Oh.

5 BY MS. BLUTH:

6 Q Is that on in front of you?

7 A Yes.

8 Q Okay. Is that a more accurate --

9 A Yes.

10 Q -- reflection of how he appeared when he treated you
11 on May 15th of 2008?

12 A Yes.

13 Q Okay. Thank you. And did he introduce himself to
14 you?

15 A I don't remember if he introduced himself, other
16 than he was my nurse.

17 Q And how would you characterize his treatment towards
18 you?

19 A In the ER?

20 Q In the emergency room.

21 A He was great in the ER. He was always there. Every
22 time I needed -- every time my blanket got -- he kept giving
23 me warm blankets. And every time my blanket would get cold,
24 he kept bringing me a warm blanket.

25 Q Okay. So he felt -- you felt like he was attentive

1 to your --

2 A Yeah.

3 Q -- to your needs?

4 A All the time. Yeah.

5 Q You've spoken, you know, about your seizure disorder
6 and so you were in and out of hospitals, now it had been about
7 eight years; is that correct?

8 A Yes.

9 Q Had you ever received that type of attentive
10 treatment before?

11 A No.

12 Q At any point in the emergency room did you feel
13 threatened by the defendant at all?

14 A No, not in the ER I didn't.

15 Q While you were in the emergency room, were you
16 changed out of your clothes and into a gown?

17 A Yes, I was.

18 Q And do you remember who did that or how -- how it
19 was you got in that gown?

20 A No, I don't remember.

21 Q And was the gown a normal hospital gown, or was it
22 longer, shorter, how would you explain it?

23 A It was shorter.

24 Q And when you say it was shorter, about how far did
25 it go down?

1 A Probably to my mid thigh.

2 Q Okay. And were you wearing anything underneath the
3 gown?

4 A No.

5 Q While you were being treated in the emergency room
6 were you in contact with your husband letting him know about
7 the treatment that you were receiving?

8 A My husband went there at one point, and then he
9 left.

10 Q And after he left did you still remain in contact
11 with him letting him know while you were in the ER that you
12 were receiving good care?

13 A Yes.

14 Q Because you felt you were receiving such good care
15 from the defendant, did you want to let his bosses know or
16 whoever his supervisors were?

17 A Yeah. It was a new hospital and I was pretty
18 impressed that every time I needed something that he was
19 there. And I actually gave them compliments, you know, about
20 how much -- you know, how good they were taking care of me.
21 And at one point I even told them that I wanted to write a
22 letter and if they could write down their information down and
23 that I was going to write a letter of recommendation for them.

24 Q Okay. And you're saying them, so you were talking
25 about the defendant, as well as the female nurse that was

1 treating you?

2 A Yes.

3 Q Okay. Did the defendant give you any of his
4 personal information?

5 A He wrote down his information for me.

6 Q And did he give you his cell phone number?

7 A I believe so.

8 Q What type of pain were you feeling while you were
9 being treated in the emergency room?

10 A After the seizures I get really, really bad
11 headaches, so I was in a lot of pain.

12 Q And were you receiving any types of medications
13 because of, you know, the seizure disorder as well as the
14 headaches in the emergency room?

15 A I believe they were giving me Ativan and some kind
16 of pain medication. I don't know what kind of pain medication
17 they were giving me.

18 Q At some point did the doctors make the decision to
19 admit you into the hospital?

20 A Yes.

21 Q And when -- and I know you can't, you know, nail
22 down specific times, but around when was that?

23 A It was early morning.

24 Q So now we've moved into May 16th?

25 A Uh-huh.

1 Q Okay. Is that a yes?

2 A Yes.

3 Q Okay. When you were formally admitted into the
4 hospital, are you then moved from the emergency room to
5 another floor?

6 A Yes.

7 Q And when you were moved, who was it that transported
8 you to the hospital room you were going to be staying in?

9 A The defendant.

10 Q And as he transports you to that room, does he start
11 talking to you?

12 A He comes up to me and he tells me that I'm going to
13 be admitted and that he's going to be transporting me. So
14 then he transports me, we go to the elevator.

15 Q And when you're in the elevator, does he discuss
16 with you the effects your medication should be having on you?

17 A Yes, he just kept saying over and over that I should
18 be sleeping, that the medication that they gave me that I
19 should be tired and that I should be sleeping.

20 Q Okay. And you said that he was repeatedly telling
21 you that?

22 A Yes.

23 Q When you got into the elevator, did you feel that
24 the defendant's demeanor changed towards you?

25 A Yeah, his whole demeanor changed.

1 Q Can you explain what you mean by that?

2 A He was just more like direct, like when he was
3 talking to me his -- his tone was different like you should be
4 sleeping, you need to go to sleep, the medication they're
5 giving you, you should be sleeping.

6 Q Okay. When you got into the elevator was there
7 another individual in there?

8 A I believe there was one other person that was in
9 there, and then they got out shortly after that.

10 Q Okay. So when you're in the elevator with the
11 defendant and this other individual, does he start doing
12 something that makes you feel uncomfortable?

13 A Not while there was someone in there. After the
14 other person left, that's when he started kind of like
15 adjusting my blankets. And at one point when he adjusted my
16 blanket, he rubbed the inside of my thigh. And then I grabbed
17 the blanket and I kind of tucked it underneath my leg, and he
18 did that a couple times.

19 Q Okay. So the first time that it happens, he's
20 adjusting your blankets, and then you feel his hand go up your
21 thigh?

22 A Uh-huh.

23 Q Is that correct?

24 A Yes.

25 Q So your reaction at that point was just to tuck your

1 blankets?

2 A Uh-huh.

3 Q Is that a yes?

4 A Yes.

5 Q Sorry. I know it's hard to get used to.

6 A Oh, I'm sorry.

7 Q That's okay. But someone is going to type out

8 everything you and I say --

9 A Okay.

10 Q -- so we just have to say yes or no.

11 A Yes.

12 Q Okay. Thank you. When you tuck the blankets
13 underneath your body, does he say anything to you in response
14 to that?

15 A He just kept telling me things like I needed to
16 relax, the medication, I should be sleeping, it was procedure
17 to relax me, and things of that nature.

18 Q Did he tell you whether or not your blankets could
19 remain tucked under you in that position?

20 A No, he said it would be easier if my blankets
21 weren't tucked and they weren't wrapped around me.

22 Q Okay. In the elevator do you start to feel sleepy?

23 A I'm very tired.

24 Q At that point do you want to stay awake?

25 A I was fighting everything to stay awake because at

1 that point I got scared.

2 Q Okay. What made you scared at that point?

3 A Because he did it a couple times. The first time he
4 did it I thought maybe it was just, you know, by accident that
5 he did it. And then the second time he did it, I got scared
6 and -- and then I could just -- his whole look changed, and so
7 I got really scared. So I was really struggling to stay
8 awake.

9 Q Okay. So at some point you, obviously, leave the
10 elevator and you're taken to your room; is that correct?

11 A Yes.

12 Q Okay. What happens when you get inside the room?

13 A I get inside the room and he's adjusting my blanket
14 again and he's telling me that he wants to relax me and that
15 it's procedure. And he goes underneath my blanket and then he
16 penetrates me with his fingers. And he keeps telling to look
17 at his fingers, that they're fat fingers, and then every time
18 he -- every time he would penetrate me he would like his
19 fingers and make comments like, you know, you're going to
20 enjoy this, just sit back and relax, it's procedure.

21 Q Okay. So I want to back up just a little bit. When
22 you get into the room and this starts happening, the adjusting
23 the blankets and the hand goes under, like you said, and his
24 fingers go inside you, what is happening in your mind right
25 there?

1 A I'm scared. I'm just terrified. I feel -- I didn't
2 know whether to scream, holler. I couldn't reach the call
3 button because it was behind me. I just kind of froze. I
4 just kind of froze and just wanted to get through it.

5 Q Okay. When the defendant was, like you said,
6 penetrating your vagina --

7 A Uh-huh.

8 Q -- were his fingers going in softly or hard? Can
9 you explain?

10 A No, he was doing it very hard like jamming it in.

11 Q And what did that feel like?

12 A It hurt.

13 Q Did you say anything to him?

14 A I kept telling him just stop. And at one point I
15 crossed my legs. And then he pulled my legs across -- pulled
16 my legs apart.

17 Q And did he continue doing that?

18 A Yeah.

19 Q When I say "that" I mean penetrating your vagina
20 with his fingers.

21 A Uh-huh. And then -- yeah, he continued to do it and
22 then he would like his fingers at one point. He kept trying
23 to get me to taste his fingers.

24 Q Did he at some point stop penetrating you with his
25 fingers?

1 A Yes.

2 Q And when he stopped penetrating you with his
3 fingers, what did he do?

4 A He started touching my breast.

5 Q And you said you were -- you were wearing a gown --

6 A Uh-huh.

7 Q -- so was he touching your breasts on top of the
8 gown or underneath the gown?

9 A Underneath the gown. My -- my gown tied on the
10 side --

11 Q All right.

12 A -- so he kept squeezing my breasts really hard.

13 Q Was he squeezing your breasts with both hands?

14 A Yes.

15 Q Did he talk about your breasts to you?

16 A Yeah, he kept telling me how beautiful they were and
17 he kept tell me how beautiful I was. And at one point he kept
18 rubbing my face with the back of his hands --

19 Q And you --

20 A -- telling me --

21 Q I'm sorry. Go ahead.

22 A -- telling me how pretty I was and for me just to
23 relax and that it was procedure and it I just -- just let him
24 do it, that it would help me relax.

25 Q Okay.

1 MS. BLUTH: And, you know, just for the record
2 purposes, she was using the back of her right hand and rubbing
3 repeatedly both sides of her face on her cheek area.

4 THE COURT: The record will so reflect.

5 MS. BLUTH: Thank you.

6 BY MS. BLUTH:

7 Q So after he was done squeezing your breasts, that's
8 when he was moving to your face and kept telling you were
9 beautiful and rubbing it?

10 A Uh-huh.

11 Q Is that yes?

12 A Yes.

13 Q In regards to when he was touching your breasts,
14 where were your hands, your arms and hands at that point?

15 A At one point in time he had told me to put my hands
16 behind my -- behind my back, behind my head.

17 Q Did you do you what he told you?

18 A Yes.

19 Q How come?

20 A Because I was afraid.

21 Q After he was done rubbing your breasts and touching
22 your face, what did he do after that?

23 A He then went down and started to use his mouth down
24 there.

25 Q When you say he started to use his mouth down there,

1 are you talking about his mouth on your vagina?

2 A Yes.

3 Q Okay. And what was he doing with his mouth?

4 A He was just licking it and things like that.

5 Q Licking your vagina?

6 A Uh-huh.

7 Q Is that a yes?

8 A Yes.

9 Q Okay. And did -- after -- I'm sorry, when he went
10 back down with his mouth, did he use his fingers, as well, at
11 that time?

12 A I believe so, yes.

13 Q Okay. During any of this time did you yell for
14 help?

15 A No.

16 Q Okay. And why not?

17 A I was afraid he was going to kill me.

18 Q When you would ask him to stop, what would -- what
19 were his reactions to when you'd ask.

20 A When I'd ask him to stop he just kept telling me
21 that it was procedure and that it was going to help me rest
22 and just for me to relax.

23 Q Okay. At this point in time were you still fighting
24 to stay awake?

25 A Yes, very much.

1 Q Okay. Even -- you know, even though you said you
2 were -- the medications made you sleepy, were you pretty
3 scared at that point in time?

4 A I was terrified.

5 Q Okay. And because of that fear, because you were
6 terrified, were you able to stay awake through this?

7 A Yes.

8 Q Okay. You said a couple of minutes ago that you
9 thought he was going to kill you; is that right?

10 A Yes.

11 Q And so did you attempt during that time period, you
12 know, to leave evidence, for lack of a better term?

13 A Yeah. At one point I had -- I had a cell phone that
14 had -- it's a button that you can just push, and I just
15 started pushing the camera button. I had it underneath my
16 thigh, so I just kept pushing it. I pushed it a couple times.

17 Q And so what -- in your head, what's the purpose of
18 doing that? What was the purpose?

19 A I just kept thinking that someone was going to come
20 in and find me dead and they would see, you know, that
21 somebody took pictures at that time and they would want to
22 know, you know, who was in the room or something.

23 Q Did those pictures turn out? Did you see them?

24 A I didn't get to see them, but from my understanding
25 they didn't come out.

1 Q Okay. What did they turn out like?

2 A Just blank pictures. There was no flash.

3 Q Okay. So after the -- the second time he goes down
4 and he penetrates you orally and digitally, how does that
5 stop?

6 A He -- it -- it just -- I don't know. I don't know
7 if he had to leave or whatever because he was still on duty.
8 He just -- he just said, well, I'll be back at 7:00.

9 Q 7:00 in the morning?

10 A Yes.

11 Q So after he tells you he'll be back at 7:00 a.m.
12 does he leave the room?

13 A Yes.

14 Q What -- what's going on in your mind at that point
15 in time?

16 A I took it as a threat. I took it like, you know,
17 I'm going to come back at 7:00 and either finish you off or
18 threatening me that if I tell somebody that he's going to come
19 back and hurt me more.

20 Q So after he leaves the room, what do you do?

21 A I tried to stay awake, and I thought I stayed awake,
22 but I waited and I just sat real quiet. I didn't get out of
23 my bed. I was afraid that maybe he was outside my room or
24 something like that. And then the first nurse that I saw,
25 that's when I lost it and I basically got hysterical.

1 Q Okay.

2 A And --

3 Q So let me back you up just a little bit before we
4 get to that first nurse that you see. So afterwards, you
5 know, like you said, you sat still, you didn't move, but you
6 think eventually, you know, you fell asleep?

7 A Yes.

8 Q When you wake up, are you able to call your husband?

9 A Yes.

10 Q And what do you tell him?

11 A I just kept telling him that I wanted him down there
12 and I kept begging him to just please come before 7:00.

13 Q Okay. Did you tell him that something had happened
14 to you?

15 A Yeah. I told him something bad happened to me, can
16 you please come, can you please come. I didn't go into detail
17 with him.

18 Q And was it hard for you to talk about this incident
19 with Scott?

20 A It was very difficult.

21 Q Why?

22 A He was my husband, you know. How do you tell your
23 husband that another man touched you, you know? I didn't know
24 how to tell him.

25 Q Okay. Were you embarrassed?

1 A I was embarrassed. I was humiliated. It was -- it
2 was hard.

3 Q Were you worried about his reaction?

4 A Yeah, I was worried about his reaction. I didn't
5 know what he would do or what he would say or -- I didn't want
6 him to get himself in trouble and go looking for him or
7 anything like that.

8 Q Before I backed you up, you were saying that a nurse
9 -- a nurse came into your hospital room.

10 A Uh-huh.

11 Q Was that a male nurse or a female nurse?

12 A I believe it was a female nurse.

13 Q Did you see the defendant shortly thereafter?

14 A Yeah, she -- she was in there, and then a couple
15 seconds later he walked back into the room.

16 Q Okay. Do you know about what time that was, do you
17 think?

18 A It had to be around 7:00. I couldn't tell you
19 exactly what time.

20 Q Now, did the female nurse know who the defendant
21 was?

22 A No.

23 Q Okay. Who did she think he was?

24 A She had asked at one point if that was my husband.

25 Q And what was his response?

1 A The defendant?

2 Q Yes, the defendant.

3 A He said, no, I was the nurse that took care of her
4 in the ER and I was just up here checking on her.

5 Q Okay. Once you see him again, do you ask the female
6 nurse to get someone else?

7 A Yes.

8 Q And who did you ask her to get?

9 A I asked her to call the cops or to get someone in
10 charge.

11 Q Okay. And what was the -- the defendant's reaction
12 when you -- when you said that?

13 A He just glared at me. He was just like glaring at
14 me.

15 Q Did he leave shortly thereafter?

16 A He left right away.

17 Q And did you see him again after that?

18 A No.

19 Q Did the female nurse who you were speaking to, did
20 she then go get the -- who we'll call the nurse in charge?

21 A She went and got someone.

22 Q And did you speak with that person about the things
23 that had happened to you?

24 A Yes.

25 Q Did she call -- did that -- the woman in charge, the

1 nurse in charge, did she call the police right away?

2 A No.

3 Q Did she talk to you about whether or not you wanted
4 to call the police?

5 A She -- her exact words, which stand out in my head
6 all the time, she said why don't you concentrate on getting
7 better and taking care of yourself, and if this is something
8 you want to pursue later on, then you have every right to
9 pursue it.

10 Q Okay. Did you feel like you were being treated in
11 the way you should have been treated in that situation?

12 A No, I felt like I was being victimized all over
13 again.

14 Q Did you feel like she was taking you seriously?

15 A No, I -- I felt like she didn't take me seriously.

16 Q Okay. Did your husband eventually arrive to the
17 hospital?

18 A Yes.

19 Q And were the police called?

20 A Yes.

21 Q And who made that phone call?

22 A My husband did.

23 Q Shortly after your husband made that phone call, did
24 the police come to the hospital and interview you?

25 A Yes.

1 Q And did you discuss with them what the defendant had
2 done to you?

3 A Yes.

4 Q Did you provide the detectives with the defendant's
5 personal information he had given you?

6 A Yeah.

7 Q And did you give a description of the individual,
8 Mr. Farmer, the defendant?

9 A Yes.

10 Q And do you remember what description you gave?

11 A I just know that I said he had a white beard. He
12 was kind of a shorter stocky guy.

13 Q After you spoke to the detectives, were you taken
14 for what's called a SANE exam?

15 A Yes.

16 Q A sexual assault nurse examination?

17 A Yes.

18 Q And where was that done at?

19 A It was done there in the hospital.

20 Q And can you explain kind of what you have to go
21 through when a sexual assault nurse examination is done you?
22 Are you sitting up, laying down?

23 A I believe I was kind of not laying flat, but I was
24 kind of propped up a little bit. But then they prop your legs
25 up and then they -- they swab you and take pictures and things

1 like that.

2 Q And was that done by a female nurse or a male nurse?

3 A A female nurse.

4 Q Okay. As part of the process, do you also have to
5 tell her what happens -- what happened to you?

6 A Yes.

7 Q Okay. Was any part of that exam painful?

8 A Yes.

9 Q And you said that you have to, you know, spread your
10 legs and then you said a camera was used to take pictures of
11 your vaginal area? Is that a yes?

12 A Yes. It's very humiliating.

13 Q Were you also as part of that process, you know,
14 asked personal questions about the intimacy with your husband?

15 A Yes.

16 Q And did you tell the nurse how long it had been
17 since you and your husband had last had intercourse?

18 A Yes.

19 Q And how long had it been?

20 A I believe it was about 72 hours or maybe a week or
21 something like that. I don't remember exactly.

22 Q After you were done with the sexual assault nurse
23 examination, were you taken to a different part of the
24 hospital where you would stay the remainder of the hospital
25 stay?

1 A Yes.

2 Q And where was that located?

3 A It was in the OB/GYN section.

4 Q So like the maternity ward?

5 A Yes.

6 Q And were you provided with security guards for the

7 remainder of your stay?

8 A Yes.

9 Q And where would they stay in regards to where you

10 were?

11 A Right outside the room.

12 Q Okay. And if someone, you know, that wasn't

13 hospital staff, or correct me, maybe it was hospital staff, as

14 well, but did you have to have a password to enter your room?

15 A Yes.

16 Q In regards to the maternity ward, is there security

17 on that floor? And I don't mean like security guards, but --

18 A It's the only secure area in the hospital.

19 Q And so there's doors that you have to buzz to get

20 in; is that right?

21 A Yes.

22 Q Okay. So you had those doors; correct?

23 A Uh-huh.

24 Q Is that a yes?

25 A Yes.

1 Q Sorry. And then you had a security guard outside
2 your door?

3 A Yes.

4 Q And then individuals had to have a password to get
5 by the security guard?

6 A Yes.

7 Q Were you still feeling fearful, anxious, even with
8 all of that?

9 A Yes.

10 Q Why?

11 A I was afraid he was going to come back.

12 Q Did you express those concerns to hospital staff?

13 A Numerous times, yes.

14 Q And how much longer after -- you got to the hospital
15 on May 15th, and the assault occurs on May 16th. And when do
16 you leave the hospital?

17 A I think I stayed one more night.

18 Q Did you have -- do you remember if you had any more
19 seizures while in the hospital --

20 A I --

21 Q -- after the assault?

22 A I don't remember.

23 Q While you were being treated at the hospital during
24 your hospital stay, did either -- either you or Scott, someone
25 contact the media?

1 A I didn't contact the media, and I don't know if
2 Scott contacted the media.

3 Q Okay. Now, however, during your stay does the media
4 find out what happened and you're there?

5 A Yeah, right away.

6 Q And when you are released from the hospital and you
7 go home, are you contacted by various media personnel?

8 A Yeah, I'm contacted by media and attorneys. I
9 remember when I got home there was like a delivery of flowers
10 sent by some attorney or something like that.

11 Q And were you having issues with not only the media
12 contacting you, but attorneys, as well?

13 A Yes.

14 Q Did this cause you concern not only for you, but for
15 your children?

16 A Yeah, it bothered me a lot because I didn't want my
17 children to find out about it.

18 Q Okay. And so like when you got home, besides the --
19 you know, the -- the flowers that were being sent to you, how
20 were you being contacted? Was it via phone or would they show
21 up at your home? Explain to me.

22 A They would show up, drive by, things of that nature,
23 you know. I don't remember if they showed up at the house or
24 not.

25 Q And did you ultimately contact a civil attorney?

1 A I contacted Neal Hyman. He was a friend of mine and
2 I kind of told him what was going on and how -- you know, how
3 do I get the media to leave me alone. And so he was the one
4 who told me, you know, that if -- that he -- that he can call
5 the media and he can get them off my back if I would just do
6 an interview.

7 Q Okay. Did he discuss with you your rights in regard
8 to -- your civil rights against the hospital?

9 A Yes, he did.

10 Q Okay. And did you ultimately sit down with your
11 attorney and a local news station and do an interview?

12 A Yes.

13 Q And during that interview was your identify hidden?
14 And when I say that, I mean was like your face blocked out --

15 A Yes.

16 Q -- so people could not see who you were?

17 A Yes.

18 Q And now you had -- you had expressed concerns about,
19 you know, the media contacting you, and yet you sat down with
20 the media --

21 A Uh-huh.

22 Q -- for an interview. So can you kind of explain
23 that?

24 A I figured that if I did an interview with them that
25 they would leave me alone. You know, I figured if I gave them

1 what I -- what they wanted, then they would stop. And then if
2 they had any other questions, then they could contact Neal.

3 Q Okay. Neal Hyman, your attorney?

4 A Yes.

5 Q And then ultimately after meeting with Neal, did you
6 make the decision to sue the hospital civilly?

7 A Yes.

8 MS. BLUTH: And we could have the Court's
9 indulgence, Your Honor, for Mr. Maningo and I to approach.

10 THE COURT: Yes.

11 (Sealed bench conference at 10:51 a.m. to 10:56 a.m.;
12 not transcribed herein)*

13 MS. BLUTH: May I continue, Your Honor?

14 THE COURT: Yes.

15 MS. BLUTH: Thank you.

16 BY MS. BLUTH:

17 Q And so we left off ultimately you made this decision
18 to sue the hospital; correct?

19 A Uh-huh.

20 Q Is that a yes?

21 A Yes.

22 Q Okay. And at this point the hospital and you have
23 settled that lawsuit?

24 A Yes.

25 Q And you are under a confidentiality agreement and

1 that amount cannot be said; correct?

2 A Yes.

3 Q Okay. After -- after this assault happens to you,
4 how did you start dealing with your fear and anxiety?

5 A I started seeing a psychologist. I started seeing
6 Dr. Mortillaro. I turned to -- they started prescribing me
7 Xanax for anxiety and Soma to help me rest. But, ultimately,
8 I just wanted to die.

9 Q Okay. Why?

10 A I just didn't know how to deal with it. I -- I
11 mean, I disconnected myself from my husband, my children. I
12 mean, I was at the time married for ten years. I was, you
13 know, very active in the school with them. And I just didn't
14 know how to deal with it. I'd have nightmares.

15 Q What would you see in your nightmares?

16 A Well, one of -- one of the things that I would see
17 is -- is the -- the door and the curtain. I couldn't --

18 MR. MANINGO: Objection, Your Honor. Relevance.

19 THE COURT: Overruled.

20 BY MS. BLUTH:

21 Q That you were in the curtain?

22 A I couldn't sleep with -- even if the closet door was
23 open a little bit. I couldn't sleep with any door open. I
24 couldn't sleep. I just -- just wanted to die. I mean, at one
25 point I took a bottle of Xanax. I took 120 Xanax and I was

1 life support. I just didn't know how to deal with it.

2 Q Okay. Did you work with individuals at the Rape
3 Crisis Center to deal with some of these things that you were
4 going through?

5 A Yeah, I -- I had a very good -- I used to Jane all
6 the time.

7 Q Jean?

8 A Jean, yeah.

9 Q Okay.

10 A She was -- I mean, I called her all the time. I
11 mean, there were times I called her three and four times a
12 week and I would talk to her for hours, you know. She was --
13 she was my support group. I -- she was the only one that I
14 could talk to. I couldn't talk to my husband, I couldn't talk
15 to my, you know, family. You know, I would tell them bits and
16 pieces, but I didn't know how -- how else to talk to them.

17 Q Okay. Jean, she's an employee of the Rape Crisis
18 Center?

19 A Yeah, she's a counselor, I believe.

20 Q And do you still talk to her today?

21 A I do.

22 MR. MANINGO: Objection, Your Honor. Relevance.

23 THE COURT: Do you wish to be heard on that
24 objection?

25 MS. BLUTH: I do.

1 THE COURT: Okay.

2 MS. BLUTH: I think it -- first of all, it's
3 relevant and goes to as her state of mind even today as she's
4 sitting here, and it goes to a lot of the similar things we
5 discussed yesterday, which I can approach and discuss more if
6 Your Honor would like.

7 THE COURT: Okay. You need to lay a better
8 foundation as to the time frame we're talking about.

9 MS. BLUTH: Okay. Sure.

10 BY MS. BLUTH:

11 Q You said --

12 THE COURT: It's overruled at the present time.

13 MS. BLUTH: Sure.

14 BY MS. BLUTH:

15 Q You said, you know, shortly this happened -- after
16 this happened you began speaking to Jean at the Rape Crisis
17 Center; correct?

18 A Yes, immediately afterwards.

19 Q And are you -- do you still contact Jean for -- for
20 help with dealing with things today during these present
21 times?

22 A Yes.

23 Q And why do you do that?

24 A Sometimes I just have really bad days and I need
25 someone to talk to and I call her and I talk to her.

1 Q And when was the last time you spoke to her?

2 A I talked to her yesterday, yesterday or the day
3 before yesterday.

4 MR. MANINGO: Objection, Your Honor. Relevance.

5 THE COURT: Overruled. Move on, though.

6 MS. BLUTH: Yes, Your Honor. Your Honor, just as
7 far as the foundational question, I forgot to ask the numbers
8 in which she reaches Gayle.

9 THE COURT: All right.

10 BY MS. BLUTH:

11 Q Just the first three numbers when you call the Rape
12 Crisis Center, what numbers are those?

13 A I couldn't tell you.

14 Q Do you have it -- is it programmed in your phone or
15 would you be able to get me that information? And you don't
16 have to do it right now.

17 A Yeah.

18 Q We're going to take a recess sometime soon.

19 A Yeah, I would be able to get it for you.

20 Q Okay. In regards to the things that Steven Farmer
21 did to you in the early, you know, morning hours of May 16,
22 2008, did you want him to do any of those things to you?

23 A No.

24 MS. BLUTH: Court's indulgence, Your Honor.

25 Thank you, Roxanne.

1 I'll pass the witness.

2 THE COURT: Cross.

3 MR. MANINGO: Yes, Your Honor. Thank you.

4 CROSS-EXAMINATION

5 BY MR. MANINGO:

6 Q Ms. Cagnina, my name is Jeff Maningo. I'm going to
7 ask you some questions, okay?

8 A Okay.

9 Q I'm going to do my best to keep the questions clear
10 for you. But if you -- if you're not sure or you don't
11 understand, let me know, okay?

12 A Okay

13 Q All right. After the incident at the hospital in
14 May of 2008, you filed a civil law suit against Centennial
15 Hills; correct?

16 A Yes.

17 Q Okay. And in that civil lawsuit you were seeking
18 money damages; correct?

19 A Yes.

20 Q Okay. And as you've stated, you have already
21 settled that case?

22 A That's correct.

23 Q Okay. And you've received money for that?

24 A Yes.

25 Q Okay. Now, you had testified that -- that after the

1 -- the incident in 2008 that the media was -- that they were
2 bothering you; correct?

3 A Yes.

4 Q Okay. And that you did not contact the media; is
5 that correct?

6 A No, I didn't contact the media.

7 Q Okay.

8 MR. MANINGO: May I approach?

9 THE COURT: Yes.

10 MR. MANINGO: All right.

11 BY MR. MANINGO:

12 Q What I'm showing you is a document. It's a
13 verification of authenticity of AT&T records, phone records.
14 Could you tell me, is that the cell phone number on the front?

15 A My cell phone number.

16 Q Is that the one that you had in May of 2008?

17 A Yes.

18 Q Okay. Thanks. And what I'm showing you here is a
19 listing of phone records; is that correct?

20 A Okay.

21 Q Okay. Now, going back to the question of -- of --
22 that you did not contact the media -- you know, I should
23 actually leave these with you.

24 MR. MANINGO: May I approach again?

25 THE COURT: Yes.

1 BY MR. MANINGO:

2 Q And you can look through here and I've highlighted
3 for you.

4 A Okay.

5 Q I'm sorry. There you go. This one.

6 A Okay.

7 Q Highlighted the dates and times for you, so if you
8 need to look at those. But these are the records from your
9 cell phone as of May of 2008.

10 A Okay.

11 Q Which you've already stated; correct?

12 A Yes.

13 Q Okay. And if you look at May 17th at 6:16 p.m., a
14 call from your cell phone to Channel 8 News that lasted for
15 one minute. Do you remember that?

16 A No.

17 Q Okay.

18 A I don't remember that.

19 Q Okay. And then, again, another call at 6:16 p.m.
20 made from your cell phone number --

21 A Uh-huh.

22 Q -- again to Channel 8 News that lasted three
23 minutes.

24 A Okay.

25 Q And then at 6:53 p.m., another call made from your

1 cell phone to Channel 8 News which lasted for 11 minutes.

2 A Okay.

3 Q Then on the following day, another phone call from
4 your cell phone number, once again to Channel 8 News, lasting
5 one minute.

6 A Okay.

7 Q Then we'll skip ahead past Saturday and May 17th of
8 -- of '08 to Sunday, May 18th of '08.

9 A Okay.

10 Q At 12:15 a.m., which is just after midnight, a
11 two-minute phone call from your cell phone to Channel 8 News.

12 A Okay.

13 Q 12:18, another call from your cell phone to Channel
14 8 News.

15 A Okay.

16 Q 12:19, another phone call from your cell phone to
17 Channel 8 News lasting one minute.

18 A Okay.

19 Q At 12:43, once again, a phone call from your cell
20 phone to Channel 8 News lasting one minute.

21 A Okay.

22 Q And at 12:43, again, a second phone call within the
23 same minute to Channel 8 News from your cell phone number;
24 correct?

25 A Okay.

1 Q Okay. But you didn't contact the media?

2 A No.

3 Q Okay.

4 A It could have been my husband.

5 Q Okay. Now, you also stated that -- that after this
6 incident had happened, the media was bothering you and so --
7 and -- and there were also attorneys who were -- who were
8 coming to you.

9 A Uh-huh. Yes.

10 Q Thank you. And in an effort to keep the media away,
11 you contacted one of your friends, Neal Hyman?

12 A Uh-huh. Yes.

13 Q Thank you. How long after with all the media
14 bothering you and all of that did it -- until you --

15 A I -- I couldn't tell you exactly the time frame of
16 when.

17 Q Okay. Let me help you out. We have that on your
18 phone records, as well. It was actually the first Monday
19 after you got out of the hospital. You were discharged from
20 the hospital on Saturday, May 17th of '08; is that correct?

21 A Okay.

22 Q And on Monday, May 19th of 2008, 12:41 p.m., phone
23 call made from your cell phone number to the phone number for
24 attorney Neal Hyman.

25 MS. BLUTH: Objection. Assumes facts not in

1 evidence.

2 THE COURT: Sustained.

3 BY MR. MANINGO:

4 Q A phone call made from your cell phone number to the
5 number 939-5234; correct?

6 A Yes.

7 Q Okay. Do you recognize that phone number 939-5234
8 as the phone number for Neal Hyman, attorney?

9 A Yes.

10 Q Okay. That phone call lasted for one minutes; is
11 that correct?

12 A That's correct.

13 Q Okay. And then at 2:33 p.m., once again a phone
14 call from your number to the phone number for attorney Neal
15 Hyman; correct?

16 A That's correct.

17 Q Okay. And then once again at 2:34, a minute later,
18 another phone call from your cell phone to Neal Hyman.

19 A Okay.

20 Q Correct? Lasting four minutes?

21 A Okay. I knew Neal before.

22 Q There's no -- there's no question pending, Ms.
23 Cagnina.

24 A Oh, okay.

25 Q I'm sorry.

1 A I'm sorry.

2 Q I don't mean to be rude, it's just the way the --

3 A All right.

4 Q -- whole process kind of goes. Since you -- since
5 you were starting to touch on that, I think, though, we'll go
6 ahead and talk about it. You knew Neal Hyman from before May
7 of 2008; correct?

8 A Yes.

9 Q Okay. You had previously worked at a place called
10 Adams Pools?

11 A Yes.

12 Q Okay.

13 MS. BLUTH: Your Honor, objection. May we approach?

14 THE COURT: Yes.

15 (Bench conference)

16 MS. BLUTH: Jacqueline Bluth. I -- this is kind of
17 one of the things where we did that motion in limine for and I
18 should have notated this one, as well, but I can tell where
19 Mr. Maningo is going. She was -- after falling and having a
20 seizure at work, she was terminated shortly thereafter, and so
21 -- and I don't -- he might know more than I do. I don't know
22 if she consulted about a lawsuit or sued them, but, I mean,
23 he's trying to make her look like she's overly litigious, and
24 I don't know how that's --

25 THE COURT: If she was terminated after falling at

1 work and filing a worker's compensation claim, that would be a
2 wrongful termination suit and [inaudible]. So I'm not going
3 to let you go there if you don't know.

4 MR. MANINGO: There's not --

5 THE COURT: What are you -- where are you going with
6 this?

7 MR. MANINGO: Where I'm going -- where I'm going is
8 that she was fired. She claims that it was because she had a
9 seizure. They claim it was because she didn't do it right.
10 She contacted Neal Hyman, which is how she knows Neal Hyman,
11 and filed a suit.

12 THE COURT: No. No. That's -- that's like opening
13 the floodgates to trying to try another lawsuit. I'm not
14 going to let you try this --

15 MR. MANINGO: To do what?

16 THE COURT: To try another lawsuit within this case.
17 It opens up a can of works. I'm not going to have that.

18 MR. MANINGO: We're allowed -- the State is allowed
19 to talk about everything that these people do afterwards for
20 years and years and years about Rape Crisis Center and
21 everything else, but we can't talk about the fact that she's
22 -- that she's making claims and using the same lawyer and
23 saying that Neal Hyman is just a friend.

24 MS. BLUTH: She's saying to speak up a little bit.
25 I'm sorry.

1 MR. MANINGO: I don't even know -- I don't even know
2 what the objection is.

3 MS. BLUTH: The objection is relevance, and it's
4 also trying to impugn her character. It's trying to say she's
5 overly litigious, she did it then, she's doing it now.

6 THE COURT: Well, I suppose you could argue that
7 filing a lawsuit is somehow a bad act, but I -- I don't -- I
8 mean, I think you are trying to spin it that way.

9 MR. MANINGO: I --

10 THE COURT: I'm not -- I think it's not relevant to
11 this lawsuit that she had filed a previous lawsuit. It's just
12 not relevant to this case.

13 MR. MANINGO: Okay. I won't mention the -- that
14 claim.

15 THE COURT: All right.

16 (End of bench conference)

17 BY MR. MANINGO:

18 Q Ms. Cagnina, you had previously worked at Adams
19 Pools; correct?

20 A Yes.

21 Q Okay. And you were fired from Adams Pools?

22 A Yes.

23 Q Okay. At some point around that time you became
24 associated with Neal Hyman?

25 A Before that.

1 Q Okay.

2 A Long before that.

3 Q After speaking with -- with Neal Hyman regarding a
4 civil matter in this case, you also told him that you wanted
5 the media to leave you alone?

6 A I just didn't want them to bother me. I didn't want
7 my children to find out about it.

8 Q So -- so --

9 A I didn't care that the media found out about it. I
10 just didn't want my children to find out about it through the
11 media.

12 Q Okay. I'll reask the question, Ms. Cagnina. You
13 wanted the media to leave you alone; correct?

14 A I wanted the children -- I wanted the media to leave
15 me alone so that my children would not find out about it.

16 Q Okay.

17 A I didn't care if the media found out about it.

18 Q Okay. So -- so what you did, then, was you actually
19 go on television with your lawyer; correct?

20 A That is correct.

21 Q Okay. And you appear on the news and you're -- and
22 you're sitting there with Mr. Hyman, your attorney?

23 A Yes.

24 Q Okay. And you do an interview on the television;
25 correct?

1 A That's correct.

2 Q Okay. And you ask for other people to come forward
3 who have been victimized; correct?

4 A Yes.

5 Q Okay. And to the best of your knowledge, no one
6 else had appeared on the news making complaints about Mr.
7 Farmer or Centennial Hills; correct?

8 A I don't know how many people came forward
9 afterwards, but I --

10 Q No, no. That wasn't my question. I said to the
11 best of your knowledge, no one before you had gone on the news
12 about Mr. Farmer or Centennial Hills?

13 A No, I never heard anything.

14 Q Okay. So you were the first one as far as you know?

15 A Yes.

16 Q Okay. Now, you had stated that after this event you
17 began to see a psychologist; correct?

18 A Yes.

19 Q Okay. And that psychologist was recommended to you,
20 referred to you by your attorney Neal Hyman; correct?

21 A I don't remember who referred him to me. All -- all
22 I know, I believe my -- my husband had seen him. I don't
23 remember who recommended him to me, but I know that he was one
24 of the best.

25 Q That's okay. I didn't ask about the --

1 A Okay. I --
2 Q -- psychologist, just about --
3 A I just --
4 Q -- the referral.
5 A I don't remember who referred him to me.
6 Q Okay.
7 A I just needed to --
8 Q That's okay.
9 A -- find someone to talk to --
10 Q Okay.
11 A -- and that's who I talked to.
12 Q Okay. And you said that they had started
13 prescribing Xanax and Soma; correct?
14 A Not Dr. Mortillaro.
15 Q Okay. But at that point?
16 A Yes.
17 Q Okay. Truth is, though, that you were actually
18 prescribed the Xanax before May of 2008; correct?
19 A Yeah, I was prescribed, you know, medication before
20 then.
21 Q Yeah, I'm -- I'm -- what I'm asking you is you were
22 prescribed the Xanax before any incident at Centennial Hills;
23 correct?
24 A Yes.
25 Q Okay. So when you were testifying a few minutes ago

1 with Ms. Bluth, you had said that it was after this event that
2 they started prescribing the Xanax and the Soma. The Xanax
3 was prescribed long before then.

4 A It was, yes.

5 Q Okay.

6 A But I didn't --

7 Q In fact, years before --

8 A Yes.

9 Q -- May 2008?

10 A But I didn't start abusing it until afterwards.

11 Q Okay.

12 MR. MANINGO: Well, I'm going to ask that that be
13 stricken as nonresponsive and ask the Court to please admonish
14 the witness to answer the questions and not give narratives.

15 THE WITNESS: I'm sorry?

16 THE COURT: All right. Just answer his question --

17 THE WITNESS: Okay.

18 THE COURT: -- the best you can --

19 THE WITNESS: I'm sorry.

20 THE COURT: -- without volunteering information.

21 THE WITNESS: I'm sorry.

22 THE COURT: All right.

23 MR. MANINGO: Thank you.

24 BY MR. MANINGO:

25 Q Now, before the incident on -- in May of 2008, you

1 were taking -- or I should say you were prescribed Xanax and
2 also the Phenobarbital for seizures?

3 A Uh-huh. Yes. And Dilantin.

4 Q And the Dilantin which is also a seizure medication?

5 A Uh-huh.

6 Q Okay. Now, you had mentioned abusing the -- the
7 Xanax and the Soma; correct?

8 A Yes.

9 Q Okay. As well as alcohol; correct?

10 A Yes.

11 Q Okay. And, in fact, you spent time in a recovery
12 center because of your prescription medication and alcohol?

13 A Yes, Las Vegas Recovery Center.

14 Q And, in fact, you have made three stops there,
15 correct, or three different stays at the recovery center?

16 A For my recollection I was only there once. I stayed
17 there for a month.

18 Q Okay. You stayed there for a month?

19 A For a month.

20 Q Okay.

21 A And that was after the rape.

22 Q Okay. There wasn't a question pending.

23 A Oh, I'm sorry.

24 Q It's okay. Now, let's talk about May 15th of 2008.

25 Oh, I'm sorry. I skipped ahead. I need to ask you about

1 those medications. The Phenobarbital, you understand that's a
2 barbiturate; correct?

3 A Yes.

4 Q Which is like a sedative; correct?

5 A Yeah.

6 Q Okay. And it helps with your seizures?

7 A Yes.

8 Q Okay. And you were prescribed to take two -- two of
9 the tablets per day; correct?

10 A Yes.

11 Q Okay.

12 A It's --

13 Q And I'm talking about before May of --

14 A It's always varied whether it's two or three. It's
15 always varied.

16 Q Do you have to check your levels?

17 A Yes, it's always varied.

18 Q Okay. Okay. And then the -- the Xanax that you
19 were prescribed before May of 2008, that's an anti-anxiety --

20 A Uh-huh.

21 Q -- medication? Okay. And there was a lot of
22 discussion on direct examination about seeing a psychologist
23 after this incident; right?

24 A Yes.

25 Q Okay. You actually suffered from depression before

1 May of 2008; correct?

2 A No.

3 Q You had never seen a psychologist for postpartum
4 depression?

5 A After I had my children I went through, you know --
6 right after I had my children I saw someone right afterwards.

7 Q Right, for postpartum depression?

8 A Yes.

9 Q Okay.

10 A But --

11 Q Okay.

12 A -- I didn't see him very long. I see him maybe a
13 couple of months or so like that.

14 Q Okay.

15 A But I was never depressed --

16 Q Okay. So you --

17 A -- other than --

18 Q Okay. So -- so you went and saw someone for
19 postpartum depression, but you were never depressed?

20 A I had two children shortly right after each other,
21 so I was seeing someone for that.

22 Q Okay.

23 A But it wasn't a depression where --

24 Q That's okay.

25 A -- I wanted --

1 Q We've already --
2 A -- to commit suicide.
3 Q We've already -- now, on May 15th of 2008 you were
4 brought into the emergency room; correct?
5 A Yes.
6 Q Okay. And that was because you had suffered a
7 seizure?
8 A Yes.
9 Q Okay. At that time you're given Cerebyx, a seizure
10 mediation?
11 A I don't know.
12 Q Okay. You were given Ativan?
13 A Ativan, yes.
14 Q Okay. And that's an anxiety medication?
15 A Uh-huh. Yes.
16 Q Okay. You were given more Phenobarbital?
17 A Yes.
18 Q Okay. You were also given morphine; correct?
19 A Yes.
20 Q Okay. And morphine you know is a narcotic pain
21 medication?
22 A Yes.
23 Q Okay. You were also given Dilaudid; correct?
24 A I believe so. I don't know.
25 Q Okay. You know that Dilaudid is also a narcotic

1 pain medication?

2 A Okay.

3 Q Yes?

4 A I didn't know that, but I didn't know what I was
5 given.

6 Q Oh, okay.

7 A So --

8 Q Do you remember being in the hospital and telling
9 your nurses that you need both the morphine and the Dilaudid
10 because they work good together?

11 A No.

12 Q Okay. You don't remember the nurses having any
13 concerns about your request for more pain medication?

14 A No.

15 Q Okay. You don't remember that you were given
16 Dilaudid about, let's see, five times on the 16th?

17 A I don't remember.

18 Q Okay. And along with the Dilaudid you were given
19 morphine twice on that same day?

20 A I don't remember.

21 Q Okay. Whatever they gave me, I just figured they
22 knew what they were doing.

23 Q Okay. Now, except for when you asked for both the
24 morphine and the Dilaudid together because they work good
25 together?

1 A I don't remember asking that.

2 Q Okay. So if the -- if the nurses had stated that in
3 their report, then did they get it wrong?

4 A I don't remember asking them that.

5 Q Okay.

6 A I couldn't tell you whether I did; I couldn't tell
7 you whether I didn't.

8 Q Okay.

9 A I don't remember.

10 Q Yes, ma'am. Thank you. Now, when you're -- when
11 you're brought into the ER, you're -- you're being attended to
12 by Mr. Farmer; correct?

13 A Yes.

14 Q Okay. You're also being attended to by a nurse by
15 the name of Karen Goodhart?

16 A I remember a female nurse, yes.

17 Q Okay. Okay. And both of them gave you really great
18 service; correct?

19 A Both of them gave me really good service, but I saw
20 Mr. Farmer 90 percent of the time that I was in there.

21 Q Okay. So the answer, then, is yes, they both did?

22 A Yes.

23 Q Okay.

24 A At that point I thought that they were giving me
25 great service.

1 Q Okay. And, in fact, you asked that -- let me
2 restate that. You told Ms. Goodhart, the nurse, and Mr.
3 Farmer that you wanted to write down letters of -- letters of
4 commendation.

5 A Yes, I did.

6 Q Okay. And in order to do that you wanted their --
7 their names and their phone numbers?

8 A Yeah, I wanted -- I thought --

9 Q Okay.

10 A -- that it was great. I thought everything they did
11 was great. I had been in many hospitals. I was being taken
12 care of very well at that point.

13 Q Yes, ma'am. Thank you. And so you were able to get
14 Mr. Farmer's name and phone number; correct?

15 A Yes.

16 Q Okay. And he gave you his -- his real name;
17 correct?

18 A I don't remember looking at it or reading it. I
19 just remember putting it in my purse.

20 Q Okay. You actually wrote the information down on
21 your checkbook; correct?

22 A I don't remember where I put it, but I remember both
23 of them giving me their information and just putting it in my
24 purse.

25 Q Okay. So you don't remember that you wrote down Mr.

1 Farmer's information on your checkbook?

2 A I just remember them giving it to me and putting it
3 in my purse. I don't know where it was written or where it
4 was. I just remember getting it and putting it in my purse.

5 Q Okay.

6 A I couldn't tell you where it was written or who
7 wrote it or anything like that.

8 Q Okay. The police actually took your checkbook --

9 A Okay.

10 Q -- with that information; correct?

11 A They took the information.

12 Q Yes. And you don't remember that that was your
13 checkbook?

14 MS. BLUTH: Objection. Asked and answered.

15 THE COURT: Sustained.

16 THE WITNESS: I don't remember --

17 THE COURT: Ma'am, I sustained the objection.

18 THE WITNESS: Oh, okay.

19 THE COURT: Don't answer.

20 BY MR. MANINGO:

21 Q And where did you write Nurse Goodhart's
22 information?

23 A She gave it to me on a piece of paper.

24 Q Okay. And you never produced that for the police,
25 did you?

1 A I don't know if I gave it to the police or not. All
2 I remember is putting it in my purse and that was it.

3 Q Okay. You did a voluntary statement for the -- the
4 police department; correct?

5 A Yes.

6 Q Okay. And you also testified under oath at a
7 preliminary hearing; correct?

8 A Yes.

9 Q Okay. And you also testified under oath at a
10 deposition regarding this case for the civil matter?

11 A Yes.

12 Q Okay. And do you remember being asked in all three
13 of those instances if you have Ms. Goodhart's information?

14 A I don't remember.

15 Q Okay. And you don't remember telling all three of
16 them that you'll find it later?

17 A I don't remember.

18 Q Okay.

19 A It's been a long time.

20 Q Sure.

21 A I don't --

22 Q You've answered --

23 A -- remember.

24 Q -- the question. Thank you. Now, while you're in
25 the -- the emergency room, do you remember how long you're

1 there?

2 A No.

3 Q Okay. You're transported from the emergency room up
4 to the seventh floor at around 3:00 in the morning; correct?

5 A I -- I guess so. I don't remember what time.

6 Q Okay.

7 A I know it was early morning.

8 Q Okay.

9 A So --

10 Q Let's -- let's just clear some of this up.

11 MR. MANINGO: Your Honor, may I approach?

12 THE COURT: Yes.

13 MR. MANINGO: What I'm handing the witness is her
14 voluntary statement that she gave to the police department.

15 BY MR. MANINGO:

16 Q And I marked that with a Roman numeral one in the
17 top right corner. Here is your preliminary hearing transcript
18 which I've marked with a Roman numeral two.

19 A Okay.

20 Q And then this is the deposition that you testified
21 in.

22 A Okay.

23 THE COURT: Mr. Maningo, can we have the dates of
24 those?

25 MR. MANINGO: Oh, I'm sorry.

1 THE COURT: Thanks.

2 MR. MANINGO: Yes, the deposition, which is marked
3 with a Roman numeral three is Wednesday, September 30, 2009.
4 The preliminary hearing transcript, or preliminary hearing,
5 I'm sorry, was held on Tuesday, July 1, 2008.

6 BY MR. MANINGO:

7 Q And then could you flip to the front page of that
8 for me so I can just see the date?

9 A This one?

10 Q Yeah. Thanks.

11 MR. MANINGO: And the voluntary statement given on
12 May 16, 2008.

13 THE COURT: Thank you.

14 MR. MANINGO: Thank you.

15 BY MR. MANINGO:

16 Q I'm just leaving those up here for you -- for your
17 reference. Now, the question was when were you transferred up
18 to -- from the ER up to the seventh floor. If you could take
19 a look at page 2 of your -- of your voluntary statement,
20 that's Roman numeral one. And about midway through you state
21 to the police in your statement, he was transporting me to my
22 room and it was -- I think it was around 3:00.

23 A Okay.

24 Q Is that correct?

25 A Yes.

1 Q Okay.

2 A I said I think it was around, so I -- I think.

3 Q Yes.

4 A Okay.

5 Q That's what you said.

6 A Yes.

7 Q Okay. So it's about 3:00 in the morning. And at
8 this point you're in the elevator; correct?

9 A Yes.

10 Q Okay. You testified that there was another person
11 in the elevator with you.

12 A Uh-huh.

13 Q Yes?

14 A Yes.

15 Q Okay. Mr. Farmer didn't do anything while that
16 other person was in the elevator; correct?

17 A No.

18 Q Okay. You stated that the other person had gotten
19 off the elevator at some point?

20 A Yes.

21 Q Okay. But when you spoke to police in your
22 voluntary statement, and I'm looking at page 5, you were asked
23 the question where were you getting -- when you were getting
24 off the elevator, where did the other nurse go? And you
25 stated I think she went the opposite direction. Top of

1 page 5.

2 A Well --

3 Q That's what you stated; correct?

4 A That's what I stated.

5 Q Thank you.

6 A But I --

7 Q You've answered the question. Thank you. You also

8 said that while you were on the elevator you had your -- your

9 knees popped upward towards you; correct? Actually, I'm

10 sorry. Let me go back. What you said today was that you had

11 your legs down and you were tucking the blankets underneath.

12 A Yes.

13 Q Okay. But when you spoke to police you said that

14 you had your knees propped up, help up in an upward fashion.

15 A Okay.

16 Q I don't want you to take my word for it. We can

17 look at page 3 of your -- of your voluntary statement. And

18 you stated that -- and the officer said, so you had your knees

19 propped? And you said, yeah, I had my knees propped, if I'm

20 not mistaken; correct?

21 A Yeah.

22 Q Okay.

23 A But I -- I remember my legs being down.

24 Q I know. Ms. Cagnina --

25 A I said --

1 Q -- I was asking you if that was your statement
2 that --
3 A Yeah.
4 Q -- you made to police.
5 A I said -- I said --
6 Q Yes?
7 A -- if I'm not mistaken.
8 Q Right.
9 A So it wasn't a direct answer.
10 Q Okay. At no time on the elevator did Mr. Farmer
11 make any threats to you; correct?
12 A No.
13 Q Okay. And he never -- he never said that he was
14 going to hurt you or -- or anything like that; correct?
15 A No, he just kept telling me to relax.
16 Q Okay. Okay. When you got off the elevator, did you
17 see a nursing station?
18 A All I can remember is when I got off is that the
19 hospital looked deserted. That's one of the things that I --
20 stand out in my mind. I felt like it was just a deserted
21 hospital.
22 Q Okay. My question was when you got off the elevator
23 did you see a nursing station?
24 A I -- I don't know. I believe I did, but I don't
25 believe that there was anyone at the nurse's station.

1 Q Okay. And in your -- your deposition, the one I
2 marked with a No. 3 --

3 A Uh-huh.

4 Q -- if you're not sure you can look at page 145 where
5 you stated that you remember seeing a nurse's station.

6 A Like I said, I believe I may have saw a nurse's
7 station.

8 Q Okay.

9 A But I don't remember seeing anyone there.

10 Q Okay. Once you get off the elevator, you're taken
11 to the -- the room where you were at; correct?

12 A Yes.

13 Q Okay. And you had said in a previous statement that
14 you believe the -- that the assault took approximately 15
15 minutes.

16 A It seemed like a lifetime. I couldn't tell you
17 exact.

18 Q Yes.

19 A The time I estimated, you know, but I couldn't tell
20 you how many seconds, how many minutes. It just seemed like a
21 lifetime.

22 Q Okay. And you've also said that before, correct,
23 that it seemed like a lifetime?

24 A Yes.

25 Q Okay. You used those exact words before; correct?

1 Yes?

2 A I believe so.

3 Q Okay. Do you remember what room you were taken
4 into?

5 A No.

6 Q At this point you're wearing a hospital gown, yes?

7 A Yes.

8 Q Okay. And you don't have your -- any undergarments
9 on; correct?

10 A That's correct.

11 Q Okay. Now, Mr. Farmer is not the person who changed
12 you; correct?

13 A I couldn't tell you whether he did or he didn't.

14 Q Okay. You were picked up by ambulance; correct?

15 A Yes.

16 Q Okay. And at that point when you were picked up by
17 ambulance, were you in the middle of a seizure or having just
18 had one?

19 A I had just had one.

20 Q Okay. When you have a seizure, do you lose some --
21 some memory, some time?

22 A Yes, but you get it back.

23 Q Okay. Okay. You don't remember, though, at what
24 point you were -- your clothes were changed?

25 A No, I don't know who changed them.

1 Q Okay. Okay. But it was done before you were
2 transported up to your room?

3 A Yes.

4 Q Okay. All right.

5 MR. MANINGO: Court's indulgence.

6 BY MR. MANINGO:

7 Q When you get off the elevator and you're transported
8 to your room, Mr. Farmer still hasn't made any threats to you;
9 correct?

10 A What do you mean threats?

11 Q He hasn't made any threats --

12 A Verbal threats?

13 Q Any verbal threats, yes.

14 A No.

15 Q Okay. And when you're in the room, can you describe
16 what the setup of the room was?

17 A I couldn't tell you what the setup of the room is.

18 Q Okay. Why not?

19 A I couldn't tell you which way my bed was set. I --
20 I --

21 Q Okay.

22 A I just -- I just couldn't tell you.

23 Q Can you tell me how many beds were in the room?

24 A One.

25 Q Okay. Was there a nightstand, like an end table or

1 anything like that on either side of your bed?

2 A I couldn't tell you.

3 Q Okay.

4 A I couldn't -- I couldn't tell you. I just couldn't

5 tell you --

6 Q Okay.

7 A -- which direction the bed was. All I can tell you

8 is that I couldn't reach the call button.

9 Q Okay.

10 A And --

11 Q Where was the call button?

12 A Behind me on the wall.

13 Q Okay. And where was your bed in relation to that?

14 A In front of it.

15 Q Okay. Against the wall?

16 A I don't know if it was against the wall.

17 Q Okay. And you don't remember whether or not there

18 was a telephone in the room?

19 A I don't -- I don't remember.

20 Q Okay. Was there a bathroom in the room?

21 A Yes.

22 Q Okay. When you came in were the lights on?

23 A I believe so.

24 Q Okay. Now, we were -- we were discussing a few

25 moments ago about how long it was, whether it was 15 minutes

1 or not.

2 A Uh-huh.

3 Q And you told the police that it was 15 minutes on
4 page 15 of your voluntary statement, that's the one marked
5 with a No. 1.

6 A Did I say it was 15 minutes or approximately 15
7 minutes?

8 Q You said it was 15 minutes. The police officer said
9 it was about 15, so he was in the room with you about 15, all
10 of this occurred over a period of 15 minutes.

11 A Assault was --

12 Q And your answer is "uh-huh."

13 MS. BLUTH: And, Your Honor, I'm going to object
14 because the transcript actually shows inaudible. It's -- like
15 15 minutes. So she said a word that was inaudible between
16 "it's" and "15 minutes." So it could have been approximately.
17 So I just want the record to clearly reflect.

18 MR. MANINGO: Well, I don't think that's
19 objectionable. I didn't misread it by any means. And the
20 witness has it in front of her. What it says is time it was
21 that he left the room. Ms. Cagnina's answer is it was 15
22 minutes. And then I read what the police officer followed up
23 with, which was to clarify all this occurred over a period of
24 15 minutes. And --

25 THE COURT: Was there a blank in any of that that

1 you read?

2 MS. BLUTH: Yes.

3 MR. MANINGO: Yes, there's a blank, there's a dash,
4 and what the police officers read.

5 MS. BLUTH: The answer is, "it was", blank, which is
6 an inaudible, and then "15 minutes", which means that there
7 was a word that the transcriptionist could not decipher

8 MR. MANINGO: And the underneath it says "it was
9 15", dash, "so."

10 THE COURT: All right. This transcript is not in
11 evidence, let me remind you.

12 MR. MANINGO: No. I'm asking the witness. Okay.

13 THE WITNESS: I don't know how long he was in there.

14 BY MR. MANINGO:

15 Q That's not my question. My question is when you
16 spoke to police you said that it was about 15 minutes.

17 A It could --

18 Q Yes?

19 A -- have been -- it could have been 5 minutes, 10
20 minutes --

21 Q Okay. That's --

22 A -- 15 minutes.

23 Q -- not what I'm asking.

24 A I don't --

25 Q I'll reask the question --

1 A I don't know --

2 Q -- Ms. Cagnina.

3 A -- how long he was in there.

4 Q I'll reask the question, okay. The question is when

5 you spoke to police you told them that it was about 15

6 minutes; correct? And you can look at page 15 if you're not

7 sure. And it doesn't say the word "about."

8 A The pages aren't numbered, so --

9 Q It should be.

10 MR. MANINGO: May I approach?

11 THE COURT: Yes.

12 BY MR. MANINGO:

13 Q It should say up at the top in the center page 15.

14 Right there.

15 A Right here?

16 Q Hold on one second. Okay. Hang on. Do you see

17 what I'm talking about now?

18 A It was, blank, 15 minutes.

19 Q Right.

20 A It was about 15 minutes --

21 Q Right.

22 A -- he was in the room. All occurred over this

23 period of time and I --

24 Q So -- so that is what you told police; correct?

25 A Yeah.

1 Q Okay. Because --
2 A I don't know if it was 15 minutes. I was estimating
3 it was --
4 Q Ma'am, I'm sorry. That's --
5 A Okay.
6 Q That wasn't --
7 A So--
8 Q That wasn't the --
9 A -- yeah, that's --
10 Q --the question.
11 A -- what I told the cops.
12 Q Thank you.
13 A I had --
14 Q Thank you.
15 A -- no clock.
16 Q And that answers --
17 A So I don't know --
18 Q -- the question.
19 A -- long he was in there.
20 MR. MANINGO: Objection. This is all nonresponsive.
21 The witness --
22 THE COURT: Overruled.
23 MR. MANINGO: -- wants to add --
24 THE COURT: I'm not going to strike it. It's
25 responsive to your question. Move on.

1 BY MR. MANINGO:

2 Q Now, after those 15 minutes, approximately 15
3 minutes, maybe 10 minutes, maybe 20 minutes, Mr. Farmer left;
4 correct?

5 A Yes.

6 Q Okay. What happened then? What did you do then?

7 A I saw there. I froze. I didn't move.

8 Q Okay. For -- for approximately how long, do you
9 know?

10 A I don't know.

11 Q Okay.

12 A I just stayed quiet. I froze.

13 Q Okay.

14 A I was afraid he was outside my room. I was afraid
15 he was going to come back in.

16 Q Okay.

17 A I was in shock.

18 Q Did you fall asleep?

19 A I was trying to stay awake, but I don't know if I
20 fell asleep.

21 Q You don't know if you fell asleep. Do you know when
22 the -- when the -- when you spoke to a nurse?

23 A All I remember is the first nurse that I saw I was
24 hysterical. I was crying, I was screaming, I was hollering.

25 Q Uh-huh.

1 A I wanted the cops, I --

2 Q Do you know -- do you know what -- about what time

3 that was?

4 A I don't know.

5 Q Okay. Do you know if -- does your room have a

6 window in it?

7 A I don't know.

8 Q Okay.

9 A I wasn't focused on the window.

10 Q Do you know if the sun was up?

11 A It didn't -- I couldn't even tell you.

12 Q No idea?

13 A No idea. I was hysterical, I was in shock.

14 Q Okay.

15 A I had just been raped.

16 Q Got it.

17 A It's hard to focus on the sun and everything else.

18 Q You didn't notice if it was -- it was light out or

19 not?

20 A I was in shock.

21 Q Okay.

22 A I couldn't tell you.

23 Q Okay. Now --

24 THE WITNESS: I need to go to the restroom.

25 THE COURT: Okay.

1 How much longer do you have? The witness needs to
2 use the restroom and we're about at a breaking point.

3 MR. MANINGO: We should take a break, then.

4 THE COURT: Okay.

5 Ladies and gentlemen, we're going to take a recess
6 until 1:00 p.m. During this recess it is your duty not to
7 converse among yourselves or with anyone else on any subject
8 connected with the trial, or to read, watch, or listen to any
9 report of or commentary on the trial by any person connected
10 with the trial or by any medium of information, including,
11 without -- be seated until I finished this, I'm required to
12 this every time -- any medium of information, including,
13 without limitation, newspaper, television, radio, or Internet,
14 and you are not to form an opinion or express an opinion on
15 any subject connected with this case until it is finally
16 submitted to you.

17 Now we're in recess.

18 (Jury recessed at 11:53 a.m.)

19 THE COURT: All right. The record will reflect
20 we're outside the presence of the jury. Are there any matters
21 outside the presence before we recess?

22 MR. MANINGO: No, Your Honor.

23 MS. BLUTH: No, Your Honor.

24 THE COURT: Thank you.

25 (Court recessed at 11:54 a.m., until 1:04 p.m.)

1 (Outside the presence of the jury)

2 THE COURT: All right. We're back on the record in
3 State versus Farmer. The record will reflect we're outside
4 the presence of the jury. Defendant is present with his
5 counsel, the Deputies District Attorney are present, and all
6 officers of the Court. And I believe there is a matter.
7 Counsel wanted to approach the bench.

8 (Bench conference)

9 MR. BASHOR: Ryan Bashor. Mr. Maningo does not need
10 to be here for this. Judge, your court recorder pointed out
11 something very important. The number of the settlement is
12 correct.

13 THE COURT: Right.

14 MR. BASHOR: And now we have a public record. So I
15 think it would be a joint motion to seal that bench
16 conference. And the reason I asked to approach is so that the
17 media doesn't hear.

18 THE COURT: Are they --

19 MR. BASHOR: Yes.

20 THE COURT: Are they back?

21 MR. KOICHEVAR: Brian Koichevar on behalf of the
22 State. It would be the State's request that that portion of
23 the bench conference be sealed.

24 THE COURT: It will be granted. I know that we can
25 seal the bench conferences. I think we can just seal the

1 number.

2 MR. BASHOR: Okay.

3 THE COURT: Basically we won't have that part
4 transcribed. Just the number.

5 MR. BASHOR: Excellent.

6 THE COURT: Okay.

7 MR. BASHOR: Thank you.

8 MR. KOCHVAR: Thank you.

9 (End of bench conference)

10 (Pause in the proceedings)

11 THE COURT: How about all of our jurors, are they
12 back? All right.

13 All right. Are we ready to bring the jury back in?

14 MR. MANINGO: Yes, Your Honor.

15 THE COURT: Okay.

16 (Jury reconvened at 1:07 p.m.)

17 THE COURT: Thank you. Please be seated. We are
18 back on the record. The record will reflect that all 12
19 members of the jury have joined us and all four alternates are
20 also present. Defendant is present with his counsel, the
21 Deputies District Attorney are present, and all officers of
22 the Court.

23 Will counsel so stipulate?

24 MS. BLUTH: Yes, Your Honor.

25 MR. MANINGO: Yes, Your Honor.

1 THE COURT: And, ladies and gentlemen, was that
2 enough time for you to get your lunch?

3 JURY PANEL: Yes.

4 THE COURT: We need to have Ms. Cagnina back.

5 MS. BLUTH: Yes, she should be right outside.

6 THE COURT: All right. Thank you.

7 (Pause in the proceedings)

8 THE COURT: Thank you. And you're still under oath,
9 ma'am.

10 THE WITNESS: Okay.

11 THE COURT: Thank you.

12 Mr. Maningo.

13 MR. MANINGO: Thank you, Your Honor.

14 BY MR. MANINGO:

15 Q Ms. Cagnina, are you on any medications today?

16 A Just my Phenobarbital and Topamax.

17 Q Okay. And I just wanted to clear -- clear up one of
18 the smaller points from earlier. I had asked whether or not
19 you remembered writing down Mr. Farmer's information on -- on
20 your checkbook. Do you remember that?

21 A Okay.

22 Q Do you remember me asking?

23 A Yes.

24 Q Okay. And if you can just take a look at your
25 voluntary statement on page 27 and on page 28, that's the one

1 marked with a Roman numeral one. And in that voluntary
2 statement the sergeant asked at the bottom of that page, "Did
3 you write it down? How did -- how did you get his
4 information?"

5 And you stated, "I had my purse here at the side
6 here the whole time."

7 The officer says, "Uh-huh."

8 And then you said, "And that's -- I pulled out
9 something and I handed it to him."

10 "Do you know what it was you pulled out?"

11 "Yeah."

12 "What was it?"

13 "I pulled out my checkbook."

14 Correct?

15 A Okay.

16 Q Do you see that?

17 A I pulled out my checkbook.

18 Q Yes.

19 A Yeah.

20 Q Okay. Now, let's move to the -- the incident where
21 you leave the emergency room and you enter the elevator.

22 A Yes.

23 Q Okay. Now, do you -- you testified earlier that --
24 or at least you had made a previous statement earlier that you
25 believe it was around 3:00 in the morning.

1 A Okay.

2 Q In the elevator Mr. Farmer touched your leg twice?

3 A Yes.

4 Q Okay. And he had to reach under the blankets;
5 correct?

6 A Yeah, he was adjusting my blanket.

7 Q Okay. He was adjusting your blanket. You had more
8 than one blanket at the time; correct?

9 A I don't remember how many blankets I had.

10 Q Fair enough. And he didn't do anything while the
11 other person, this other individual was in the elevator with
12 the two of you; correct?

13 A That's correct.

14 Q Okay. And as we talked about a little bit earlier,
15 in your original state you had said that that person got off
16 on the same floor as you; right?

17 A Yes.

18 Q Okay. Today you're saying that that person got off
19 the elevator before the two of you got off?

20 A Yes.

21 Q Okay.

22 A He didn't --

23 Q Okay.

24 A The person didn't ride with me all the way up --

25 Q Okay.

1 A -- to the elevator.

2 Q Okay.

3 A Up to my floor.

4 Q Okay. Now, you said he -- Mr. Farmer was adjusting
5 your blankets. What side -- on what side of you was he at the
6 time, left side, right side?

7 A At the very beginning he was behind me.

8 Q Okay.

9 A And then he was to the side of me. But I couldn't
10 tell you what side he was on.

11 Q Okay. So he -- he actually moves locations;
12 correct?

13 A Uh-huh.

14 Q And he's adjusting your blankets?

15 A Yes.

16 Q And he's -- and then at some point he reaches under
17 the blankets?

18 A Yes.

19 Q Okay. And he touches your leg two different times?

20 A Yes.

21 Q Okay. And this is all after the other person had
22 left the elevator?

23 A Yes.

24 Q And you only traveled another one or two floors on
25 the elevator alone with him; correct?

1 A I don't remember how many floors I traveled up.

2 Q Okay. You testified in your deposition, and that
3 was under oath; correct?

4 A Yes.

5 Q Okay. And if you want to look at that one, it's
6 Roman Numeral No. 3.

7 A Okay.

8 Q And I would direct you to page 126.

9 A Okay.

10 Q And on 126 you're asked the question, "Okay, so this
11 person gets off on one floor before the" -- blank -- "one or
12 two floors before your final destination; right?"

13 A Okay.

14 Q And you answer, "Uh-huh."

15 A Uh-huh.

16 Q And then they say, "Is that a yes?" And you say,
17 "Yes." Correct?

18 A That's -- that's what it says, yes.

19 Q Okay. So based on your -- your prior testimony at
20 the deposition, not your police report, but the deposition you
21 say that you went one or two floors alone with Mr. Farmer.

22 A Okay.

23 Q Okay. You've obviously ridden elevators before and
24 since that time; correct?

25 A Yes.

1 Q Okay. How long would you say it takes an elevator
2 to travel from one floor to the next?

3 A I don't know. A couple seconds.

4 Q A couple of seconds?

5 A Yeah.

6 Q Okay. So you're on the elevator for two to four
7 seconds --

8 A Uh-huh.

9 Q -- right?

10 A Yes.

11 Q Okay. If Mr. Farmer had tried to touch you while
12 that other individual was in the elevator, you would have said
13 something to that other person, wouldn't you?

14 A Yes, I would have.

15 Q Okay. You wouldn't have been frozen. You would
16 have told that person, hey, this guy is doing something?

17 A Correct.

18 Q Okay. Now, when he brings you into the room, the
19 lights are on in your hospital room; correct?

20 A Yeah, I believe so.

21 Q Okay. And the light stayed on --

22 A Yes.

23 Q -- for as long as you remember?

24 A As long as I can remember, the lights were on.

25 Q Okay. And during the time that you testified about

1 Mr. Farmer assaulting you, I mean, the lights were on during
2 that time?

3 A Yes.

4 Q Okay. And you're in a room in a public hospital;
5 correct?

6 A Yes.

7 Q Okay. And the door to your room is halfway open?

8 A Yes.

9 Q Okay. And so while you're in this room with the
10 lights on and the door halfway open, Mr. Farmer assaults you
11 for 15 minutes approximately?

12 A I couldn't tell you exactly how long it was, but it
13 seemed like forever.

14 Q Okay. So maybe even longer than 15 minutes;
15 correct?

16 A Like I said, I couldn't tell you how long it was.

17 Q Fair enough. But forever -- however long it was,
18 the door is still open; correct?

19 A Uh-huh.

20 Q I'm sorry. You've got to say yes.

21 A Yes.

22 Q Thank you. And the light are still on?

23 A Uh-huh.

24 Q Yes or no?

25 A Yes.

1 Q Thank you. Now, during the -- when -- when you're
2 saying the assault took place, during that time period you had
3 testified that you were -- you were frozen at that time;
4 correct?

5 A Yes.

6 Q Okay. However, while you were -- you were frozen,
7 you still had your cell phone with you; correct?

8 A Yes, I always had my cell phone with me.

9 Q Okay. And -- and while you were frozen, you still
10 tried to take photographs of whatever was happening --

11 A Yes.

12 Q -- with your cell phone; correct?

13 A Uh-huh. Yes.

14 Q Okay. And you also tried calling 911 on your phone;
15 correct?

16 A Yes.

17 Q Okay. So even though you were frozen, you were
18 still able to try and call 911?

19 A Yeah, I was frozen.

20 Q Okay.

21 A I was just trying to survive.

22 Q Okay. And then after Mr. Farmer left, you were
23 still frozen?

24 A I was in shock.

25 Q Okay. But you were -- you were able to actually use

1 the hospital phone to call out and call Scott?

2 A I called my husband, yes.

3 Q Okay. From the -- from the hospital phone?

4 A I don't remember if it was from the hospital phone
5 or from my cell phone. I know that my cell phone there were
6 certain areas in the hospital that I couldn't get service.

7 Q Okay. And we'll -- we'll get to that in just one
8 second. Now, if we look at page -- the bottom of page 15 and
9 the top of page 16 of your voluntary statement to the police.
10 That's the No. 1, page 15 and 16.

11 A This one here?

12 Q No. No, I'm sorry.

13 MR. MANINGO: May I approach?

14 THE COURT: Yes.

15 BY MR. MANINGO:

16 Q Yeah, this one. Yeah, that's the one.

17 A And what page?

18 Q Bottom of 15, top of 16.

19 A Okay.

20 Q Here you're asked, "Well, after he left, um,
21 nothing. I kept trying. I -- I kept -- I tried to call
22 home." And the officer says, "On your cell phone?" And you
23 say, "No, on the regular phone because my batteries went
24 dead."

25 A Okay.

1 Q Correct? That's what it says in your statement.

2 A That's what it says in my statement.

3 Q Okay.

4 A It was just that my --

5 Q That's fine. No, that's okay, Ms. Cagnina. That
6 was my question is whether or not that's what it says in your
7 statement.

8 A I didn't have service in some areas.

9 Q Okay. Now, you're -- you're frozen, but you're
10 still able to -- to get to the hospital phone in your room and
11 use that; correct?

12 A Yes.

13 Q Okay. And the phone in your room is -- it's not
14 within reach; correct?

15 A I don't know where the phone was. I don't know if
16 it was on the bed or -- I couldn't tell you where the phone
17 was.

18 Q Okay. Why don't we take a look at what's marked up
19 there No. 2, that's the preliminary hearing, page 72 of that
20 one.

21 A Which one is the preliminary hearing? Not the
22 voluntary statement.

23 Q No. The preliminary, it has the Roman numeral two
24 on the front.

25 A Okay. And what page?

1 Q 72.

2 A Okay.

3 Q And it's at the bottom of page 72. And you were
4 asked the question, "Do you remember there being a hospital
5 bed phone to the side of your hospital -- to your side in the
6 hospital room?"

7 And your answer is, "Without reach."

8 And then the question is, "You are saying it was
9 outside of your reach; correct?"

10 And you said, "Yes."

11 A Okay.

12 Q So then you had to get up out of bed to use that
13 phone; correct?

14 A I don't know if I had to get out bed, but I had to
15 reach for it.

16 Q Okay. Now, when -- when you got up to make that
17 phone call on the hospital phone, you didn't call 911;
18 correct?

19 A No.

20 Q Okay. And you didn't -- you didn't call down to the
21 front desk asking for assistance; correct?

22 A No.

23 Q Okay.

24 A I remember just calling my husband.

25 Q Ma'am.

1 A No.

2 Q Thank you. You didn't call anyone other than your
3 husband --

4 A Yes.

5 Q -- correct? And when you called your husband you
6 didn't speak to him; correct?

7 A No, I spoke to my husband.

8 Q Okay. You spoke to your husband at that point, but
9 you didn't tell him about anything that happened; correct?

10 A No, I was just hysterical, just --

11 Q Okay.

12 A -- asking him to get down there, that I needed him
13 down there.

14 Q Okay. Are you sure that that's the time when you
15 called him and asked him to come down here?

16 A I don't know. I just remember calling my husband --

17 Q Right.

18 A -- hysterical telling him to please get down.

19 Q Okay.

20 A That something had happened to me.

21 Q Okay. Now, let's -- let's just do this to see if we
22 can clear some of this up, too.

23 MR. MANINGO: Can I get this Elmo turned on, please?

24 Thanks.

25 ///

1 BY MR. MANINGO:

2 Q And you can -- you can see this right on your
3 screen --

4 A Okay.

5 Q -- Ms. Cagnina, if it makes it easier. And this is
6 going to be upside down, isn't it? All right. I realize
7 these aren't exact and you're not sure, so we're going to say
8 approximately.

9 THE COURT: That's upside down.

10 MR. MANINGO: Technology. All right. Okay.

11 BY MR. MANINGO:

12 Q Approximately, based on your previous statement,
13 around 3:00, 3:15 is when the assault took place; is that
14 correct?

15 A I never knew what time it was.

16 Q I'm saying based on what you told the police
17 earlier. What we've

18 A Okay.

19 Q -- already gone over. Right?

20 A Yeah.

21 Q Okay. And then after 3:15 you're not really sure
22 what happens; right?

23 A What do you mean I'm not sure what happens?

24 Q I mean, after Mr. Farmer leaves you don't really
25 remember how long it is.

1 A I don't remember how long it is. I don't know if I
2 fell asleep.

3 Q Okay.

4 A I don't know.

5 Q So -- so we'll put here, is this fair, maybe fell
6 asleep at some point?

7 A Yeah, at some point --

8 Q Okay.

9 A -- I did fall asleep.

10 Q Okay. Okay. Now, are you aware that Dr. Slaughter,
11 your physician that evening, testified earlier today?

12 A No.

13 Q Okay.

14 A I don't know who's testified.

15 Q Okay. Do you remember being given medication at
16 3:00?

17 A In my room?

18 Q Yes.

19 A No.

20 Q Okay.

21 A I don't remember anybody coming into my room until
22 the nurse came into my room and I lost it.

23 Q Okay.

24 A So I don't know if I was sleeping ---

25 Q Okay. That's --

1 A -- when they came in.

2 Q -- a lot more than what I asked for, Ms. Cagnina.

3 A Okay.

4 Q So you don't remember receiving medication at 3:00?

5 A No.

6 Q Okay. And you don't remember receiving medication
7 at 3:25 also; correct?

8 A No.

9 Q Okay. Now, you said that while the assault was
10 taking place you tried to take photographs; right?

11 A Yes.

12 Q Okay. And you turned that telephone over to the
13 police; correct?

14 A That's correct.

15 Q Okay. And are you aware that the -- the blank
16 photos that you took show a time stamp of 4:47 and 4:50?

17 A No, I don't remember what time it was.

18 Q Okay.

19 A In fact, I don't even remember my phone keeping
20 track of the pictures.

21 Q Okay. But you had already testified that while the
22 assault was taking place you were taking photos with your
23 camera; correct?

24 A Yeah, I took --

25 Q Okay.

1 A -- photos at some point, yes.

2 Q Thank you. Okay. And then you also testified that
3 while the assault was taking place you called 911 and then --
4 and then hung up?

5 A Yes.

6 Q Okay. And you had to like muzzle the phone because
7 you were afraid that Mr. Farmer might hear you calling 911?

8 A Yes. I muzzled the phone because I didn't know if
9 he'd hear 911 on there, so I instantly hung up.

10 Q Okay. So that was going on. You were calling and
11 you could -- you could hear the operator yourself?

12 A I -- I just muzzled the phone.

13 Q Okay. So you called 911 and you muzzled the phone
14 and you're doing all that while your -- while your frozen
15 during this event; correct? During this incident? Yes?

16 A Yeah. I'm --

17 Q Okay.

18 A -- terrified. I'm frozen. I'm in shock.

19 Q Okay. The 911 call, the hang up, at 7:54 in the
20 morning.

21 A Okay. That would be the time that my husband called
22 911 from my phone.

23 Q And it was -- I'm sorry. Now, you said that the
24 first nurse who came in, that's who -- that's who you said
25 everything to?

1 A Yes.

2 Q Okay. And when she came in, you were still in
3 shock; correct?

4 A Yeah.

5 Q And you were still -- you were hysterical?

6 A Yes, very much.

7 Q Okay. Okay. You don't remember a -- you don't
8 remember not one, but two nurses, Christine Murray and Carine
9 Brown coming in at 4:45?

10 A Nope. I don't remember them unless I was sleeping
11 and they didn't wake me because I don't remember them coming
12 in at all.

13 Q Okay. Okay. And you don't remember that obviously
14 at 4:45 speaking with Christine Murray and telling her that
15 your headache is still not gone; correct?

16 A No, I don't remember --

17 Q Okay.

18 A -- seeing any nurses until the nurse that I --

19 Q Okay.

20 A -- reported it to.

21 Q You don't remember. That's -- just tell me you
22 don't remember. And if at 4:45 when Christine Murray and --
23 and her nursing assistant Ms. Brown show up in your room, you
24 wouldn't have been in the bathroom on your own, would you?

25 A I don't remember even seeing them, so, no, I -- I

1 don't remember seeing them or talking to them.

2 Q Okay. So if -- if -- if they said that when they
3 walked in they found you in the bathroom and you were just
4 complaining about your headache, then you don't remember any
5 of that?

6 A I don't remember any of that.

7 Q Okay. Is it far to say that if you can make it to
8 your phone that's in your room -- in the room, and you can
9 make it to the bathroom, that you could also make it to the
10 call button? Or was the call button further away than those?

11 A No, it was right by my bed, but I don't remember --

12 Q Okay.

13 A -- going to the bathroom and I don't remember
14 talking to them.

15 Q Okay. Do you remember your nurse Ms. Murray coming
16 in at 5:30 in the morning?

17 A The only nurse that I remember coming in, and I
18 don't remember her name, was the nurse that I reported it to.

19 Q Okay. So you do not remember another visit at 5:30?

20 A No.

21 Q Okay.

22 A I don't -- the only -- I fell asleep. Unless they
23 came in when I was sleeping, I don't remember. The only time
24 that I remember is when they came in and I reported it to the
25 first nurse --

1 Q Okay.

2 A -- that I see.

3 Q Okay. But I -- we need to be sure. That's why
4 we're going through these.

5 A Okay.

6 Q Do you remember at 5:40 a.m. another visit from
7 Christine Murray for a pain assessment to see --

8 MS. BLUTH: Your Honor, I'm going to --

9 BY MR. MANINGO:

10 Q -- how your -- your headache is --

11 MS. BLUTH: I'm sorry, Mr. Maningo.

12 BY MR. MANINGO:

13 Q -- is doing.

14 MS. BLUTH: I'm going to object as to asked and
15 answered. She said multiple times she does not remember any
16 of these things until the nurse comes in that we've already
17 spoken about. So we don't need to go through them line by
18 line.

19 MR. MANINGO: Well --

20 THE COURT: Sustained.

21 MR. MANINGO: Okay. Your Honor, I need to be able
22 to ask because if she does remember now that specific
23 situation, otherwise the witness can simply say I don't
24 remember anything and I don't want to answer any of the
25 questions.

1 THE COURT: Counsel, did I sustain the objection?

2 MR. MANINGO: Well, yes.

3 THE COURT: Okay. Thank you. Move on.

4 BY MR. MANINGO:

5 Q Did you get any other pain assessments during that
6 morning?

7 MS. BLUTH: Objection. Asked and answered, as well
8 as my same -- it's my same objection.

9 MR. MANINGO: It hasn't been answered and --

10 MS. BLUTH: It's a different way of asking did a
11 nurse come and see you. By just substituting the words pain
12 assessment it doesn't make the question any different than the
13 previous question.

14 MR. MANINGO: I'm asking the witness if she's had
15 exposure to any other individual in this hospital when she
16 says -- she's testified that the first person that came in is
17 who she talked to.

18 THE COURT: Well, yes, and she's answered that
19 repeatedly that she doesn't -- the first person she remembers
20 seeing was the nurse that she reported it to, and I assume you
21 know who that is. So why -- why do you -- if you have records
22 that you're going to put in, that would be fine. But she's
23 already answered these questions.

24 MR. MANINGO: May I approach?

25 THE COURT: Yes.

1 BY MR. MANINGO:

2 Q Here's all your medical records, Ms. Cagnina, with
3 all the visits. Take a minute and look at them.

4 A What exactly am I looking for?

5 Q See if it refreshes your memory as to visits by
6 other doctors and nurses throughout --

7 MS. BLUTH: Objection.

8 BY MR. MANINGO:

9 Q -- your stay.

10 MS. BLUTH: Asked and answered. She's already
11 answered the question that she has no recollection of any
12 visits until the nurse comes in and she tells the nurse about
13 the assault.

14 THE COURT: Okay. If you look at medical records
15 that were prepared by someone else, is it going to refresh
16 your recollection any?

17 THE WITNESS: No. I have never seen these
18 records --

19 THE COURT: Thank you.

20 THE WITNESS: -- nor have I ever seen records from
21 any hospital that's ever showed me their records.

22 THE COURT: All right. Objection is sustained.

23 MR. MANINGO: May we approach?

24 THE COURT: Yes.

25 (Bench conference)

1 MR. MANINGO: Jeff Maningo. Your Honor, you're
2 limiting my cross-examination by not allowing me to ask a
3 witness -- and these are questions for credibility purposes,
4 as to whether or not someone else came in that room and took
5 her vitals, did pain assessments, and everything else.

6 THE COURT: She has answered that question
7 repeatedly. Now, if you want to put in hospital records, you
8 can lay the foundation and get those records in have them
9 admitted.

10 MR. MANINGO: Which I will.

11 THE COURT: But you --

12 MR. MANINGO: But --

13 THE COURT: But she has repeatedly said she does not
14 remember. I mean --

15 MR. MANINGO: So any witness can get up here and
16 just say, oh, I don't remember, and then they don't have to
17 answer any questions?

18 THE COURT: That's right.

19 MR. MANINGO: Well, okay. Well, then, I'm -- I'm
20 objecting to the Court's ruling and to the State's objection
21 to this. And I feel that it's unfair that they're limiting my
22 cross-examination, and it is violating my client's right to a
23 fair trial, and I'm asking for a mistrial at this point.

24 THE COURT: That's denied. Step back.

25 (End of bench conference)

1 BY MR. MANINGO:

2 Q You testified that you did call your husband at some
3 point from the hospital phone; correct?

4 A Uh-huh.

5 THE COURT: Is that a yes?

6 THE WITNESS: Yes.

7 BY MR. MANINGO:

8 Q Okay.

9 A I don't -- I don't know what phone I called --

10 Q You've answered the question, Ms. Cagnina.

11 A -- from the cell phone or the hospital phone.

12 Q You don't? Should we look at your voluntary
13 statement again?

14 A I'm just telling you I don't remember which phone --

15 Q Okay.

16 A -- I used.

17 Q Okay. You can look at page 15 under voluntary
18 statement, and it goes to page 16. And again, your answer,
19 "Um, on -- on the regular phone because my batteries went
20 dead."

21 A And what page did you say, 15?

22 Q Onto 16, actually, top of page 16. See where -- I'm
23 sorry, you're reading. See where I'm talking about?

24 A I said I kept trying to call home.

25 Q I think we're in different stops here.

1 A On page 15. It says --

2 MR. MANINGO: May I approach?

3 THE COURT: Yes.

4 MR. MANINGO: Thanks.

5 BY MR. MANINGO:

6 Q Let me take a look here because I think for some
7 reason our pages are a little bit staggered here. Let's go
8 back. Oh, here we go. I'm sorry. Right there in the --
9 right here in the middle. No, next line down right here.

10 A Okay.

11 Q Yeah. So your testimony to the police was that when
12 you -- when you tried to call home that you used the regular
13 phone.

14 A Yeah, it said --

15 Q Okay.

16 A -- I kept trying to call home, but I never --
17 obviously I didn't talk to him because I said I kept trying.
18 I kept trying to call.

19 Q Right. And then you're asked on your cell phone,
20 and you say, um, on the regular phone because my batteries
21 went dead, yes?

22 A Yeah.

23 Q Okay.

24 A My battery -- it wasn't dead, it was just -- I was
25 just losing service --

1 Q Okay.

2 A -- in certain parts.

3 Q Well --

4 A But I didn't talk to him.

5 Q -- what you told the police is that -- what I just
6 stated; right?

7 A That I was trying to call home?

8 Q On the regular phone, not your cell phone.

9 A Yes.

10 Q Okay. You've already said a few times that you fell
11 asleep at some point.

12 A Yes.

13 Q Okay. And -- and Mr. Farmer at no time during the
14 assault in -- in this room with the door open, he never
15 covered you with curtains; correct?

16 A No.

17 Q Okay.

18 A All I can remember is the door --

19 Q It's okay. You've answered. I just asked if you
20 were covered with curtains.

21 A It was halfway.

22 Q Okay. At no time did you use the call button;
23 correct?

24 A No.

25 Q Okay. And at no time did you try and disconnect one

1 of your monitors or anything like that to set off an alarm at
2 the nurse's station?

3 A I don't remember having any monitors on me.

4 Q Okay. So -- so the answer, then, is, no, you didn't
5 do any of that; right?

6 A I couldn't disconnect a monitor if I didn't have it
7 on me.

8 Q Okay. You didn't -- you didn't try calling again,
9 calling your husband again on your cell phone; correct?

10 A All I remember I called my husband at some point and
11 I talked to him.

12 Q Okay. I'm talking about, if you want to look on
13 your screen, any time in here did you call your husband on
14 your cell phone?

15 A I don't -- I don't know. I know that I was very
16 tired and I fell asleep.

17 Q All right. And you -- and you have your phone
18 records up there; right?

19 A Yeah.

20 Q Okay. And so if there shows no -- no cell phone
21 call from your cell phone to your husband at that time, then
22 it's fair to say you didn't call your husband; correct?

23 A Not from my cell phone, no.

24 Q Okay. And from any phone, you didn't call 911?

25 A I called 911 and I hung up.

1 Q Right. During the assault is what you're saying?

2 A Yes.

3 Q Okay. And the only 911 call that shows is at almost
4 8:00 in the morning?

5 A Yes. And that's --

6 Q Okay.

7 A -- the call that my husband made.

8 Q Okay. You didn't scream at any time; correct?

9 A No.

10 Q Okay. You didn't yell out for help?

11 A No.

12 Q You didn't get up and -- and try and run?

13 A No, I was afraid.

14 Q Okay. You were obviously still afraid throughout
15 the entire morning?

16 A I was afraid for my life from the moment it started
17 happening.

18 Q Until you fell asleep?

19 A I fought to fall asleep.

20 Q Okay.

21 A Just because I fell asleep doesn't mean --

22 Q Okay.

23 A -- that I wasn't afraid.

24 Q I'm not asking you to tell us, you know, what it
25 means or interpret it.

1 A Okay.

2 Q If you'd just answer the questions.

3 A When you're scared for your life, you don't know

4 what to do.

5 Q There's no question pending.

6 A Okay.

7 MR. MANINGO: I'm going to ask that that be

8 stricken.

9 THE WITNESS: I'm sorry.

10 MR. MANINGO: I'm objecting. It's nonresponsive.

11 THE WITNESS: I'm sorry. I didn't -- I'm sorry.

12 THE COURT: Just try and answer the questions.

13 THE WITNESS: Okay.

14 BY MR. MANINGO:

15 Q Your ex-husband Scott Cagnina worked with the

16 Metropolitan Police Department for a long time; correct?

17 A Yes.

18 Q Okay. And -- and he has spoken to you and your

19 daughters about what -- what you should do or -- or how to

20 handle it if someone is trying to assault you; correct?

21 A Many times.

22 Q Okay. And he's explained to you that you should

23 fight; correct?

24 A Depend -- depending on the situation that you're in.

25 Q Okay. No. 3 is the deposition, your sworn testimony

1 in the deposition. If you'd look at page 174.

2 A Which one is the deposition?

3 Q The one with the Roman number three on the front
4 page.

5 A Okay.

6 MR. MANINGO: If I may approach and just help her
7 out.

8 THE COURT: Yes.

9 MR. MANINGO: Thank you.

10 BY MR. MANINGO:

11 Q Look at this page right here.

12 A Okay.

13 Q And you're asked a question, "During that period of
14 time has your husband ever shared with you and your daughters
15 aspects of maintaining personal safety if ever attacked by a
16 rapist?"

17 And you answer, "I -- I believe yes, yes, he has."

18 And then you're asked, "Just tell me what he's told
19 you."

20 And you answer, "Fight back."

21 Correct?

22 A It says, yes, it depends on the incident first. It
23 said I guess it depends on the incident --

24 Q Where you're at.

25 A -- where you're at. Like if you're out in public --

1 Q Right.

2 A -- what has he told you to do? Just tell me what
3 has he told you to do? Fight back.

4 Q Right.

5 A But it also says it depends on --

6 Q Okay.

7 A -- your situation.

8 Q Sure. It does. And then you also add after that --

9 MS. BLUTH: Objection, Your Honor. Is there a
10 question in front of her? I mean, that document is not
11 admitted into evidence. If there's a question, I have no
12 objection, but you can't just read from it.

13 MR. MANINGO: Well, it's impeachment because the
14 witness has stated, well, I don't know if my husband has given
15 me that advice.

16 MS. BLUTH: That misstates her testimony. She said
17 that he had spoken to her and that she said it depends on the
18 situation, which is exactly what she said in the deposition.

19 MR. MANINGO: Okay.

20 THE COURT: That's true.

21 MR. MANINGO: I'll move on. I'll move on.

22 BY MR. MANINGO:

23 Q Oh, you know, one thing I forgot to bring up and I
24 apologize. You said that during the assault, when the assault
25 took place, that Mr. Farmer started licking his fingers?

1 A Yes.

2 Q Okay. And that he asked you to lick his fingers
3 also?

4 A He kept rubbing them on my lips and telling me to
5 taste them.

6 Q Okay. Now, I've given you your voluntary police
7 statement; correct?

8 A Yes.

9 Q Okay. And in -- in that 34-page interview with the
10 police --

11 A On the voluntary statement?

12 Q Yeah, the No. 1.

13 A Okay.

14 Q In that -- and this is the statement that's the most
15 recent in time to when the incident took place; correct?

16 A That is correct.

17 Q So this is the one where your memory would be the
18 freshest.

19 A The freshest.

20 Q Okay.

21 A And I was in shock.

22 Q Okay. So in that entire 34-page interview with the
23 detective, you do not ever mention one time anything about him
24 licking his fingers; correct?

25 A I don't know. I haven't read it, but --

1 Q Well --

2 A -- I remember --

3 Q -- if you'd like to read it, you take your time.

4 A If you say it's not in there, but I know what
5 happened to me and I know what he told me.

6 Q That's not what the question was. What I'm saying
7 is in that entire statement, not once do you mention anything
8 about him licking his fingers. Would you like to read it?

9 MR. MANINGO: Or if the State would like to
10 stipulate.

11 THE COURT: How long is the statement?

12 MR. MANINGO: 34 pages.

13 THE COURT: Do you want some -- to take a recess
14 where you can read it? Ms. Cagnina, would you --

15 THE WITNESS: Yes, please.

16 THE COURT: Okay.

17 We're going to take a ten minute recess. During
18 this recess it is your duty not to converse among yourselves
19 or with anyone else on any subject connected with this trial,
20 or to read, watch, or listen to any report of or commentary on
21 the trial by any person connected with the trial or by any
22 medium of information, including, without limitation,
23 newspaper, television, radio, or Internet, and you are not to
24 discuss or form an opinion on any subject connected with this
25 case until it is finally submitted to you.

1 We'll be in recess for ten minutes.

2 (Jury recessed at 1:53 p.m.)

3 THE COURT: The record will reflect the jury has
4 left the room, as well as the four alternates, and we will be
5 in recess for ten minutes while the witness reviews her
6 statement.

7 MS. BLUTH: Yes, Your Honor.

8 (Court recessed at 1:54 p.m., until 2:07 p.m.)

9 (Inside the presence of the jury)

10 THE COURT: Thank you. Please be seated. The
11 record will reflect we're back within the presence of all 12
12 members of the jury, as well as the four alternates. The
13 defendant is present with his counsel, the Deputies District
14 Attorney are present, as are all officers of the court.

15 Will counsel so stipulate?

16 MR. MANINGO: Yes, Your Honor. May I proceed?

17 THE COURT: Yes, you may.

18 MR. MANINGO: Thank you.

19 BY MR. MANINGO:

20 Q Ms. Cagnina, I had asked you about your statement to
21 the Metropolitan Police Department when you spoke to the
22 detective. You've had an opportunity to review your 34-page
23 voluntary statement; correct?

24 A Yes.

25 Q Okay. And nowhere in that statement do you mention

1 anything about Mr. Farmer licking his fingers; correct?

2 A Not -- not a statement, no.

3 Q Okay. And nowhere in here do you mention anything
4 about him making you lick his fingers?

5 A No.

6 Q Okay. Thank you. Now, before this event took place
7 in May of 2008, we need to go back a little bit. Before any
8 of this happened you were already having financial
9 difficulties; correct?

10 A What do you mean by financial difficulties?

11 Q You filed for bankruptcy twice; correct?

12 A We filed for bankruptcy, yes. We --

13 Q Twice; correct?

14 A Yes.

15 Q Okay.

16 A My husband had a very good job and --

17 Q You've -- you've answered the question.

18 A -- we bought a house and --

19 Q Ms. Cagnina, now you're just --

20 A Okay. Go ahead.

21 Q Okay. Thank you. You also had to walk away from a
22 property and let it go into foreclosure; correct?

23 A Yes.

24 Q Okay. You had also lost your job; correct?

25 A Yes.

1 Q And you were receiving unemployment benefits prior
2 to any of this; correct?

3 A Yes.

4 Q Okay. So would you agree that all of that is -- is
5 financial distress?

6 A It caused a little bit of hardship, but it wasn't
7 like we couldn't survive.

8 Q Okay. After this incident took place, we had
9 already talked about how you -- you hired Neal Hyman to
10 represent you in the civil suit; correct?

11 A For the hospital?

12 Q Yes.

13 A Yes.

14 Q Okay. Before any settlement or anything like that
15 took place, you actually took out a loan for \$80,000 against
16 the future settlement of your lawsuit; correct?

17 A We took out a loan. Yes, we did.

18 Q Okay.

19 MR. MANINGO: Court's indulgence, please.

20 I'll pass the witness.

21 THE COURT: Thank you.

22 Redirect.

23 MS. BLUTH: Thank you, Your Honor.

24 ///

25 ///

REDIRECT EXAMINATION

1
2 BY MS. BLUTH:

3 Q Is there anything in front of you? Do you have any
4 of the documents still, or did Mr. Maningo take those?

5 A I have them all.

6 Q Okay. Why were you fired from Adams Pool?

7 A I had a seizure --

8 MR. MANINGO: Objection --

9 THE WITNESS: -- on the job.

10 MR. MANINGO: -- Your Honor. May we approach?

11 THE COURT: Yes.

12 (Bench conference)

13 MS. BLUTH: Oh. I guess it's your objection, so --

14 MR. MANINGO: Jeff Maningo. I thought we discussed
15 that we were --

16 THE COURT: Let's first state what the objection is
17 because you just objected. So the grounds?

18 MR. MANINGO: Oh. Well, my grounds for objection
19 are that this is not relevant. And I thought we had a
20 discussion at the bench regarding this already as to why we're
21 not going to go into reasons for being fired, that there was
22 another lawsuit because it makes her look like she's too
23 litigious. In fact, it was the State's objection when I
24 started to go into why she was fired and that because it's
25 disputed as to why it was fired.

1 So if the State wants -- if the State wants to
2 inquire and have this witness say I was fired because of
3 seizures, then it opens up so many collateral issues because I
4 have a lot of documentation from Adams Pool and their attorney
5 saying that the reason she was fired was because she was
6 incompetent, she didn't show up for work on time, you know,
7 and there's been a civil claim. So I thought we were staying
8 away from this topic altogether.

9 MS. BLUTH: Jacqueline Bluth. So do I. So did I,
10 and then he went back and said isn't it true you were fired
11 from Adams Pool. So I thought it was very clear at the bench
12 that we weren't getting into that, either, and then he walks
13 back there and asked the question isn't it true you were
14 fired. And so it leaves this bad taste, and so it puts me in
15 a position where I have to explain that. I don't think it
16 opens the door to anything. She can say she had a seizure at
17 work, she was terminated shortly thereafter. I thought your
18 ruling was pretty clear.

19 THE COURT: You did -- you opened the door by asking
20 her if she was fired from Adams Pool. Now, do I want --

21 MR. MANINGO: I thought that was -- I thought --

22 THE COURT: What was your last question to her? Why
23 were you fired?

24 MS. BLUTH: And she said I had a seizure at work.
25 And I'm moving on.

1 THE COURT: Okay. Well, if you ask the question why
2 was I fired, and she says because I had a seizure at work, now
3 you've opened the door to them coming back [inaudible] get any
4 of that in. I don't know if you're prepared to do that. But,
5 you know, it opens the door for that.

6 MR. MANINGO: All right.

7 MS. BLUTH: Okay.

8 THE COURT: So, I'm just saying.

9 MS. BLUTH: Well, I think she's already answered it;
10 correct?

11 THE COURT: She's already answered -- I think she
12 did.

13 MS. BLUTH: Oh, she didn't answer?

14 THE COURT: I thought she -- yeah, I think she did
15 say.

16 MR. BASHOR: Ryan Bashor. I don't think so, but I
17 could be wrong.

18 MS. BLUTH: Okay. I'm just going to leave it alone.
19 Jacqueline Bluth, only female attorney. I'm just going to
20 leave it alone.

21 THE COURT: Okay.

22 MR. MANINGO: Okay.

23 (End of bench conference)

24 BY MS. BLUTH:

25 Q You were asked a lot of questions regarding times,

1 you know, the timing of these events. Were you ever looking
2 at the clock?

3 A No.

4 Q Were you paying attention to what time it was when
5 the defendant's fingers were being jammed into your vagina?

6 A No.

7 Q So is it safe to say timing wise you don't really
8 know exactly when these things happened to you?

9 A No.

10 Q Okay. Is it safe to say that?

11 A Yeah. No, I never paid any attention to the time.
12 When you're in the hospital you just kind of lose track of
13 time.

14 Q Okay. And --

15 MS. BLUTH: Your Honor, the parties have stipulated
16 to State's Proposed Exhibit 19 coming into evidence, which are
17 the cell phone records. And if I could approach, we could
18 just lay a foundation.

19 THE COURT: You may.

20 BY MS. BLUTH:

21 Q Okay. Showing you what's now in evidence as State's
22 19.

23 A Uh-huh

24 Q What was your cell phone number at the time this was
25 going on?

1 A 702-808-1482.

2 Q Okay. And these -- as you can see in front of you,
3 these are cell phone records for that number from AT&T; is
4 that correct?

5 A Yes.

6 Q Okay. I'm going to ask you some questions, and I'll
7 approach if I need to -- or if you need me to regarding these
8 cell phone records.

9 THE COURT: And what exhibit is that?

10 MS. BLUTH: It's State's 19.

11 THE COURT: Okay. And that, ladies and gentlemen,
12 what is meant by stipulation is an agreement by the lawyers to
13 admit this into evidence. And so it's admitted by stipulation
14 of the parties.

15 (State's Exhibit 19 admitted)

16 MS. BLUTH: Thank you, Your Honor.

17 BY MS. BLUTH:

18 Q Now, you have stated that you woke up and then
19 shortly after waking up you called your husband Scott Cagnina;
20 correct?

21 A Yes.

22 Q And then it was after that, shortly thereafter that
23 you spoke to the first nurse; is that correct?

24 A Yes.

25 Q Okay. And I know you said you don't know the exact

1 times that you did those things.

2 A Uh-huh.

3 Q I'm going to place in front of you page 6 of Exhibit
4 19 -- I'm sorry, I'm not tall enough -- and I'd ask you to
5 look at those records. And, first of all, what was your
6 husband's cell phone number at the time?

7 A 5458.

8 Q What are the first three?

9 A 702-807-5458.

10 Q And what was your home phone at the time?

11 A I don't remember my home phone number.

12 Q Okay. If I told you that it was 870-5435 would you
13 have any reason to disagree with that?

14 A No, I believe that that's what it was.

15 Q Okay. In regards to the timing of calling your
16 husband Scott, now you said his number is 870 -- I'm sorry,
17 the home number is 870-5435; is that correct?

18 A Yes.

19 Q Okay. And what time was that called in the early
20 morning hours?

21 A 2:53.

22 Q Okay. And then the next phone call to that very
23 same home number is at what time?

24 A At 6:16.

25 Q 6:16 a.m. Okay. And then again you called that

1 number at 7:29; correct?

2 A Yes.

3 Q So sometime between 6:15 and 7:30 you're trying to
4 get a hold of your husband?

5 A Yes.

6 Q And that would be around the same time that the
7 first initial nurse --

8 MR. MANINGO: Objection, Your Honor. A lot of
9 leading questions right now. This is redirect, not recross.

10 THE COURT: Sustained.

11 BY MS. BLUTH:

12 Q Would that be around the same time as you spoke with
13 the nurse?

14 A Yeah.

15 Q Around the same time you spoke to your husband?

16 A Yes.

17 Q Okay. Now, you -- you had some time on the break to
18 look at the numbers you were contacting to call Jean at Rape
19 Crisis Center.

20 A Uh-huh.

21 Q Is that a yes?

22 A Yes.

23 Q I'm sorry. I know it's hard to get used to. And
24 those numbers that you gave were -- started with 366 and then
25 385; is that correct?

1 A Yes.

2 Q Mr. Maningo talked to you about currently being on
3 medication.

4 A Uh-huh.

5 Q Do you still -- do you still suffer from seizures?

6 A Yes.

7 Q And how long has it been since your last seizure?

8 A About two months ago.

9 Q And so currently you still take Phenobarbital and
10 Topamax for those?

11 A Yes.

12 Q When Mr. Maningo was asking you questions about the
13 door to the room being open or shut, you started to talk about
14 the curtain. Can you finish your response in regards to that
15 question?

16 A I remember that I couldn't see the hallway. So the
17 door was kind of opened halfway, and then the curtain was
18 opened halfway, so you couldn't see out.

19 Q Okay.

20 A It was kind of blocked.

21 Q So the curtain and the door were situated in a way
22 so that you couldn't see out?

23 A Yeah.

24 Q And who situated those things in that manner?

25 A The defendant.

1 MS. BLUTH: Court's indulgence, Your Honor. I need
2 to find a page.

3 BY MS. BLUTH:

4 Q Do you remember Mr. Maningo asking you several
5 questions about which phone you called from, whether it be the
6 room phone or the cell phone after, you know, when you woke up
7 and you spoke to your husband?

8 A Yes.

9 Q And he asked you several questions regarding it
10 being the room phone --

11 A Yes.

12 Q -- do you remember that? Okay. As you sit here
13 today, do you know if it was your cell phone or the room
14 phone?

15 A I don't remember which one it was. I know that I
16 would have probably tried to call from my cell phone, but I
17 was getting services in some areas and service in other areas
18 I didn't have any service.

19 Q And you've seen your cell phone records.

20 A Uh-huh.

21 Q I just presented them to you so you recognize that
22 you called from your cell phone a couple of different times.

23 A Yes.

24 Q You stated on cross-examination that your husband
25 told you what to do if this ever happened to you; correct?

1 A Yes.

2 Q When you're going through things like this, do --
3 are you thinking, oh, my husband told me this is what I should
4 do when someone is raping me?

5 A No.

6 Q What --

7 A You -- you -- you just kind of lose everything
8 you've ever been taught, you know, everything that's ever been
9 told to you. You just -- me myself, I just froze. I didn't
10 know what to do. I was -- I was afraid -- I was afraid he was
11 going to kill me. I figured if I just let it happen that it
12 would end. And it's like something I could never wish on
13 anybody. I mean, it ruined my whole life.

14 Q Did -- so fair to say once you got in that situation
15 it's not easy to do what everybody thinks you should do?

16 A No, it's not.

17 Q You were also asked some questions and then we took
18 a break about, you know, whether or not you said he was
19 licking his fingers and he made you lick your fingers.

20 A Uh-huh.

21 Q Do you remember testifying at a preliminary hearing?

22 A I remember testifying at many different things,
23 but --

24 Q Do you remember coming to the courthouse here and
25 testifying at a preliminary hearing?

1 A Yes.

2 Q Okay. And do you remember discussing that at the
3 preliminary hearing? And if you don't, that's fine. I can
4 show you.

5 A I remember -- I remember it happening, so I believe
6 that I did testify to it because --

7 Q Would you like to see a copy so you can know whether
8 or not you said it?

9 A Yeah.

10 MS. BLUTH: May I approach, Your Honor?

11 THE COURT: Yes.

12 BY MS. BLUTH:

13 Q If you could just read this to yourself and then let
14 me know when you're done reading.

15 A Yeah.

16 Q Okay. So after reading that does that refresh your
17 recollection?

18 A Yes.

19 Q And when you were testifying at a preliminary
20 hearing, did you tell the judge that the defendant not only
21 licked his fingers, but tried to get you to lick his fingers?

22 A Yes.

23 MS. BLUTH: Court's indulgence.

24 BY MS. BLUTH:

25 Q Mr. Maningo talked to you a little bit about some of

1 the financial difficulties that you and Scott were having at
2 the time.

3 A Uh-huh.

4 Q Did you make this up because you wanted money?

5 A No.

6 Q Okay. Did the defendant stick his fingers in your
7 vagina?

8 A Yes, he did.

9 Q Did he rub and squeeze your breasts?

10 A Yes.

11 Q Did he kiss and lick your vagina?

12 A Yes.

13 Q Did you want him to do any of those things to you?

14 A No.

15 MS. BLUTH: Nothing further.

16 THE COURT: Recross.

17 MR. MANINGO: Very briefly.

18 RECROSS-EXAMINATION

19 BY MR. MANINGO:

20 Q Ms. Cagnina, just a moment ago you stated that you
21 -- when you were in the room that Mr. Farmer had situated the
22 room a certain way with the curtains and that kind of thing.

23 A All I can remember is that I couldn't see the
24 hallway.

25 Q Okay. Couldn't see the hallway.

1 A I couldn't see the hallway --

2 Q Okay.

3 A -- from where I was at.

4 Q Okay.

5 MR. MANINGO: May I approach?

6 THE COURT: Yes.

7 MR. MANINGO: Page 62 of the preliminary hearing.

8 MS. BLUTH: Thank you.

9 BY MR. MANINGO:

10 Q If you want to take a look at that.

11 A What paragraph?

12 Q One second. It's -- it's on page 62, so it's the
13 left side bottom box, okay. It says, "Once you got to your
14 room it is your testimony that Mr. Farmer partially closed the
15 door, or how did that door get partially closed?"

16 And your answer is, "I'm saying the door was not
17 closed. I know that, but I believe it wasn't all the way
18 open."

19 Question, "How do you know the door wasn't open?"

20 And your answer is, "Because I could see the
21 hallway."

22 Is that what your sworn testimony at the preliminary
23 hearing was?

24 THE COURT: Did you read -- would you read that --
25 it didn't make any sense. Sorry.

1 BY MR. MANINGO:

2 Q The question was posed to you, Ms. Cagnina, "Once
3 you got to your room is it your testimony that Mr. Farmer
4 partially closed the door, or how did that door get partially
5 closed?"

6 And your answer was, "I'm saying I know the door was
7 not closed. I know that, but I believe it wasn't all the way
8 open."

9 And were asked the question then, "How do you know
10 the door wasn't closed?"

11 And your answer is, "Because I could see the
12 hallway."

13 Correct?

14 A Yeah, but then I also mention --

15 Q I'm not asking about other parts of the transcript,
16 Ms. Cagnina. I'm asking did you answer the question --

17 A Once the bathroom curtain

18 Q -- that you could see the hallway?

19 THE COURT: Okay. Wait a second.

20 MS. BLUTH: I'm sorry, Your Honor, I'm going to
21 object under the doctrine of completeness because the
22 following answer she clarifies the rest of the --

23 THE COURT: So let's -- let's have the whole section
24 that deals with that section, Mr. Maningo.

25 MR. MANINGO: The answer --

1 THE COURT: Beyond what you read already, you know,
2 then what?

3 MR. MANINGO: There's -- there's nothing else, Your
4 Honor. I mean, there's the rest of the preliminary hearing
5 transcript, but the bottom line is what she testified and what
6 she just told me a few seconds ago was, look, the bottom line
7 is I couldn't see the hallway. Her answer on page 62 of the
8 preliminary hearing transcript is because I could see the
9 hallway.

10 BY MR. MANINGO:

11 Q Which is opposite of what you just said. Do you see
12 that line where it says because I could see the hallway?
13 That's -- that's the only question I have for you.

14 A Yes, I --

15 Q Okay. Thank you.

16 A -- remember saying that, but the next part says --

17 Q Ms. Cagnina, my only question was --

18 A -- no, I don't remember.

19 MS. BLUTH: Same objection.

20 BY MR. MANINGO:

21 Q My only question --

22 THE COURT: Let me see the transcript. I don't have
23 a copy.

24 MR. MANINGO: Page 62.

25 THE COURT: Okay. All right.

1 MR. MANINGO: Thank you.

2 THE COURT: I believe that that, as far as being
3 able to see the hallway, that's -- that's all that's
4 addressed --

5 MR. MANINGO: Okay. Thank you, Your Honor.

6 THE COURT: -- in the preliminary transcript. If
7 the State wants on redirect to clarify, that's fine.

8 MR. MANINGO: And -- and we have the answer, then?
9 Correct, Your Honor?

10 THE COURT: I'm sorry, the --

11 MR. MANINGO: The witness did answer, then?

12 THE COURT: I think so.

13 MR. MANINGO: Okay.

14 THE COURT: I mean, she testified --

15 MR. MANINGO: Right.

16 THE COURT: -- that's what it said.

17 MR. MANINGO: Right. Okay. Very good. No further
18 questions.

19 THE COURT: Anything further?

20 MS. BLUTH: Let me just ask her to clarify the
21 follow up question.

22 FURTHER REDIRECT EXAMINATION

23 BY MS. BLUTH:

24 Q When they -- do you have it in front of you, Ms.
25 Cagnina?

1 A No.

2 MS. BLUTH: Or does Her Honor have it?

3 MR. MANINGO: I do.

4 MS. BLUTH: Oh. I'll take it.

5 BY MS. BLUTH:

6 Q So when they asked you to clarify, did you clarify
7 what you could and couldn't see?

8 A Yes.

9 Q Okay. And what did you say?

10 A That right here, that the -- what do you call it,
11 but I could see the hallway.

12 Q Right.

13 A And then I put I do not remember. I remember saying
14 that the fact --

15 MR. MANINGO: Objection, Your Honor.

16 THE WITNESS: -- the door was open --

17 MR. MANINGO: Excuse me. Objection.

18 THE WITNESS: -- so you couldn't --

19 MR. MANINGO: Ms. Cagnina.

20 THE WITNESS: -- so I couldn't see.

21 THE COURT: Stop. Stop.

22 MS. BLUTH: Stop for one second.

23 Go ahead, Mr. Maningo.

24 MR. MANINGO: I would just -- I would just ask that
25 for the, you know, the completeness of this part of the

1 testimony that the question be read, as well, as to what she's
2 reading. Because the question -- the question after because I
3 could see the hallway.

4 THE COURT: Okay. Read the -- the question before
5 your answer.

6 MS. BLUTH: Are you talking to me? I'll read the
7 question.

8 THE COURT: Yes, thank you.

9 BY MS. BLUTH:

10 Q The question was, "Do you remember telling the
11 police officer that the door to the hospital room was closed?"
12 And your response --

13 MS. BLUTH: Can I just read the response, Your
14 Honor?

15 THE COURT: Yes.

16 BY MS. BLUTH:

17 Q The response was, "No, I don't remember. I remember
18 saying that the bathroom door was opened so you couldn't --
19 with the bathroom door open you couldn't -- you cannot see
20 everything out there." So your obstruction to the hallway --
21 I'm sorry. Your view to the hallway was obstructed?

22 A Yes.

23 MS. BLUTH: Nothing further.

24 THE COURT: Do you have anything further?

25 MR. MANINGO: No, Your Honor. Thank you.

1 THE COURT: Thank you. And may this witness be
2 excused?

3 MS. BLUTH: Yes, Your Honor.

4 THE COURT: Thank you very much for your testimony.

5 THE WITNESS: Thank you.

6 THE COURT: You may call your next witness.

7 MR. KOCHEVAR: Thank you, Judge. The State calls
8 Karen Goodhart.

9 THE COURT: Thank you.

10 KAREN GOODHART, STATE'S WITNESS, SWORN

11 THE CLERK: Please be seated. If you would please
12 state and spell your first and last name for the record.

13 THE WITNESS: Karen Goodhart, K-A-R-E-N
14 G-O-O-D-H-A-R-T.

15 DIRECT EXAMINATION

16 BY MR. KOCHEVAR:

17 Q Good afternoon, Ms. Goodhart. Thanks for being
18 here. How are you currently employed?

19 A I am employed as a registered nurse at Centennial
20 Hills Hospital in the emergency room.

21 Q Okay. And how long have you been working as a
22 registered nurse approximately?

23 A Since 1992 as a registered nurse.

24 Q And prior to that were you working in the medical
25 profession, as well?

1 A Yes, I was..

2 Q As --

3 A A licensed practice nurse from '82 to '92.

4 Q Okay. And you may have said this, but how long have
5 you been working at Centennial Hills Hospital in the emergency
6 room?

7 A I have been at Centennial Hills Hospital in the
8 emergency room since March of '08.

9 Q Okay. And Centennial Hills Hospital opened just
10 prior to that; is that right?

11 A Correct.

12 Q Okay. In the beginning like January or February?

13 A Correct. January.

14 Q Okay. So essentially you've been there almost from
15 the beginning.

16 A Correct.

17 Q I'd like to direct your attention to May 15th of
18 2008, so just a couple of months after you started working
19 there.

20 A Days.

21 Q Do you remember that particular shift or that
22 particular day?

23 A I do somewhat. Not as well as what I would have.

24 Q Obviously it happened a long time ago, so I don't
25 think anybody expects you to remember every little detail, but

1 you -- you do remember that you were working that day?

2 A That night, yes.

3 Q Okay. Do you remember an individual or patient
4 coming into the emergency room that evening by the name of
5 Roxanne Cagnina?

6 A It has been refreshed into my memory, yes.

7 Q Okay. And after having been refreshed into your
8 memory, do you have some recollection of her and you being
9 assigned to be her nurse?

10 A Correct.

11 Q Okay. Was there anybody else in the emergency room
12 that night that was also assisting in the care of Ms. Cagnina?

13 A Ray Sumera was also the registered nurse working
14 with me.

15 Q Okay. In what capacity -- is it usual to have two
16 nurses or one?

17 A I was on orientation.

18 Q Okay.

19 A I was -- like I said, my first day -- my first
20 night.

21 Q Okay. And Ray was essentially the one that was --

22 A He was the --

23 Q -- providing training for you?

24 A Correct.

25 Q Okay. Anybody else besides you and Ray?

1 A Well, I can give you a whole list of people's names
2 that was working in the emergency room, but I'm going to guess
3 you're regarding -- referring to Mr. Farmer, the CNA.

4 Q Was Mr. Farmer working that night as a CNA in the
5 emergency room at Centennial Hills?

6 A Yes, he was.

7 Q Do you see Mr. Farmer here in the courtroom today?

8 A Yes, I do.

9 Q Could you point to him and identify what he's
10 wearing here in court today?

11 A A suit with a blue tie and a white shirt.

12 Q Okay.

13 MR. KOCHEVAR: Let the record reflect the witness
14 identified the defendant.

15 THE COURT: Can you identify him further? Because
16 I'm seeing another blue tie over there.

17 THE WITNESS: Oh.

18 BY MR. KOCHEVAR:

19 Q What color is his hair?

20 A He has white hair, white facial hair.

21 THE COURT: Thank you. The record will so reflect.

22 MR. KOCHEVAR: Thank you, Judge.

23 BY MR. KOCHEVAR:

24 Q Does Mr. Farmer appear any different today than he
25 did back in 2008?

1 A Older and thinner, yes.

2 Q Okay. Was there a physician that was assigned to be
3 the treating physician for Ms. Cagnina that evening?

4 A There would have been. Without the notes I would
5 not be able to recall whom.

6 Q Okay. Would looking at the medical records and the
7 notes from that -- that evening assist you in answering
8 questions today?

9 A It might. Yes, it should.

10 Q Okay.

11 MR. KOCHEVAR: May I approach, Judge?

12 THE COURT: Yes.

13 BY MR. KOCHEVAR:

14 Q I'd ask if you could just take a look at those
15 records for a moment and then tell me when you're finished.

16 A Emergency room physician would have been Dr.
17 Slaughter.

18 Q Do those notes appear to be notes that were
19 generated from Ms. Cagnina's stay in the emergency room, notes
20 that you created, notes that the doctor created documenting
21 her treatment?

22 A Correct.

23 Q Okay. Describe for us how it is that you -- when a
24 patient first arrives in the emergency department, how does a
25 patient get assigned, how does that all happen?

1 A Nurses are assigned room assignments. That would be
2 like room 7, 8, 9, and 23; 10, 11, 12, and 13; so on and so
3 forth. You're assigned a group of rooms.

4 Q Okay. So then if a patient is placed in one of the
5 rooms that you're assigned to cover, that patient becomes
6 yours --

7 A Correct.

8 Q -- to treat. Who decides which patient goes into
9 which room?

10 A The charge nurse.

11 Q Okay. Is there a triage process that's -- that's
12 done when a patient comes in to determine which room to go in,
13 which level of severity, that kind of thing?

14 A If a person is in a cardiac arrest situation, they
15 would go to a special room, yes. Otherwise, it's -- they're
16 put into a room as they come in and there is a room available.

17 Q Okay. What's the first thing you do when you're
18 first assigned a new patient? What's the first thing that you
19 do in your course of treatment for them?

20 A You generally want to go in, take a look at what
21 needs to be done first, are they breathing, if they are, okay,
22 you can move down and get them undressed, put them on the
23 heart monitor, assess their breathing, their heart rate, get
24 their vital signs, get a past medical history, interview the
25 patient.

1 Q Okay. And per your recollection and per the notes
2 that you have in front of you, did you follow that process in
3 your treatment of Ms. Cagnina?

4 A Correct. What med -- what the paramedics had given
5 her prior to coming in, her vital signs, what information we
6 could get from her.

7 Q Is it documented on there approximately what time
8 she arrived and what time you did this initial assessment?

9 A 2020, which would be 8:20 p.m.

10 Q Okay. To your recollection and per the notes in
11 front of you, what did Ms. Cagnina come to the emergency room
12 for, the emergency department for? What was her medical
13 ailment?

14 A That she had had a seizure, witnessed seizure times
15 two, lasting approximately 45 seconds.

16 Q Okay. And I think you previously testified she came
17 by ambulance because you noted --

18 A Correct.

19 Q -- you had received some information from the --

20 A EMS.

21 Q -- paramedics or the --

22 A Yes.

23 Q EMTs.

24 A Uh-huh.

25 Q Do you recall from your memory or from reviewing

1 your notes what was Ms. Cagnina's condition upon arrival as
2 far as her awareness to her surroundings and what was going
3 on?

4 A It looks like she was alert, in mild distress, she
5 was moving everything. She was oriented, cooperative, no --
6 no problems at that time, no evidence of injury. Let's see.

7 Q How do you determine if somebody is oriented? When
8 you say oriented --

9 A Do you know what the date is, do you know what city
10 you live in, who is the president?

11 Q So if somebody can appropriately answer those
12 questions, then you would determine that they are oriented
13 to --

14 A Correct.

15 Q Okay.

16 A Person, place, and time, yes.

17 Q Great. As part of your initial care and treatment
18 of Ms. Cagnina, did you place her in a hospital gown?

19 A Correct.

20 Q Did you actually conduct that process?

21 A Correct.

22 Q Do you know if you were assisted by anybody or if
23 you did that on your own?

24 A Ray and I were in the room at that time.

25 Q Okay.

1 A And put her on the monitor.

2 Q And is that noted and documented in your records, as
3 well, when that occurred?

4 A Let's see. Actually, no, but there is a spot there,
5 I believe, where you got the patient undressed and stuff. But
6 generally upon arrival you get them undressed and put them on
7 a monitor and put the seizure pads on the bed.

8 Q Okay. What are seizure pads?

9 A They are -- it's like a mat that you would let kids
10 play on, except they're smaller and they would strap onto the
11 railings of the gurney.

12 Q And what is the purpose of the seizure pads?

13 A Keep the patient from getting injured if they had
14 another seizure.

15 Q Okay. So if they had a seizure while they're laying
16 there in the hospital bed --

17 A They not going to bang their arms and head against
18 the railings.

19 Q Okay. As part of your course of treatment for any
20 patient, and in particular for Ms. Cagnina, did you take and
21 record vital signs additionally and then throughout their
22 course of the stay?

23 A Correct.

24 Q Are those vital signs noted on those record that you
25 have in front of you?

1 A Yes, they are.

2 Q Can you tell me what time the first vital signs were
3 taken?

4 A It would have been at 2020 when she came in, 116
5 over 81, heart pulse was 93, respiratory rate 16, with a
6 temperature of 99.2.

7 Q And does it note on there the last time vitals were
8 taken?

9 A 0130.

10 Q So that would have been 1:30 in the morning --

11 A Correct.

12 Q -- on the 16th now?

13 A Correct.

14 Q Okay. And is there a standard time frame for when
15 vitals need to be taken, a regular period of time, or is it
16 just -- depends on the patient?

17 A It depends on the patient, but generally you're
18 going to do vital signs every one to two hours, but once
19 they're admitted their vital signs are every four hours.

20 Q Okay. And is it noted -- do you recall or is it
21 noted on those records what kind of medications were given to
22 Ms. Cagnina during her time in the emergency department?

23 A Correct. Let's see. She was given 5 of Versed, 4
24 of Zofran prior to coming into the emergency room, plus an amp
25 of D50 by EMS. At 2055, or 8:55 p.m., she was given 2 of

1 Ativan. At 8:55 she was given Cerebyx. At 10:11 she was
2 given morphine. At 24 minutes after midnight she was given
3 Dilaudid. And she had a Phenobarb at -- Phenobarb drip at
4 3:00 a.m.

5 Q So the last recorded one that you mentioned was --

6 A 3:00 a.m.

7 Q -- the Phenobarb at 3:00 a.m., and that was -- I'm
8 assuming, and correct me if I'm wrong, because those are noted
9 on the emergency room records, that was administered --

10 A Correct.

11 Q -- and delivered to her while she was still in the
12 emergency room?

13 A Correct.

14 Q Okay. You testified that Ms. Cagnina came into the
15 emergency department --

16 A Well, wait a minute. We still have more mediations
17 here.

18 Q Okay.

19 A We're on the continuation sheet. Let's see. At
20 midnight-45 she was given another 1 milligram of Dilaudid. At
21 1:30 given another milligram of Dilaudid, and at 3:25 given 2
22 milligrams of Dilaudid.

23 Q So 3:25 was the last documented medication?

24 A Correct. At 3:45 I have documented states headache
25 is starting to decrease, appears very drowsy.

1 Q Okay. And your review of those documents, is that
2 the last, that 3:45 entry that you just referenced, is that
3 the last entry that you have noted on the emergency room
4 documentation?

5 A Correct. At 3:15 I did her vital signs, and at 3:45
6 that was my last documentation.

7 Q Okay. You testified earlier that Ms. Cagnina came
8 in because she was experiencing seizures. At any point in
9 time during her stay in the emergency department did she
10 experience another seizure?

11 A At 2055 Ray has noted here that -- he noted an
12 approximately 30 second seizure activity, made the doctor
13 aware, and seizure precautions in progress.

14 Q Any --

15 A At 2145 alert, confused to time, cooperative, no
16 seizures.

17 Q Okay. You've indicated that Ray who was the nurse
18 that was --

19 A He was a --

20 Q -- providing training for you --

21 A Right.

22 Q -- he is the one that noted that seizure?

23 A Correct.

24 Q To your independent recollection, do you recall
25 observing that seizure while Ms. Cagnina --

1 A I would not be able to recall.

2 Q And, again, we're talking about 2008. So as you sit
3 here today, you don't independently recall that?

4 A No, I do not.

5 Q Okay. Ultimately, was a decision made to admit Ms.
6 Cagnina into the hospital?

7 A Correct.

8 Q Who makes that decision when somebody is going to be
9 admitted?

10 A The emergency room physician.

11 Q Okay. And how is -- describe for us how that
12 process takes place about how somebody is going to be
13 admitted, where they're going, what floor, what room they're
14 going to go to. How does that process work?

15 A The physician reviews the labs, the x-ray reports,
16 and patient's condition. It looks like she had continued
17 headache, which she rated as severe, a 9 out of 10, for the
18 most part getting less than an 8. I'm not sure what her lab
19 values were, whether -- because I they probably needed too
20 long. I don't know whether -- just basically probably for
21 pain control. That all depends. Most seizure patients are
22 discharged unless they're new seizures.

23 Q Okay.

24 A They would call primary, her internal medicine
25 doctor, talk to him, see if he wanted her admitted. Once the

1 doctor made that decision, depending on what he was admitting
2 her for, whether or not she would be on telemetry or a heart
3 monitor. For seizure patients, if you're going to admit them
4 you generally would put them on a monitor.

5 Q Okay.

6 A They would then notify the house supervisor, and
7 house supervisor would assign the bed.

8 Q Now, who is the house supervisor? I mean, describe
9 for me what that position is?

10 A It is -- it is the nurse that you run traffic
11 through. That's the one that was above your charge nurse that
12 you would go to prior to going to administration --

13 Q Okay.

14 A -- for the --

15 Q And at any given time in the hospital are there --
16 is there just one house supervisor or are there multiple house
17 supervisors that are on duty?

18 A It is generally just the one house supervisor,
19 particularly on nights.

20 Q Okay.

21 A You have your cleanse -- well, we now call them
22 cleanse supervisors, whatever, they're the charge nurses on
23 the unit. Then it goes to the house supervisor.

24 Q So house supervisor is the one that makes the
25 decision about what floor, what room the person is going to

1 be --

2 A Correct. If your --

3 Q -- admitted?

4 A You have your ICU, IMC, med telly, med surg --

5 Q Okay.

6 A -- or OB.

7 Q When the decision was made to admit Ms. Cagnina into
8 the hospital, do you know where from your recollection or from
9 the documents what room or floor she was to be admitted to?

10 A No.

11 Q Anywhere in those documents does it tell you
12 ultimately what room she was --

13 A No, sir.

14 MR. KOCHEVAR: May I approach the witness, please?

15 THE COURT: Yes.

16 THE WITNESS: Oh. Oh, thank you. Room 725.

17 BY MR. KOCHEVAR:

18 Q Okay.

19 A It's been a long time since I've had to look at one
20 of these forms.

21 Q That's okay. And Room 725, can we safely assume
22 that's on the seventh floor?

23 A Correct.

24 Q And what floor is the emergency department on?

25 A First.

1 Q Okay. Does it give a time of when she was
2 transported to that room?

3 A No, it does not. My last documentation on her when
4 she was still -- had the bed in the room at -- in the
5 emergency room at 3:45.

6 Q Okay. So we know for certain because that's your
7 last notes that you entered that she was there at 3:45, and
8 then we know that she was admitted to Room 725 in the
9 hospital?

10 A Correct.

11 Q Who ordinarily, when somebody is being transported
12 from the emergency department to a room to be admitted, who
13 ordinarily does that transporting process?

14 A Transport or a CNA or an emergency room tech.

15 Q Do you recall specifically in this case who
16 transported Ms. Cagnina from the emergency department to Room
17 725?

18 A Mr. Farmer.

19 Q Okay. Typically, in your experience having been
20 there now for several years, how long would it take somebody
21 if they went directly from the emergency department to the
22 seventh floor, how long would that transport take?

23 A Anywhere between 10 and 15, 20 minutes.

24 Q Okay. And do you recall in this particular case how
25 long it was from the time Mr. Farmer left until he returned to

1 the emergency department?

2 A From given my -- having reviewed my statement that I
3 was -- had given prior in '08, I believe I said that I think
4 he was gone between 30 and 45 minutes, but I'm not sure. Do I
5 actually remember? No.

6 Q Okay. And you reference this statement. You gave a
7 statement to the police shortly after this incident happened.

8 A I could not tell you when I gave it to them.

9 Q Much closer in time in 2008.

10 A It was close in time in 2008, yes.

11 Q And can I safely assume your memory was probably
12 better at that time --

13 A I'm going to safely --

14 Q -- in regards --

15 A -- assume that, yes.

16 Q -- to the incident than it is today?

17 A Correct.

18 Q And to your recollection of what you told the
19 officer at that time was that he was gone for approximately 30
20 to 45 minutes --

21 A Okay.

22 Q -- is that correct?

23 A [Unintelligible].

24 Q Okay.

25 THE COURT: Is that correct? I didn't hear.

1 THE WITNESS: I believe that's what it said on my
2 statement. I don't have the statement in front of me, but
3 they did give it to me to review.

4 BY MR. KOCHVAR:

5 Q And today you have no reason to --

6 A No.

7 Q -- disagree with that statement that you gave back
8 in 2008?

9 A No, I do not.

10 Q Okay. When the defendant transported Ms. Cagnina
11 from the emergency department to the seventh floor, was he
12 alone or was he assisted by anybody else do you remember?

13 A He was alone.

14 Q Okay. Let's talk a little bit about the functions
15 of the CNAs in the emergency room at Centennial Hills,
16 particularly in 2008. I recognize maybe they may have changed
17 since then, but what kind of duties and responsibilities did a
18 CNA have in regards to providing care or treatment for a
19 patient?

20 A It would be as if they were upstairs on the floor,
21 answering the call lights, bed pans, helping people to the
22 bathroom, putting them back on the monitor, getting vital
23 signs.

24 Q Okay. Would they ever be involved in the placement
25 of EKG patches and leads or the removal of those patches and

1 leads?

2 A They can remove them, but generally placement would
3 be by the nurse. Because unless that person has been trained
4 on where to put them, they shouldn't be putting them on.

5 Q Okay. If a patient already has the patches and the
6 leads in place and a problem arises with them, is that
7 something that the CNA would ordinarily take care of, or is
8 that something that a nurse or doctor would need to take care
9 of?

10 A I really find that difficult to answer because, like
11 I said, upstairs on the floors I'm not sure if they have their
12 CNAs fix -- go in and put them back on the monitors or not.
13 In the emergency room, we're a different situation.

14 Q Okay.

15 A I mean, it's -- the --

16 Q Based on --

17 A We're nurses. We're the most -- there's very few
18 CNA techs.

19 Q Okay. Now, I'm talking about in the emergency room.

20 A They could take them off probably. I would have a
21 tech if I had an issue with the monitor that kept going off
22 and I was busy with a patient. The emergency room technician
23 would go check the monitor. As a CNA, I'm not sure if they
24 would have that training.

25 Q Okay.

1 A So back in '08, I really couldn't tell you.

2 Q Okay. Now, you -- you've indicated that to your
3 recollection and what you told the detective at the time when
4 you gave your statement in 2008 that Mr. Farmer was gone
5 somewhere between 30 and 45 minutes transporting Ms. Cagnina.
6 Upon his return to the emergency department, did you make any
7 statements to him or did he make any statements to you about
8 why it had taken him so long?

9 A Without -- not that I can recall, but with that form
10 and with listening to the tape that they had recorded, yes, I
11 did mention something.

12 Q And what did you mention to him?

13 A I really can't remember. I would have to read it.

14 Q Do you recall what his response to your inquiry was?

15 A I believe it there was a mention about IV pole and
16 getting the nurse.

17 Q Okay.

18 MR. KOCHEVAR: Court's indulgence.

19 BY MR. KOCHEVAR:

20 Q Is it safe for me to say that because of the time
21 period that it took Mr. Farmer to transport Ms. Cagnina, which
22 you've not testified the average transport would probably be
23 10, 15, 20 minutes, his was 30 to 45 minutes, because of the
24 duration, that's what caused you to say something to Mr.
25 Farmer?

1 A I really don't know. It could have been something
2 else that made me ask. I have no clue. I don't truly even
3 remember talking to him afterwards.

4 Q Okay.

5 A But I would not have -- I know that it's been
6 several years. And if I told the police officer that
7 interviewed me at that time that I did, then I would not have
8 had any reason to lie.

9 Q Okay. And as you sit here today, a transport of a
10 patient from the emergency department to the subfloor at
11 Centennial Hills Hospital that took 30 to 45 minutes would
12 still be an unusually long transport time?

13 A Yes.

14 Q Okay.

15 MR. KOCHEVAR: Nothing further, Judge.

16 THE COURT: Cross.

17 MR. MANINGO: Thank you, Your Honor.

18 CROSS-EXAMINATION

19 BY MR. MANINGO:

20 Q Hello, Ms. Goodhart.

21 A Hello.

22 Q My name is Jeff Maningo. I'm going to ask you a few
23 follow up questions.

24 A Okay.

25 Q We're obviously talking about the same event, same

1 individuals.

2 A Okay.

3 Q Okay? Let's -- let's first talk about -- well,

4 you've already testified that you gave a police statement.

5 A Correct.

6 Q Okay. You also gave a deposition in this case;

7 correct?

8 A Correct.

9 Q Okay. And in the deposition you were sworn in and

10 took an oath just like you do in court?

11 A Correct.

12 Q Okay. Now, when Ms. Cagnina came into the emergency

13 room back in 2008, you -- you noticed -- you assisted her with

14 medications; correct?

15 A Correct.

16 Q Okay. And you noticed that she had taken a lot of

17 medications?

18 A Correct.

19 Q Okay. And you also noticed that despite taking a

20 lot of medications it did not seem to really phase her?

21 A Correct.

22 Q Okay. And, in fact, it was -- it was your belief

23 that she took enough meds to kill a horse, but she sucked it

24 up like candy.

25 A That is what I said in the deposition, yes.

1 Q Okay. And even though at times Ms. Cagnina was a
2 bit drowsy, she seemed to wake up quickly when it was for more
3 pain medication?

4 A Correct.

5 Q Okay.

6 A Well, like I have documented here, it was like she
7 just complained -- had a complaint of a headache when you
8 walked in the room. She had a severe headache.

9 Q Okay. Now, you also felt that based on your -- your
10 time and your experience with Ms. Cagnina that she was -- she
11 was a little off; correct?

12 A I believe I said that in my deposition, yes.

13 Q Yes, you said, I said this girl was -- was just a
14 little off; correct?

15 A Correct.

16 Q Okay.

17 MR. MANINGO: Page 82.

18 BY MR. MANINGO:

19 Q You felt that it was -- well, I'm sorry. Let me
20 rephrase that. Now, from what you remember with your
21 experience with Mr. Farmer, Mr. Farmer was helpful; correct?

22 A Correct.

23 Q Okay. And other people in the emergency room or in
24 the vicinity that you were working with seemed to get along
25 well with Mr. Farmer?

- 1 A Correct.
- 2 Q And -- and Mr. Farmer was helpful to everyone
3 around?
- 4 A Correct.
- 5 Q Okay. And it's -- it's not uncommon for CNAs to get
6 grabbed and asked to do things on the fly?
- 7 A Correct.
- 8 Q Okay. So if Mr. Farmer were transporting a patient,
9 that is one of the duties?
- 10 A Correct.
- 11 Q Okay. If you were transporting a patient and a
12 nurse were to say could you go grab an IV pole for me, that
13 would not be unusual?
- 14 A No.
- 15 Q Okay. And it would not be unusual for Mr. -- or,
16 excuse me, for any CNA to transport a patient and then have to
17 locate the nurse that he's turning that patient over to?
- 18 A Correct.
- 19 Q Nurses are obviously very busy.
- 20 A Correct.
- 21 Q They're not just sitting in an empty room waiting
22 for a patient to come in?
- 23 A Correct.
- 24 Q Okay. And, in fact, looking back today and from
25 your deposition, you don't feel that the time that it took Mr.

1 Farmer to transport Ms. Cagnina was unusual?

2 A I can't even say that he was gone for that period of
3 time for sure.

4 Q Right.

5 A I felt that he was gone that long, but I'm not sure.

6 Q Okay. Fair enough. Do you recall stating in your
7 -- in your deposition when asked about the -- the lapse in
8 time, you stated I wouldn't have known, five minutes seems
9 like a half hour when you're busy, when you need some help?

10 A True.

11 Q Okay. Hospitals are busy?

12 A Yes, sir.

13 Q Centennial Hills was busy?

14 A In '08, no, I can't say that Centennial Hills was an
15 extremely busy place --

16 Q But you --

17 A -- but it is a --

18 Q -- still needed help?

19 A Still needed help. There was still a lot -- there
20 was still patients, but now it's busy.

21 Q Right. Okay. And while you're -- even at that time
22 in '08 when it's not as busy as it is now, you've got a lot to
23 focus on.

24 A True.

25 Q Okay. You're not paying attention to Mr. Farmer.

1 A No, sir, I'm not.

2 Q Okay. I believe you've -- you've said in your prior
3 testimony that he was doing his job and you were doing yours.

4 A Correct.

5 Q Okay. And really to repeat what you've already
6 testified to today, you wouldn't have known how long he was
7 gone truthfully.

8 A Truthfully, no. I -- it's not like -- I'm sorry to
9 elaborate, but it's not like he was -- I was the only nurse he
10 was working with.

11 Q Right.

12 A He was working with all the nurses in the emergency
13 room. So for me to actually keep tabs on him, know where he
14 was, how long he was gone, what he was doing, there's just no
15 way --

16 Q Absolutely. So he's --

17 A -- for me to know.

18 Q I'm sorry. I didn't mean to cut you off. He's
19 helping, like you said, a lot of other nurses; right?

20 A Uh-huh.

21 Q I'm sorry. You have to answer yes or no --

22 A Yes.

23 Q -- just for the recording. Thanks.

24 A Yes, he was.

25 Q Sorry. And -- and that's helping with a lot of

- 1 patients, then, correct?
- 2 A With the patients that are there at the time, yes.
- 3 Q So not just Ms. Cagnina?
- 4 A Correct.
- 5 Q Okay. Delays in transporting patients, that's not
- 6 unusual; correct?
- 7 A No, sir.
- 8 Q You felt at that night that Mr. Farmer was doing a
- 9 fine job?
- 10 A Yes, sir.
- 11 Q You didn't receive any complaints that night about
- 12 Mr. Farmer?
- 13 A No, sir.
- 14 Q Ms. Cagnina did not come to you or say anything to
- 15 you about Mr. Farmer?
- 16 A No, sir.
- 17 Q If you had suspected that something was going on
- 18 incorrectly or -- or even close to these allegations, you
- 19 would have reported it?
- 20 A Yes, sir.
- 21 Q You would have put a stop to it or -- or called
- 22 somebody?
- 23 A Correct.
- 24 Q Okay. That didn't happen?
- 25 A No, sir.

1 Q Okay. Now, you were -- you were with another
2 individual, another nurse --

3 A Correct.

4 Q -- Ray?

5 A Ray.

6 Q Okay. Ray, is that a male or female?

7 A Male.

8 Q Okay. There was a time while Ms. Cagnina was in the
9 emergency room that she became upset because Ray wouldn't come
10 into the room with you.

11 A Yes.

12 Q Okay. And both yourself and Ray felt that that was
13 a little bit odd?

14 A Ray was -- I told -- she was in there -- I told Ray
15 about it, but I thought it was a little odd.

16 Q Okay. And you had stated about Ms. Cagnina that I
17 know that she was a little not shy.

18 A Correct.

19 Q Okay.

20 A As I did mention that in my deposition.

21 Q Yes. Okay. And that you went to put her on a bed
22 pan and she just threw the sheets back and -- and you were the
23 one who was like, whoa, let me close the door.

24 A Yes, sir.

25 Q Okay. And then she -- Ms. Cagnina became upset and

1 started crying because Ray wouldn't come back into the room?

2 A Correct. That's when I asked her -- if I remember
3 correctly, I asked her what was wrong. She said have I been a
4 bad patient? And when I said why, she said because -- because
5 the other nurse Ray wouldn't come back into the room. And I
6 told her -- I explained to her that I was her primary care
7 nurse, that Ray was busy.

8 Q Thank you, Ms. Goodhart.

9 THE COURT: Redirect.

10 MR. KOCHEVAR: Yes, Judge. Thank you.

11 REDIRECT EXAMINATION

12 BY MR. KOCHEVAR:

13 Q Just to establish a couple timelines, Ms. Goodhart,
14 would you have any reason to disagree with me that you gave
15 your statement to the detective on May 30, 2008?

16 A If that's what he wrote -- if you're asking me to
17 remember if I did or not, I can't tell you.

18 Q Which is approximately two weeks or so after the
19 incident.

20 A May 30th would be approximately six weeks, I would
21 believe, after the incident.

22 Q Ms. Cagnina was in the hospital on May 15th. She
23 came to the ER --

24 A No, March -- March or May? May 15th. Okay. I
25 thought I started in March. Huh. I thought it was March.

1 Q So the record reflects --
2 A March -- it is May. May 15th.
3 Q It was May 15th.
4 A What was I doing in March?
5 Q And, again, you have no reason to quibble with me
6 that --
7 A No.
8 Q -- the detectives --
9 A No, as --
10 Q -- the date on --
11 A No.
12 Q -- the statement says you gave him a statement on
13 May 30th of 2008; is that correct?
14 A I have to go with what he wrote.
15 Q Okay. You also testified on cross-examination that
16 you gave a deposition in regards to this case.
17 A Correct.
18 Q That deposition was given, a sworn statement was
19 given in a civil case that Ms. Cagnina filed against the
20 hospital.
21 A Correct.
22 Q Okay. Any reason to disagree with me that you gave
23 that deposition on January 27, 2010?
24 A No, sir.
25 Q Which is approximately two years after.

1 A I would have to go by whatever date because --

2 Q Okay.

3 A -- I'm not remembering now.

4 Q And that civil lawsuit was -- it wasn't filed
5 against you personally.

6 A No, sir.

7 Q It was filed against the hospital.

8 A Correct.

9 Q And you -- in 2008 you were an employee at
10 Centennial Hills Hospital and currently still are an employee
11 of that hospital; is that correct?

12 A Correct.

13 Q Okay. You -- Mr. Maningo referenced a couple
14 statements that you made in your deposition in 2010 about Ms.
15 Cagnina not being shy and about asking about Ray the other
16 nurse.

17 A Correct.

18 MR. MANINGO: Objection, Your Honor. These have all
19 been leading up to this point.

20 MR. KOCHEVAR: We're getting there.

21 THE COURT: Well, he's just laying a foundation to
22 the question, so overruled.

23 BY MR. KOCHEVAR:

24 Q Mr. Maningo asked you about making those statements
25 in your deposition, and I think you --

1 A Uh-huh.

2 Q -- concurred that you did make those statements --

3 A Yes.

4 Q -- in your deposition in 2010.

5 A Yes, sir.

6 Q Anywhere in your statement to the detective in May
7 of 2008 did you make either of those statements?

8 A No, sir, not that I am aware of from what is
9 written. I talked to someone because the statement that you
10 have says it was done at 6:50 a.m. at Centennial Hills.

11 Q Yes.

12 A I said I don't even -- I do not remember talking to
13 anyone at Centennial Hills. I may have. I do know that there
14 was a detective at my home one morning, and I do remember
15 making those statements to him.

16 Q Okay. And the recorded statement that you gave to
17 the detective --

18 A The detective here --

19 Q -- and you listened --

20 A -- at 6:10 a.m. --

21 Q -- and you listened --

22 A -- 6:50 --

23 Q -- to a portion of this?

24 A Yes, I did listen.

25 Q Nowhere in that recorded statement did you ever make

1 these statements about her being shy, about not being shy,
2 about asking about Ray and why he wasn't coming back in, about
3 her --

4 MR. MANINGO: Objection. Leading and compound.

5 MR. KOCHEVAR: Okay.

6 THE COURT: Overruled.

7 BY MR. KOCHEVAR:

8 Q At any point in time did you ever say in your
9 recorded statement that Ms. Cagnina was not shy?

10 A No, sir, not to the officer, and that's written
11 down.

12 Q At any point in time in your recorded statement to
13 the detective did you ever say anything about her asking about
14 Ray coming back in?

15 A No, sir, not in that statement.

16 Q At any point in time during your recorded statement
17 did you ever say to the detective that Ms. Cagnina took so
18 many medications that it would have killed a horse?

19 A No, sir, I did not.

20 Q Okay. But in 2010 when you gave a deposition in
21 lawsuits against --

22 A I was --

23 Q -- Centennial Hills Hospital --

24 A I was reading over the medications.

25 Q -- you made those statements.

1 A When I was looking. I did not realize she had even
2 taken that much.

3 Q Okay.

4 A That's --

5 Q Were you aware that --

6 A -- quite a bit.

7 Q Were you aware, Ms. Goodhart, that Ms. Cagnina
8 during her seizures prior to coming to the hospital had fell
9 and strike her head?

10 MR. MANINGO: Objection. Beyond the scope.

11 THE COURT: Well, wait a minute.

12 MR. KOCHEVAR: And I'm not disputing, Judge, that it
13 is. If you want me to recall Ms. Goodhart, that's fine.

14 THE WITNESS: I'm looking to see if it's --

15 THE COURT: I'll allow it.

16 THE WITNESS: -- documented on here.

17 MR. KOCHEVAR: Thank you.

18 THE WITNESS: I do not have it. Injury, none.

19 BY MR. KOCHEVAR:

20 Q Okay.

21 A It was not reported by EMS.

22 Q Would it surprise you to know that Dr. Slaughter
23 testified earlier today about Ms. Cagnina having a contusion
24 on the back of her head from having fallen during one of the
25 seizures prior to arriving at the hospital?

1 MR. MANINGO: Objection. Lack of foundation. This
2 witness is being asked about --

3 THE WITNESS: I can tell you she --

4 MR. MANINGO: -- what another witness --

5 THE COURT: -- had a very severe headache.

6 MR. MANINGO: -- had -- had testified to.

7 BY MR. KOCHEVAR:

8 Q Okay. And knowing now what --

9 THE COURT: Wait a minute. Stop. If you want to
10 object, then you need to let me rule on it, okay. So the
11 question -- it's overruled because the question he just asked
12 her if she would be surprised. That's all.

13 MR. KOCHEVAR: Thank you, Judge. I apologize.

14 THE WITNESS: Yes, I would be surprised because we
15 do a CT head on all seizure patients and it says no injury,
16 so --

17 BY MR. KOCHEVAR:

18 Q And knowing that information, would that change your
19 assessment of whether Ms. Cagnina was asking for too much
20 medication if you knew that she had fallen --

21 MR. MANINGO: Objection, Your Honor.

22 BY MR. KOCHEVAR:

23 Q -- and had a contusion?

24 MR. MANINGO: Calls for speculation.

25 THE WITNESS: Under speculation.

1 THE COURT: Overruled. He's not asking you to
2 speculate. It's a hypothetical.

3 THE WITNESS: I think this is a lot of medication
4 for anyone to take. I don't care if you have a broken leg or
5 your head -- your skull is broken, that's a lot of meds.

6 BY MR. KOCHEVAR:

7 Q In your opinion.

8 A In my opinion. Giving medications to post operative
9 patients and patients in the emergency room, yes.

10 Q Okay.

11 MR. KOCHEVAR: Nothing further, Judge.

12 THE COURT: Recross.

13 MR. MANINGO: Nothing else, Your Honor. Thank you.

14 THE COURT: May this witness be excused?

15 MR. KOCHEVAR: Yes, Your Honor.

16 THE COURT: Thank you.

17 Counsel approach for scheduling.

18 MS. BLUTH: Yes, Your Honor.

19 (Bench conference)

20 THE COURT: Okay. Do you have another witness in
21 the wings?

22 MS. BLUTH: Yes, we do. I'd like to get her because
23 another nurse [inaudible]. I don't want to bring her back
24 tomorrow because [inaudible]. We should be able to get her on
25 and off.

1 THE COURT: In about 40 minutes?

2 MS. BLUTH: Yeah.

3 THE COURT: That'll be enough?

4 THE RECORDER: You guys.

5 MS. BLUTH: Sorry.

6 MR. MANINGO: Sorry. Jeff Maningo, yes, I do need a
7 recess, a restroom break, and I'm also -- I mean, I'll do
8 whatever, but I don't know that I can get Ms. Murray off the
9 stand that quickly.

10 MS. BLUTH: I'll --

11 MR. MANINGO: I'm not -- I'm not sure.

12 MS. BLUTH: I'll start her and we'll see how far we
13 go. I mean, I can finish her within --

14 THE COURT: You would like to take a break now?

15 MR. MANINGO: If we could very quickly, please.

16 Thank you.

17 (End of bench conference)

18 THE COURT: All right. Ladies and gentlemen, there
19 is a need for a short restroom break.

20 So, ladies and gentlemen, we're going to take a just
21 ten minutes recess. During this recess it is your duty not to
22 converse among yourselves or with anyone else on any subject
23 connected with this trial, or to read, watch, or listen to any
24 commentary of or report of the trial by any person connected
25 with the trial or by any medium of information, including,

1 without limitation, newspaper, television, radio, or Internet,
2 and you are not to form or express an opinion on any subject
3 connected with this case until it is finally submitted to you.

4 We'll be in recess for ten minutes.

5 (Jury recessed at 3:23 p.m.)

6 THE COURT: All right. The record will reflect the
7 jury has left the courtroom. We'll be in recess for ten
8 minutes.

9 (Court recessed at 3:24 p.m., until 3:34 p.m.)

10 (Inside the presence of the jury)

11 THE COURT: Thank you. Please be seated. The
12 record will reflect we're back in the presence of all 12
13 members of the jury, as well as the four alternates.
14 Defendant is present with his counsel, the Deputies District
15 Attorney are present, as are all officers of the court.

16 Will counsel so stipulate?

17 MS. BLUTH: Yes, Your Honor.

18 MR. MANINGO: Yes, Your Honor.

19 THE COURT: Thank you. You may call your next
20 witness.

21 MR. KOCHVAR: The State calls Michele Casper.

22 MICHELE CASPER, STATE'S WITNESS, SWORN

23 THE CLERK: Please be seated.

24 THE WITNESS: Thank you.

25 THE CLERK: Can you please state and spell your

1 first and last name for the record.

2 THE WITNESS: My name is Michele Casper;
3 M-I-C-H-E-L-E C-A-S-P-E-R.

4 THE COURT: You may proceed.

5 MR. KOCHEVAR: Thank you, Judge.

6 DIRECT EXAMINATION

7 BY MR. KOCHEVAR:

8 Q Michele, how are you employed?

9 A I am a police officer with the Las Vegas
10 Metropolitan Police Department.

11 Q And how long have you been employed by the Police
12 Department?

13 A For 12 years.

14 Q I'd like to direct your attention back to May 16th
15 of 2008. Were you still working as a patrol officer at that
16 time?

17 A Yes, I was.

18 Q In the morning hours, approximately between 8:00 or
19 9:00 a.m. were dispatched to a 911 call that was received at
20 Centennial Hills Hospital?

21 A Yes, I was.

22 Q What was the nature of the call that you were
23 responding to?

24 A The details of the call were -- stated that the
25 person that was calling, she was making some allegations that

1 she had been sexually assaulted by an employee of the
2 hospital.

3 Q And did you -- were you working alone or together
4 with a partner at that time?

5 A I arrived by myself at that time.

6 Q Okay. Upon arrival at the hospital did you
7 ultimately come in contact with the individual that was making
8 these allegations?

9 A Yes, I did.

10 Q And do you remember that person's name?

11 A Roxanne Cagnina.

12 Q Okay. And where did you first come in contact with
13 Ms. Cagnina in the hospital?

14 A It was in her hospital room, and I don't remember
15 the number.

16 Q Describe for us, if you can, what Ms. Cagnina's
17 demeanor was like upon first coming in contact with her.

18 A She was really distraught. She was sobbing, you
19 know, seemed like she was very overwrought. And, you know,
20 considering the allegations that she was making, it was
21 understandable to have her be in that -- in that state of
22 mind.

23 Q Upon coming in contact with her, did you ask her
24 essentially what had -- what had occurred that caused her to
25 call 911?

1 A Yes, I did.

2 Q And without telling us what she said, did she relate
3 to you a story, essentially?

4 A Yes, she did.

5 Q Was anyone else there at the time that you came into
6 contact with that was related to her?

7 A I believe her husband was in the room at the time.

8 Q Okay. And did you at some point become aware that
9 her husband was also employed by the Police Department?

10 A I did. I'm not exactly sure if we found out in the
11 details or if we were told that he was a corrections officer
12 for our department.

13 Q Okay. After receiving the information and the
14 details of what Ms. Cagnina was alleging, what steps did you
15 take then?

16 A I gathered up all the necessary information. As a
17 first responder, I just try to get as much of the details as I
18 can and -- and, you know, what she's trying to tell me. And
19 then based on what the allegations are, we have different
20 bureaus that handle that. So my first response was to contact
21 our sexual assault detail.

22 Q Okay. And did one of the detectives from the sexual
23 assault detail ultimately arrive at the hospital?

24 A Yes, he did.

25 Q Did you remain at the hospital until that detective

1 arrived?

2 A Yes, I did.

3 Q Upon the detective's arrival, did you convey the
4 information to that detective that you had received from Ms.
5 Cagnina?

6 A Yes, I did.

7 Q Ultimately, how long was your interaction with Ms.
8 Cagnina would you estimate?

9 A Probably between 20 and 25 minutes or so, just to
10 get the basic details.

11 Q Okay.

12 MR. KOCHVAR: I have no further questions, Judge.

13 THE COURT: Cross.

14 MR. MANINGO: Thank you.

15 CROSS-EXAMINATION

16 BY MR. MANINGO:

17 Q Hello, Officer.

18 A Hi, sir.

19 Q Very quickly, when you arrived you -- you had
20 contact with Ms. Cagnina?

21 A Yes.

22 Q You didn't check to see what kind of medication she
23 was on?

24 A No, I didn't.

25 Q Oh.

1 A That's not my expertise.

2 Q Okay. Sure. No problem. And you yourself didn't
3 witness anything happen?

4 A No, sir, I did not.

5 Q Okay. You didn't interview any potential witnesses?

6 A No, sir, I did not.

7 Q Okay. And you didn't collect any physical evidence
8 yourself?

9 A No, sir, I did not.

10 Q Okay. Great. Thank you.

11 A You're welcome.

12 THE COURT: Redirect.

13 MR. KOCHEVAR: Nothing further, Judge.

14 THE COURT: May this witness be excused?

15 MR. KOCHEVAR: Yes.

16 THE COURT: Thank you very much for your testimony.

17 THE WITNESS: Thank you, Judge.

18 THE COURT: All right. Ladies and gentlemen, the
19 other witnesses were going to be longer than to get through
20 today, so they've been excused for the evening and will return
21 tomorrow. And we're going to return tomorrow at 1:00 after my
22 criminal calendar in the morning. So I will read you the
23 admonition for our overnight recess.

24 During this recess it is your duty not to converse
25 among yourselves or with anyone else on any subject connected

1 with the trial, or to read, watch, or listen to any report of
2 or commentary on the trial by any person connected with the
3 trial or by any medium of information, including, without
4 limitation, newspaper, television, radio, or Internet, and you
5 are not to form or express an opinion on any subject connected
6 with this case until it is finally submitted to you. And I
7 will see you tomorrow at 1:00.

8 (Jury recessed at 3:41 p.m.)

9 THE COURT: The record will reflect that the jury
10 has departed the courtroom. Are there any matters outside the
11 presence before we recess for the evening?

12 MS. BLUTH: Not on behalf of the State, Your Honor.

13 MR. MANINGO: No, Your Honor.

14 THE COURT: Thank you very much.

15 MR. MANINGO: Thank you.

16 THE COURT: I'll see you tomorrow at 1:00.

17 MS. BLUTH: Thank you.

18 (Court recessed at 3:43 p.m., until Wednesday,

19 February 12, 2014, at 1:05 p.m.)

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CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

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Julie Lord

JULIE LORD, TRANSCRIBER

8-22-14

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APPELLANT'S APPENDIX VOLUME X PAGES 1821-2034

Counsel for Respondent

CERTIFICATE OF SERVICE

BY _____
Employee, Clark County Public Defender's Office