

1                                   **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2  
3       STEVEN DALE FARMER,                                   )

No. 65935

4                                   Appellant,                                   )

5                                   v.                                   )

6       THE STATE OF NEVADA,                                   )

7                                   Respondent.                                   )

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10                                   **APPELLANT'S APPENDIX VOLUME XII PAGES 2200-2398**

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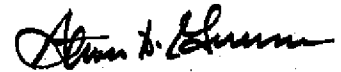
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CLERK OF THE COURT

TRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

\* \* \* \* \*

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

BEFORE THE HONORABLE CAROLYN ELLSWORTH, DISTRICT COURT JUDGE

**JURY TRIAL - DAY 9**

THURSDAY, FEBRUARY 13, 2014

APPEARANCES:

FOR THE STATE:

JACQUELINE M. BLUTH, ESQ.  
BRIAN J. KOCHER, ESQ.  
*Chief Deputy District Attorneys*

FOR THE DEFENDANT:

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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  
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INDEXWITNESSES

<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:

Neal Hyman	9	21	32	33	
Ada Dotson	36	45	50	51	
Ernestine Smith	52	63			
Ledahlia Spurlock	74	87	103	107	
Emily Jeskie	111	126	133		
Margaret Wolfe	134	154	166		
Denise Hanna	172	185	194		

\* \* \* \* \*

EXHIBITS

<u>DESCRIPTION:</u>	<u>ADMITTED</u>
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STATE'S EXHIBITS:

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1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 13, 2014, 9:11 A.M.

2 (Outside the presence of the jury)

3 THE COURT RECORDER: We're on.

4 THE COURT: All right. This is State of Nevada v.  
5 Steven Dale Farmer, Case Number C-25 -- 245739.

6 I wanted to bring something to your attention that's  
7 comes via the Marshal from the jury. I don't -- I don't know  
8 that it's anything that's going to make any difference, but I  
9 wanted to bring it to your attention.

10 So I have three notes from three different jurors  
11 who said that yesterday, they saw a gentleman with a phone  
12 held up to the window of the door. Now that's the -- the  
13 first one says, "I saw a gentleman with a phone held up to the  
14 window of the door. Caught my attention because the glow of  
15 the phone screen -- screen illuminated his face. Tall  
16 African-American gentleman in a suit. Only there a few  
17 seconds, then left."

18 Then another juror who reports, "Saw a tall man  
19 wearing a suit, stand in the window, looked around the room.  
20 Wasn't sure if he was checking to see if it was correct jury  
21 room. He looked like a businessman. He stood for a few  
22 seconds and held up a small flip-phone and I saw the light  
23 shine toward his face. I was not sure if he received a call  
24 or was taking a photo. He then left, Rachel", one of the  
25 jurors.

1           Then the last one is, "Witness -- witnessed African-  
2 American male between 5'10", 6' tall, bald head," I don't -- I  
3 think this says lime green or something green, "buttoned --  
4 buttoned shirt looking through windows and holding up black  
5 device, noted device pointed toward jury and the individual in  
6 gallery."

7           So I don't think you can see -- through these  
8 windows that you can see the jury, but apparently, and I can't  
9 see it from here, there is a window on the side behind you?

10          MS. BLUTH: Yes, right here.

11          THE COURT: I didn't even know it was there.

12          MR. MANINGO: Can you see through from that one?

13          THE MARSHAL: You can see half --

14          MR. MANINGO: Half the jury.

15          THE COURT: You can see half the jury. So does  
16 anyone know who that might have been?

17          MS. BLUTH: I do not and I didn't see it.

18          MR. BASHOR: We do not, Judge.

19                   (Pause in the proceedings)

20          MS. BLUTH: No.

21          MR. MANINGO: I didn't even know.

22          THE COURT: No. Well, the Court has no idea. I  
23 mean, the press obviously knows they're not to photograph the  
24 jury. They abide by that. I don't know who this might have  
25 been, but I don't really think it has an impact. Do you think

1 it has an impact on this trial in anyway?

2 MS. BLUTH: I don't see how it possibly could.

3 MR. MANINGO: At this point, no, Your Honor.

4 However, our concern would obviously be that, I mean, if this  
5 is going on, then it's -- it can have a number of different  
6 impacts on the jury. One, it's obviously distracting.

7 THE COURT: We're going to put a -- we're going to  
8 block that window.

9 MR. MANINGO: Right, good.

10 THE COURT: Now that I know it's there. I didn't  
11 even know there was a window. It just seems --

12 THE MARSHAL: Now that we know this, we're actually  
13 going to keep an eye out. He's actually going to be looking  
14 out here and I'll be keeping an eye over here as well.

15 MR. MANINGO: And we certainly don't want any of the  
16 jurors to feel like they're being stalked or intimidated or  
17 something. I can only -- I can only guess that it has some --  
18 someone to do with the media. I don't know why someone else  
19 would be taking photos. But I know that our -- the regular --  
20 our regular media people who are in here know better than that  
21 and are responsible and wouldn't do something like this. So I  
22 really have no idea who it is, but --

23 THE COURT: Right.

24 MR. MANINGO: -- I would only be concerned about  
25 their -- the jurors' thoughts.

1 MS. BLUTH: And none of them in their notes stated  
2 they were concerned, correct, Your Honor, when you read them?

3 THE COURT: No. I think they're just being because,  
4 you know, I've cautioned them so much about speaking with  
5 media or anyone trying to speak to them. I think what I'll do  
6 with this is just let them know that I received this and that  
7 if anyone should try and contact anyone of them, to let me  
8 know immediately. Or if, you know, they discover that there  
9 is something posted -- I mean, the problem is these days with  
10 technology it's so easy for -- for someone to take a picture  
11 with a phone any place really and then post it on the internet  
12 and I don't know how we stop that kind of thing. I mean, it's  
13 impossible.

14 So, but I don't really think it should have a  
15 bearing on this trial because, of course, while we ask that  
16 people don't -- the media don't show the jury, there's -- that  
17 doesn't prevent anyone from coming into court and viewing  
18 who's on the jury, you know. So that individual who took the  
19 photograph could have come into court and sat here and looked  
20 at the face of every single juror and -- had they wanted to,  
21 so.

22 MR. MANINGO: Sure.

23 MS. BLUTH: May we talk about scheduling for one  
24 moment?

25 THE COURT: Yes.

1 MS. BLUTH: This morning we have four witnesses  
2 testifying who will be, I think, relatively short. And then I  
3 was going to ask Your Honor if we could take an early lunch  
4 today and the only reason being is that the emergency  
5 physician, Dr. Curtis Bazemore, he's coming on his lunch break  
6 and his lunch break is from 12:00 to 1:15 and I promised him I  
7 would have him back in -- I don't know if it's in office where  
8 he treats patients or the emergency room today, but I promised  
9 he would be done around 1:15. So I was wondering if we would  
10 -- could take our lunch earlier.

11 THE COURT: At?

12 MS. BLUTH: As soon as we're -- I would think that  
13 we would be done with our witnesses at 11:00.

14 THE COURT: Okay.

15 MS. BLUTH: 11:15.

16 THE COURT: Well, if you're done, yeah, with your  
17 witnesses at 11:15, then we can break as soon as that. I'll  
18 take the lunch break and then we'll come back, that's fine  
19 with me.

20 MS. BLUTH: If -- and if that doesn't work, I mean,  
21 I can call him and see if he's available next week. That's  
22 just that was his first availability and it's really hard to  
23 get these emergency room doctors in here.

24 THE COURT: Right. All right. Sure, we'll try and  
25 make that work. Okay, we're still missing one juror.



1 MS. BLUTH: Okay.

2 THE COURT: So we'll go off the record.

3 MS. BLUTH: Okay.

4 (Off the record from 9:18 a.m. to 9:21 a.m.)

5 (In the presence of the jury)

6 THE COURT: Thank you, please be seated. This is a  
7 continuation of the State of Nevada v. Steven Farmer, Case  
8 Number C-245739. The record will reflect the presence of the  
9 defendant, with his counsel, the Deputies District Attorney  
10 prosecuting the case are both present, and as are all officers  
11 of the court, all 12 members of the jury and the four  
12 alternates. Good morning, ladies and gentlemen.

13 ALL JURORS: good morning.

14 THE COURT: Now, I want to assure you that -- you  
15 know, several of the jurors, three of the jurors reported to  
16 me that they saw something they wanted to bring to my  
17 attention, that there is a window apparently over on that side  
18 of the courtroom that I never even knew was there because I  
19 cannot see it from where I am. And so we're blocking that  
20 window out today.

21 We don't know  
22 -who may have been looking through that window with a phone.  
23 We don't know whether there was a photo taken. Of course,  
24 anyone can come to court and watch the trial. Generally the  
25 members of our print and TV media do not show the jury during

1 a trial. They know that and they don't do that.

2 If you should receive contact from anyone that tries  
3 to talk to you about this case, no matter who it is, of course  
4 you can report that to us. And if somebody should try and do  
5 that, try and find out who it is. But other than that, I  
6 think there's -- thank you for bringing the matter to my  
7 attention so we could address it, but I don't think you should  
8 be concerned, all right?

9 Thank you very much and the State will call its next  
10 witness.

11 MS. BLUTH: Thank you, Judge. The State calls Neal  
12 Hyman.

13 NEAL HYMAN, STATE'S WITNESS, SWORN

14 THE CLERK: You may be seated. Please state your  
15 name and spell it of the record.

16 THE WITNESS: Neal Hyman. That's Neal and then  
17 Hyman, H-y-m-a-n.

18 THE COURT: Is it Neal, N-e-a-l?

19 THE WITNESS: N-e-a-l.

20 THE COURT: Thank you. You may proceed.

21 MS. BLUTH: Thank you, Your Honor.

22 DIRECT EXAMINATION

23 BY MS. BLUTH:

24 Q Good morning, Mr. Hyman. How are you employed?

25 A I'm an attorney in Nevada.

1 Q Okay. And how long have you been a practicing  
2 attorney?

3 A Almost 18 years.

4 Q And what types of law do you practice?

5 A I've done various things. Primarily now I would say  
6 personal injury-type matters and construction defects.

7 Q I'd like to turn your attention to the spring of  
8 2008. Sometime after May 16th of 2008, did Roxanne Cagnina  
9 consult you regarding a couple different issues?

10 A Yes.

11 Q Okay. Now, before May 16th, 2008, did you know Ms.  
12 Cagnina?

13 A Yes.

14 Q So when she consults you after May 16th of 2008,  
15 what does she consult you regarding?

16 A Well, originally, I was tied up in my office and my  
17 paralegal had mentioned that she was trying to contact me. So  
18 it took a day or two to get in touch with her. But then when  
19 I finally talked to her, she was very distraught about a stay  
20 she had at Centennial Hills Hospital and an event that had  
21 occurred.

22 MR. MANINGO: Your Honor, may we approach just to  
23 clarify a matter, please?

24 THE COURT: Yes.

25 (Bench conference begins)

1 MR. MANINGO: Jeff Maningo. It's my understanding  
2 that the attorney/client privilege has been waived, but I  
3 don't know if we need to maybe just put that on the record?  
4 Or if -- if something needs to be done with that because  
5 otherwise, I would be concerned.

6 THE COURT: I think it would be a good idea to just  
7 -- has -- has she waived it?

8 MS. BLUTH: Yeah, Jacqueline Bluth. And that was  
9 something I have on my to-do list this morning to do in front  
10 of Your Honor so we didn't do it in front of the jury. I  
11 mean, I can if you want me to, but she waived it both to me,  
12 Mr. Kochevar, my investigator and myself and also contacted  
13 Mr. Hyman and told him that she waived that privilege. So  
14 would you want me to handle it? If you want me to handle it  
15 on the break or in front of the jury?

16 MR. MANINGO: And Jeff Maningo. I would just  
17 suggest maybe if we just now -- I mean, maybe just ask the  
18 question that Roxanne has told you that it's okay to discuss  
19 this matter.

20 THE COURT: Right. And the reason I think that's  
21 appropriate is that these are jurors who probably know that --

22 MS. BLUTH: Privilege.

23 THE COURT: -- it's -- there's a privilege. And I  
24 don't want them to think that this witness is doing some  
25 improper.

1 MR. MANINGO: Right.

2 MS. BLUTH: Sure.

3 THE COURT: You know, it reflects on the bar as a  
4 whole.

5 MS. BLUTH: Sure, no problem. I'll take care of it.

6 MR. MANINGO: Thank you.

7 MS. BLUTH: Thank you.

8 (Bench conference ends)

9 MS. BLUTH: May we proceed, Your Honor?

10 THE COURT: Yes.

11 BY MS. BLUTH:

12 Q Mr. Hyman, before we get into anything that Ms.  
13 Cagnina spoke to you about, there is something called  
14 attorney/client privilege; is that correct?

15 A That's correct.

16 Q Okay. And in order for you to be here and testify  
17 today regarding the types of things we're talking about, Ms.  
18 Cagnina would have had to waive that privilege in order for  
19 you to be able to discuss these things?

20 A That's correct. It's her privilege.

21 Q Okay. And she has waived that privilege?

22 A That's correct. I confirmed that this morning.

23 MS. BLUTH: Okay. May I proceed, Your Honor?

24 THE COURT: Yes, you may.

25 MS. BLUTH: Okay, thank you.

1 BY MS. BLUTH:

2 Q And so where we left off was, you know, after May  
3 16th of 2008, she consulted you regarding a stay at the  
4 hospital?

5 A That's correct.

6 Q And you said she was distraught?

7 A Yes. She was very -- seemed very upset.

8 Q Was she upset about any other people trying to  
9 contact her?

10 A She -- well, there was definitely a lot of media  
11 presence. I'm not exactly sure -- the media seemed to be all  
12 over this -- this event that she reported and she wanted my  
13 assistance to deal with that.

14 Q Was -- do you know whether or not she was contacted  
15 by other civil attorneys as well?

16 A She did mention that. She did mention that somehow,  
17 I'm not exactly sure how, some attorneys had contacted her,  
18 knew about this event.

19 MR. MANINGO: Objection, hearsay.

20 MS. BLUTH: It's offered for what he did next as far  
21 as his legal representation.

22 THE COURT: All right. For that basis and not for  
23 any truth of the matter asserted I'll allow it.

24 BY MS. BLUTH:

25 Q And so did she discuss with you the fact that other

1 civil attorneys had contacted her?

2 A That's correct. That was one of her concerns.

3 Q Okay. And so did you sit down with Ms. Cagnina and  
4 discuss these concerns that she was having with you in regards  
5 to her stay at the hospital, the media, the civil attorneys,  
6 et cetera?

7 A I did, yeah. We briefly spoke over the phone and  
8 then I met with her in person.

9 Q When you met with her in person, did you -- well,  
10 did she tell you a full account of what had happened at the  
11 hospital?

12 A Yes, she did.

13 Q And after hearing that, what did you think? Or what  
14 was your (inaudible)?

15 A Well, honestly, at first I was shocked. I couldn't  
16 believe something like that could happen, but I've had other  
17 cases where I've had the same feeling. And so, of course, I  
18 gave her the benefit of the doubt and I said, you know, we  
19 need to investigate this further.

20 Q Okay. And so did you advise her of her rights  
21 against the hospital?

22 A Briefly at that point. Obviously there was some  
23 research to be done. I had to take a look at some of the  
24 healthcare laws and just see if I thought that there was some  
25 -- some mishap that had occurred there.

1 Q Okay. And after you sat down with her, from that  
2 point on, did you act as a conduit between, you know, her and  
3 the media or her and other attorneys?

4 A I did. I think my primary role at that point was  
5 just to sort of, I guess, hand-hold her and also deal with the  
6 media and her concerns that they were just so aggressively  
7 trying to get her to be on the news.

8 Q Did you make the decision to -- to sit down with the  
9 news at some point?

10 A Yes.

11 Q And about when do you think that was?

12 A Well, let me clarify that. I did make the decision,  
13 but she -- she also had an interest in just getting them away  
14 from her.

15 Q Okay. And so the decision was made, you know, on  
16 both of your behalfs to sit down with the news and discuss  
17 this incident?

18 A Sure. And I think in conjunction with the fact that  
19 she was, you know, outraged about what had occurred and she  
20 just didn't want -- you know, she wasn't trying to hide  
21 anything.

22 Q Okay. And so an interview was given?

23 A Correct.

24 Q And -- and I know this is six years ago, so I don't  
25 expect you to know the exact dates, but was the interview with



1 the media done after a preliminary hearing was held in this  
2 case?

3 A To the best of my recollection, I would say, yes.

4 Q So at that point, a criminal case had already been  
5 filed?

6 A That's correct because I was actually present when  
7 she testified.

8 Q Okay. And other victims had already come forward?

9 A I believe so. I didn't see them testify, but I had  
10 information that there was other victims.

11 Q Okay. As part of the process -- well, let me ask  
12 you this. Ultimately, was a lawsuit filed against Mr. Farmer,  
13 the hospitals, the surrounding agencies, et cetera?

14 A That's correct.

15 Q And when was that lawsuit filed?

16 A Just because the date's instilled in my brain, I  
17 want to say September 2nd, 2008.

18 Q And as part of the process of going through a civil  
19 lawsuit, did Ms. Cagnina have to sit down through multiple  
20 depositions?

21 A Yeah. And, in fact, I mean the case took over five  
22 years, several trial continuances and I think she was deposed  
23 four times.

24 Q Okay. And also as a result of that, did Mr. Cagnina  
25 as well have to sit down for depositions?

1           A     That's correct. I believe his deposition was taken  
2 twice. And like I said, every time preparing for that was  
3 emotional for both of them.

4           Q     Yet -- but they still went forward into that?

5           A     That's correct.

6           Q     We've already heard testimony, ultimately that  
7 lawsuit was settled; is that correct?

8           A     Yes. Yeah, that's true.

9           Q     And whatever proceeds were recovered from that  
10 settlement have already been disbursed at this point?

11          A     That's correct.

12                MS. BLUTH: May I have the Court's indulgence for  
13 one moment, Your Honor?

14                THE COURT: Yes.

15                       (Pause in the proceedings)

16 BY MS. BLUTH:

17          Q     At any point during your, you know, initial contacts  
18 with Ms. Cagnina, was it ever about let's get the hospital,  
19 let's get some money? Were those any of her thoughts?

20          A     Actually --

21                MR. MANINGO: Objection, Your Honor, to Mr. Hyman  
22 speculating as to what Ms. Cagnina's thoughts were.

23 BY MS. BLUTH:

24          Q     I'm sorry, did she discuss that with you?

25          A     I would say absolutely not. Actually, I tried to

1 think back to it, I think her concerns were always about the  
2 incident that had occurred and that she wanted the hospital to  
3 be accountable for that. And also her media concerns.

4 Q And when you say the hospital to be accountable,  
5 when you use the term "accountable," what do you mean?

6 A Well, I mean at the time, we didn't know if there  
7 was, you know, any potential fault. But after investigating  
8 it, you know, you get into policies and procedures of  
9 hospitals and we understand that Mr. Farmer was --

10 MR. MANINGO: Objection to the witness making a  
11 conclusion that is going to be for the jury at this point.  
12 I'm concerned that there's going to be a conclusory finding of  
13 fact in the opinion of this witness.

14 MS. BLUTH: I'm sorry, I don't -- I don't understand  
15 the objection.

16 MR. MANINGO: I'm sorry, can we approach, please?

17 THE COURT: Yes.

18 (Bench conference begins)

19 MR. MANINGO: Jeff Maningo. I'm just concerned that  
20 Mr. Hyman is going to give a conclusion that, well, Mr. Farmer  
21 was guilty, and he did these acts and so that -- therefore we,  
22 you know, so on and so forth. And I think that is a question  
23 -- the ultimate question for the jury, and it would be  
24 improper to ask a witness, you know, whether or not a  
25 defendant is guilty or not guilty, especially considering that

1 in a civil matter, the burden of proof is entirely different.

2 MS. BLUTH: I didn't see him going down that road,  
3 so I don't know how to respond to that objection. I didn't  
4 think he was making any statements regarding Mr. Farmer's  
5 guilt.

6 THE COURT: I'm just guessing that you may -- you  
7 may know better what you expect his answer to be, but it  
8 sounded as if he was about to opine or say that, you know,  
9 there was violation by the hospital of policies and procedures  
10 by Mr. Farmer, policies and procedures of the hospital. I  
11 think your problem is you didn't understand the objection  
12 because the objection, I have to know what the objection was,  
13 was it relevance?

14 MR. MANINGO: Relevance, yes, thank you. Thank you  
15 for the assistance.

16 THE COURT: All right, we have an objection. But do  
17 you have an offer of proof as to what the witness is going to  
18 say?

19 MS. BLUTH: I don't even -- at this point, I don't  
20 even remember what my question was. What was my question?

21 MR. BASHOR: Ryan Bashor. I don't think he was even  
22 really being responsive to the question.

23 MS. BLUTH: What was my question?

24 MR. BASHOR: Your question was based on your  
25 investigation, what did you decide to do. And instead -- you

1 had meant in summary, and then he went on to say, well, based  
2 on our investigation, we found that Mr. Farmer. My guess as  
3 to what was coming was he was violating hospital procedure,  
4 the hospital wasn't following its own procedures, yadda,  
5 yadda, yadda.

6 MS. BLUTH: Wasn't my question didn't she ever come  
7 to you and say, this is about money, I want money?

8 MR. BASHOR: That was --

9 MR. MANINGO: You had already did that.

10 MS. BLUTH: Okay. I don't even know recall what the  
11 question was. I shouldn't say that.

12 THE COURT: That's all right.

13 MR. MANINGO: So, I mean --

14 THE COURT: Why don't you withdraw the question and  
15 start over since you don't even remember what your question  
16 was.

17 MS. BLUTH: I don't want to admit that in front of  
18 the jury.

19 MR. MANINGO: No, you don't have to.

20 THE COURT: You don't have to say that.

21 MR. MANINGO: Thank you.

22 (Bench conference ends)

23 BY MS. BLUTH:

24 Q Mr. Hyman, I'm going to withdraw that question and  
25 move on. In regards to you saying, you know, we needed to

1 find out if the hospital was accountable, that is a different  
2 type of situation than -- you're not saying, we had to find  
3 out if Mr. Farmer really did this. You're talking about in  
4 the civil realm, find out accountability of hospitals policies  
5 and procedures; is that correct?

6 Q Yeah, that's correct. My case was separate from  
7 this proceeding.

8 MS. BLUTH: Okay. Nothing further, I'll pass the  
9 witness, Your Honor.

10 THE COURT: Thank you. Cross.

11 MR. MANINGO: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MANINGO:

14 Q Hello, Mr. Hyman.

15 A Hello.

16 Q We've met before correct?

17 A Just briefly.

18 Q Right, right. My name is Jeff Maningo. I'm just  
19 going to ask you some follow up questions.

20 You represented both Scott and Roxanne Cagnina in  
21 the civil suit against Centennial Hills?

22 A Actually -- well, Roxanne was our client, but he was  
23 obviously her husband at the time.

24 Q Okay. Okay. And you had known Ms. Cagnina from --  
25 from before that situation?

1 A Before the, yeah, the event in question.

2 Q Okay. Now, in this situation, and I know it's been  
3 a long time, but do you remember that Ms. Cagnina was released  
4 from the hospital on Saturday of May 17, 2008?

5 A I know that the -- the dates in question, I think,  
6 were between the 15th and the 17th. The 17th sounds like when  
7 she might have been released.

8 Q Okay. And then do you remember -- do you remember  
9 that she started calling you about this case on that following  
10 Monday, May 19th of 2008?

11 A That seems in the right time frame.

12 Q Okay, great. Thank you. Now obviously, just like  
13 anybody else in this room, you need to make a living in your  
14 profession, fair to say?

15 A Definitely.

16 Q Okay. So when you represent someone in a civil  
17 matter, you have a financial stake in it yourself, correct?

18 A Well, usually you're paid some sort of fee.

19 Q Okay. And I'll be honest, I'm not sure how the  
20 whole civil aspect works. Do you work on a, like, flat hourly  
21 fee or a contingency fee or?

22 A It could be either/or. Sometimes a combination.

23 Q Okay. And what kind of arrangement did you have  
24 with Ms. Cagnina?

25 A It was a percentage-based fee.

1 Q Okay. And -- and so if there was an end result,  
2 such as a settlement or a -- an award at trial or something,  
3 then you would receive a percentage of that?

4 A Yeah. And keep in mind, you know, sometimes it's  
5 split up between other lawyers or firms, but.

6 Q Sure, sure. Okay. So -- and what percentage did  
7 you receive then from this case?

8 A Well, it's kind of a complicated question because  
9 when I first represented her, I had my own firm. And then I  
10 merged with another firm and I'm actually back with my own  
11 firm. So it was -- it was their fee agreement actually at the  
12 time.

13 Q Okay. So do you know what the percentage was?

14 A Well, I mean, the overall percentage, I think it  
15 was, like, 40 percent.

16 Q Forty percent? Okay. Now when -- when you work off  
17 of a percentage basis such as this, does -- do you, yourself,  
18 or the firm handle the -- the expenses that incur before any  
19 kind of settlement or result?

20 A Yeah. I think if I understand your question  
21 correctly, in a normal percentage-based -- when you retain on  
22 a percentage, normally the firm advances costs such as  
23 deposition fees, those sort of things.

24 Q Right, right.

25 A And then gets paid back.



1 Q Okay. Okay. So as you'd already testified, this  
2 case went on for five years, correct?

3 A Longer, yeah.

4 Q Okay, longer. And -- and you had conducted a number  
5 of depositions in this matter.

6 A Forty'ish.

7 Q Forty'ish, okay. And you, yourself, personally  
8 interviewed a number of these potential witnesses, correct?

9 A I think I was involved in almost all the deposition.  
10 And then closer to trial, met with some witnesses.

11 Q Okay. And -- and some of these depositions even  
12 required that you travel out-of-state, correct?

13 A That's correct. One trip to Mississippi, L.A., San  
14 Diego.

15 Q Okay. And then also when -- and I may be incorrect  
16 on this, but if you request the deposition, then you have to  
17 pay for the videographer and the transcripts, that kind of  
18 thing? Is that how it's set up?

19 A It gets a little complicated. I mean, normally  
20 videotaping is the exception. There was a couple videotaped  
21 depositions. Normally, whoever requests something pays the  
22 majority. And then -- like with depositions, everybody pays a  
23 little bit for copies of transcripts and things like that.

24 Q Okay. So with these 40 plus depositions and the  
25 trips out-of-state that you mentioned and so forth, this is

1 something that is paid by the firm in advance, correct?

2 A That's correct.

3 Q Okay. So yourself or the firm, you have a financial  
4 investment in this case?

5 A Yeah, I guess that's one way to put it.

6 Q Okay. And then -- and then you, individually, you  
7 also invested a lot of your time and energy on this matter  
8 over five years; is that fair to say?

9 A Yeah, I mean, that's true. Obviously, I had other  
10 cases, but this was a case I spent a lot of time on.

11 Q Okay. Now when you first had contact with Ms.  
12 Cagnina, they had expressed to you their displeasure with all  
13 the media attention?

14 A Correct.

15 Q Okay. And I believe you had said that the media  
16 seemed to be all over it and that they were very aggressive?

17 A Yeah. That's what I was originally told.

18 Q Okay. Were you aware that -- that Ms. Cagnina had  
19 called Channel 8 News ten different times from the hospital  
20 before she even contacted you?

21 A The only thing that I recall about that is her  
22 telling me that she may have spoken to the news. I don't know  
23 who initiated the calls. As far as Channel 8 goes, I don't  
24 remember that specifically.

25 Q Okay.

1           A     Most of my dealings were with Channel 13.

2           Q     Okay. And then in response to Ms. Cagnina being  
3 unhappy with -- with the media attention, she and yourself  
4 made the decision to appear on -- on a television interview?

5           A     That's true. I think, yeah, there were some write-  
6 ups in the paper as well.

7           Q     Okay. But the two of you did appear together on a  
8 news story?

9           A     Yeah. I believe it occurred at my office, yes.

10          Q     Okay. During that television interview, you -- I  
11 believe you put Centennial Hills Hospital on notice of the  
12 lawsuit, correct?

13          A     Could you restate that one?

14          Q     Sure. While you were on the television interview  
15 with Ms. Cagnina, you -- you put Centennial Hills Hospital on  
16 notice of the lawsuit that you were going to file?

17          A     I believe that interview occurred sometime, I think  
18 we mentioned it earlier, after the preliminary hearing. I was  
19 already in contact, I think, with the hospital at that point.

20          Q     Okay.

21          A     But it was prior to the lawsuit being filed.

22          Q     Okay. Now as a result of the TV appearance, there  
23 were some other people who came forward with allegations,  
24 correct?

25          A     Again, could you restate that one?

1 Q Sure. As a result of TV appearance with you and Ms.  
2 Cagnina, other individuals came forward with allegations?

3 A It's actually my recollection that the other  
4 victims, I don't have much personal knowledge about them, came  
5 forward shortly after the event. I believe my television  
6 interview was, like, months later.

7 Q Oh, okay. As an attorney, or any business person  
8 for that matter, appearing on television can be a great way to  
9 drum up business, would you agree?

10 A I wouldn't use the term "drum up," but obviously  
11 when people see you on TV -- I mean, you've seen all the  
12 commercials from some attorneys in town.

13 Q Exactly. A lot of the lawyers around town have  
14 commercials, TV ads, that kind of thing, right?

15 A I've -- I've seen them, I personally haven't done  
16 one.

17 Q Right, you haven't done. Do you advertise?

18 A You know, way back when in the phone book. Nothing  
19 like billboards or TV or radio or anything.

20 Q Okay. And those types of advertisements or TV  
21 commercials, you know that they would obviously cost money to  
22 do that, correct?

23 A Oh, sure.

24 Q Okay. Appearing on the news with Ms. Cagnina, that  
25 didn't cost any money?

1 A They didn't charge us.

2 Q Okay. Now when we were talking about when and if  
3 other people came forward with allegations, are you -- do you  
4 remember an individual by the name of Marcia Petersen?

5 A Obviously in my case, that name came up.

6 Q Okay. Do you remember that Ms. Petersen had  
7 originally contacted you about representing her in the case?

8 A I do remember getting a phone call from her. It was  
9 after I was already representing Ms. Cagnina and I wasn't able  
10 to take that case.

11 Q Okay. So Ms. Petersen did contact you though?

12 A I believe it was one phone call.

13 Q Okay. And she eventually, then, retained another  
14 attorney?

15 A Yes.

16 Q Okay. Now you had stated that you felt that Ms.  
17 Cagnina's concern was about the hospital policies, safety of  
18 individuals, that type of thing?

19 A Yes, that's one part. I think there's another part  
20 to it though.

21 Q Okay. Now when Ms. Petersen decided to retain a  
22 different attorney, you attempted to block that attorney from  
23 receiving any of the information you had on the case, correct?

24 MS. BLUTH: Your Honor, I'm going to object, number  
25 one, to outside of scope of direct examination; and number

1 two, as to relevance.

2 MR. MANINGO: My response to both outside the scope  
3 and to relevance would be Davis v. Alaska, and this goes  
4 towards motive and bias, which is always relevant and does not  
5 need to be within the scope.

6 THE COURT: All right. I'm -- as far as the last  
7 question, I'm not sure yet where the relevance will be, so  
8 I'll allow you some leeway with -- the State obviously can  
9 interpose objections that at the least are appropriate. Go  
10 ahead.

11 MR. MANINGO: Thank you.

12 BY MR. MANINGO:

13 Q The question was you had filed a protective order  
14 against Ms. Petersen's attorney prevent -- to attempt to  
15 prevent her from -- from getting information you had on this  
16 case?

17 A That I don't recall. There were some protective  
18 motions, but they were -- they related to parties in my case.  
19 She was a separate case.

20 Q Okay. There's been a lot of media surrounding this  
21 criminal trial, would you agree? Or I should say are you  
22 aware of -- have you seen any --

23 A Well, when the charges were first filed, I know  
24 there was a lot of media attention. As far as now goes, I'm  
25 not sure.

1 Q Okay. And there have been a number of stories, both  
2 in the past and currently on television, online or in the  
3 actual, physical paper?

4 A I think the media has followed the story pretty  
5 close.

6 Q Okay. And you have a -- do you have a professional  
7 -- or, I should say a firm -- I'm sorry, Mr. Hyman, excuse me.  
8 Scratch that. Let me move back a second.

9 You said you had recently left the firm you were  
10 with and now you're back with your own firm, correct?

11 A Yes, correct. That's happened, like, late last  
12 year.

13 Q Late last year. And then you just moved into a new  
14 building, was it January of this year?

15 A Yeah, I probably took the space at the end of  
16 December, but yeah, I probably moved in January.

17 Q Okay. And obviously there's a number of costs with  
18 starting up and moving into a new building, would you agree?

19 A Certainly.

20 Q Okay. Now associated with your business, you have a  
21 -- a professional Facebook page, correct?

22 A Yeah. I mean, I use one -- I use one for business  
23 purposes.

24 Q Right, okay. On that page, you've -- you've posted  
25 a few times in the last month or so about testifying in this

1 case?

2 A Actually I've only known about even being a witness  
3 in this case maybe a week, two weeks at the most.

4 Q Okay. You actually posted on January 28th about  
5 being subpoenaed and testifying in this trial on your  
6 Facebook?

7 A I don't know what date it is, but I think that's a  
8 couple weeks.

9 Q Okay. And then on February 7th, you also posted  
10 about it again?

11 A Yeah. I think I just said basically I was being  
12 listed as a witness to come testify.

13 Q Okay. On your -- on your business website there's a  
14 section called In The News, correct?

15 A Yeah, my firm website.

16 Q Right. And then under that -- under that In The  
17 News section you have a link to some of the -- the news  
18 articles regarding the Cagnina case and the Centennial Hills  
19 case, that kind of thing?

20 A Yeah. I think it was pretty much when my case had  
21 settled, there was a couple of -- you know, there was an  
22 interview.

23 Q Right. And you were interviewed actually a couple  
24 of times by the media on this case, correct?

25 A Yeah. Like I said, like when the case settled and



1 then more toward the beginning of the case.

2 Q Okay.

3 A Not so much during the middle.

4 MR. MANINGO: Thank you, sir.

5 THE COURT: Redirect.

6 MS. BLUTH: Thank you, Your Honor.

7 REDIRECT EXAMINATION

8 BY MS. BLUTH:

9 Q Mr. Hyman, Mr. Maningo just asked you some questions  
10 about testifying in this case. When the State of Nevada, and  
11 the District Attorney's Office sends you a subpoena or tells  
12 you you're testifying in a case, do you have a choice?

13 A No.

14 Q So when I tell you you're coming in and testifying,  
15 you're coming in and testifying, right?

16 A That's correct. And I did receive a subpoena.

17 Q After you met with the news and you did your  
18 sit-down interview with the news, did you feel like that aided  
19 in the process of them hounding you and your client?

20 A Yeah. I think -- I think it just provided some  
21 closure. I mean, obviously they reported the story early on  
22 and this was just -- we couldn't talk about any of the terms,  
23 but just that essentially it was concluded.

24 Q Okay. And during that interview, Ms. Cagnina's  
25 identity was concealed; is that correct?

1           A     And, yeah, I think that that was just the original  
2 clip, that she wasn't there.

3           Q     I'm sorry, what do you mean by that?

4           A     I don't believe that -- when they interviewed me  
5 when the case recently settled, that was just me. That was an  
6 old clip of her, I think.

7           Q     And I guess what I'm saying is when you did the  
8 original interview with Ms. Cagnina and yourself that we spoke  
9 about on direct and on cross, her identity was concealed?

10          A     Oh, that's correct. They didn't use her name and  
11 they blurred out her face.

12          Q     Okay. You were asked a lot about, you know, your  
13 financial situation, your financial investments. As you sit  
14 here today, do you have a financial investment in the case of  
15 State of Nevada v. Steven Farmer?

16          A     Absolutely zero.

17                MS. BLUTH: Nothing further, Your Honor.

18                THE COURT: Recross?

19                MR. MANINGO: Very briefly, Your Honor.

20                        RE CROSS EXAMINATION

21 BY MR. MANINGO:

22          Q     You had stated that when you get subpoenaed, you  
23 just have to come in and testify, right?

24          A     It's the law.

25          Q     Right, right. No, I understand. And you had said

1 that you had just basically posted on Facebook that, I've been  
2 subpoenaed for the case, they want me to testify.

3 A Right, yeah. Basically, I've been subpoenaed, I'm  
4 going to come testify in this matter.

5 Q Did you say that it looks like I'm being called as a  
6 witness in a criminal case to help send the rapist of my  
7 client to prison for the rest of his pathetic life. Just tell  
8 me when.

9 A If that's what it says. That might have been a  
10 while ago.

11 MR. MANINGO: Okay. No further questions.

12 MS. BLUTH: Nothing further.

13 THE COURT: May this witness be excused? May he be  
14 excused?

15 MS. BLUTH: Yes.

16 THE COURT: Thank you.

17 MS. BLUTH: I'm sorry, I thought you were asking Mr.  
18 Maningo.

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

20 THE COURT: I couldn't hear you.

21 MS. BLUTH: That's okay.

22 THE COURT: Okay. You may call your next witness.

23 MR. KOCHVAR: State would call Ada Dotson.

24 THE CLERK: Can you remain standing for a second and  
25 raise your right hand.

1 THE WITNESS: Oh.

2 THE CLERK: I'm going to swear you in.

3 ADA DOTSON, STATE'S WITNESS, SWORN

4 THE CLERK: You may be seated.

5 THE WITNESS: Thank you.

6 THE CLERK: Would you please state your name and  
7 spell it for the record?

8 THE COURT: After you're seated.

9 THE WITNESS: Well, yeah, sorry.

10 (Pause in the proceedings)

11 THE WITNESS: Okay, I'm here.

12 THE MARSHAL: Are you good right there?

13 THE WITNESS: Uh-huh.

14 THE COURT: I think we can barely see you now, Ms.  
15 Dotson.

16 THE WITNESS: For me, too.

17 THE MARSHAL: Is that too low?

18 THE COURT: Yeah, let's get her --

19 THE WITNESS: Uh-huh.

20 (Pause in the proceedings)

21 THE COURT: Can you bring her walker up so she can  
22 hold onto it.

23 THE MARSHAL: I don't know if I can --

24 (Pause in the proceedings)

25 THE WITNESS: Okay.

1 THE MARSHAL: Better?

2 THE WITNESS: Better.

3 THE COURT: All right.

4 THE WITNESS: Okay.

5 THE COURT: If you could state -- state your name  
6 and spell it for the record.

7 THE WITNESS: Ada Dotson, A-d-a, D-o-t-s-o-n.

8 THE COURT: Thank you, Ms. Dotson.

9 THE WITNESS: You're welcome.

10 THE COURT: You may proceed.

11 MR. KOCHEVAR: Thank you, Judge.

12 DIRECT EXAMINATION

13 BY MR. KOCHEVAR:

14 Q Good morning, Ada.

15 A Good morning, sir.

16 Q How are you doing?

17 A A little bit better now.

18 Q Good. Thank you for being here today.

19 A Thank you.

20 Q Ada, do you know somebody by the name of Ledahlia  
21 Spurlock?

22 A Yes.

23 Q And how do you know Ledahlia?

24 A She's my niece.

25 Q Okay. And how old is Ledahlia; do you know?

- 1 A No.
- 2 Q Okay. Older -- in her, would you say, middle age,  
3 20s, 30s?
- 4 A Somewhere in her 30s.
- 5 Q Okay. Do you live here in town, in the Las Vegas  
6 area?
- 7 A Yes.
- 8 Q Does Ledahlia live here in the Las Vegas area?
- 9 A Yes.
- 10 Q Okay. I want to take you way back to April 27th.
- 11 A That's way back.
- 12 Q It is way back, of 2008.
- 13 A Okay.
- 14 Q Do you remember on that day going to the hospital,  
15 Centennial Hills Hospital, to visit Ledahlia?
- 16 A Yes.
- 17 Q Did you go by yourself or did you go with somebody  
18 else?
- 19 A I went with someone else.
- 20 Q And who was the other person you went with?
- 21 A Ernestine.
- 22 Q And how do you know Ernestine?
- 23 A She's my sister.
- 24 Q Okay. Is that Ernestine Smith?
- 25 A Yes, it is.

1 Q Okay. Do you recall what time of day it was that  
2 you went; morning, nighttime?

3 A Not exactly. Not in the morning, somewhere in the  
4 middle of there.

5 Q Okay. When you went to Centennial Hills Hospital to  
6 visit Ledahlia, did you visit her in a hospital room in the  
7 emergency room or in the other part of the hospital, do you  
8 recall?

9 A In the emergency room.

10 Q Okay. When you and Ernestine got there, did -- were  
11 you allowed to go in and see Ledahlia in the room she was in?

12 A Yes.

13 Q Describe for us what -- what you saw when you first  
14 got there and went into see Ledahlia.

15 A She was in the bed, laying down in the bed.

16 Q Was she in a hospital gown? Was she still dressed  
17 in her regular clothes?

18 A Hum, I really don't remember that.

19 Q Okay. Was anybody else in the room with her when  
20 you first got there?

21 A I don't think so.

22 Q Okay. At some point in time after you and Ernestine  
23 arrived, did a gentleman come in the room?

24 A Yes.

25 Q And did that person introduce himself to you and to

1 Ernestine?

2 A Well, yes.

3 Q Okay. Did he tell you what his name was?

4 A He told me what everybody called him.

5 Q Okay. And what did he say?

6 A Santa Claus.

7 Q Okay. So he told you that everyone calls him Santa  
8 Claus. Did he --

9 A Um-hum.

10 Q Did he eventually at some point tell you what his  
11 real name was?

12 A I asked him.

13 Q Okay. And did he provide that information to you?

14 A Yes.

15 Q And what did he tell you?

16 A Steve Farmer.

17 Q Okay. Do you see Mr. Farmer here in the courtroom  
18 today?

19 A He looks like him.

20 Q Okay. You say he looks like him.

21 A Um-hum.

22 Q Which gentleman are you referring to that looks like  
23 him?

24 A Well, the one with the Santa Claus beard.

25 Q Okay. What color shirt and tie does he have on?



1 A Now?

2 Q Yes.

3 A Maybe grey and a checkedy, maybe black tie.

4 Q Okay. And his hair color is?

5 A Santa Claus color.

6 MR. KOCHEVAR: Okay. The record will reflect the  
7 witness identified the defendant, Judge.

8 THE COURT: It will.

9 THE WITNESS: I beg your pardon?

10 THE COURT: It will. The record will reflect that  
11 you identified Mr. Farmer.

12 THE WITNESS: Oh, okay, thank you.

13 BY MR. KOCHEVAR:

14 Q Does he look different today than he did back in  
15 April of 2008?

16 A So, do I. Yes.

17 Q Okay. After Mr. Farmer came in the room, the  
18 emergency room and introduced himself, said people call him  
19 Santa Claus, you asked him his name, he said it's Steven  
20 Farmer, what happens at that point? What happens after Mr.  
21 Farmer tells you what his name was?

22 A Well, we just talked. He stood at the bed, holding  
23 my niece's feet.

24 Q Okay. You said he stood at the bed. Where at the  
25 bed was he standing? Was his hands --

1 A Foot.

2 Q Excuse me?

3 A The foot.

4 Q Okay. Down at the foot of the bed. Where were you  
5 and Ernestine standing or seated at this time?

6 A One on one side of the bed and one on the other.

7 Q Okay. You said that he was -- that he was holding  
8 Ledahlia's feet?

9 A Um-hum.

10 Q Describe --

11 THE COURT: Ma'am, is that a yes?

12 THE WITNESS: Yes.

13 MR. KOCHEVAR: Sorry.

14 THE COURT: Thank you.

15 BY MR. KOCHEVAR:

16 Q They're recording everything that both you and I say  
17 and so we have to answer, okay? You said he was holding  
18 Ledahlia's feet. Explain to us how that -- what you saw and  
19 how he was doing that?

20 A Well, he's holding her feet with his hand like that.

21 Q Okay. Were her feet covered? Or were they exposed?

22 A Covered.

23 Q Covered by a blanket, a sheet?

24 A Blanket.

25 Q Okay. So was he holding -- holding her feet on top

1 of the blanket?

2 A Yes.

3 Q Okay. Was he doing anything with her feet while he  
4 was holding onto them?

5 A No, I didn't see nothing.

6 Q Okay. Was Ledahlia doing anything as a result of  
7 Mr. Farmer holding onto her feet?

8 A Only trying to slide up to the head of the bed.

9 Q Okay. So she was trying to slide up towards the  
10 head of the bed?

11 A Um-hum.

12 Q Was she saying anything to --

13 THE COURT: Is that a yes, I'm sorry.

14 THE WITNESS: Oh, I'm sorry.

15 MR. KOCHEVAR: Sorry.

16 THE COURT: That's okay.

17 THE WITNESS: Yes.

18 BY MR. KOCHEVAR:

19 Q Thank you. Was she saying anything to you, to  
20 Ernestine, to Mr. Farmer while this was going on?

21 A No. Just trying to slide up to the head of the bed.

22 Q Okay. How long did this go on, that Mr. Farmer was  
23 holding Ledahlia's feet and she was trying to slide up towards  
24 the head of the bed? How long did this go on?

25 A I don't know.

1 Q A long time, short time?

2 A Well, make it a short time because I wasn't timing  
3 it.

4 Q Okay. Could you tell whether Mr. Farmer -- was he  
5 moving around, was he standing still while he was holding onto  
6 her feet?

7 A No, he was standing still as far as I could see.

8 Q Okay. At some point in time, did Mr. Farmer tell  
9 Ledahlia that she needed to change her clothes or put on  
10 another gown?

11 A Yes.

12 Q Was this prior to or after he was holding onto her  
13 feet?

14 A I don't remember that.

15 Q Okay. But at some point in time while you and  
16 Ernestine were in the room, Mr. Farmer said that Ledahlia  
17 needed to put on a new gown or change her gown?

18 A Yes.

19 Q Okay. Describe for us how -- how -- did she  
20 actually end up putting on a new gown?

21 A She ended up in a new gown. I don't remember exact  
22 -- remember exactly how it went, but she ended up in a new --  
23 in a new gown.

24 Q Okay. Did Mr. Farmer assist her with putting on  
25 that gown? Or did you and Ernestine assist her? Or did she

1 do it by herself?

2 A I remember him saying that he could help her. And  
3 we was going to help her get dressed and he said he could help  
4 her because he was a nurse and that's what he do.

5 Q Okay. So -- but you said you don't remember if he  
6 ended up helping her or if you and Ernestine helped her put on  
7 the new gown?

8 A I'm not sure, but I know she ended up in a new gown  
9 and that's -- what was said, I don't remember.

10 Q Okay. At some point in time, did Mr. Farmer leave  
11 the room, leave you alone with Ernestine and Ledahlia?

12 A I'm not sure. I don't remember.

13 Q Did there come a point in time where Ledahlia asked  
14 you and Ernestine to stay there because she was afraid?

15 A Yes, she did.

16 Q Okay. When she asked you that, was Mr. Farmer still  
17 in the room or had he left the room at that point?

18 A I'm not sure.

19 Q Okay. When Ledahlia made the statement to you,  
20 asking you and Ernestine to stay, did you -- did you and  
21 Ernestine agree to stay with her?

22 A Yes.

23 Q At some point in time after you visited Ledahlia at  
24 the hospital, did you see some stories on the news about Mr.  
25 Farmer?

1 A Yeah, once.

2 Q Okay. After seeing that story, did you talk to  
3 Ledahlia or talk to Ernestine or other members of your family  
4 about what had happened on April 27th at the hospital?

5 A No.

6 MR. KOCHVAR: I have nothing further, Judge.

7 THE COURT: Cross.

8 MR. BASHOR: Thank you.

9 CROSS-EXAMINATION

10 BY MR. BASHOR:

11 Q Good morning, Ms. Dotson.

12 A Good morning, sir.

13 Q Just a few followup questions. My name is Ryan  
14 Bashor. If you don't understand a question, feel free to let  
15 me know, okay?

16 A Oh, okay.

17 Q All right. So you were at the hospital with  
18 Ledahlia on April 27th of 2008; is that correct?

19 A You say it's correct, I don't remember the dates. I  
20 know I was there.

21 Q Okay. And you went to the emergency room; is that  
22 right?

23 A Right.

24 Q And at the emergency room, you went with your  
25 sister, correct?

1           A     Went with her?

2           Q     Did you arrive at the emergency room with your  
3 sister?

4           A     Oh, yes.

5           Q     And at some point, Mr. Farmer comes into your  
6 niece's room; is that right?

7           A     Well, he was there. He might have been already  
8 there or came in there, I don't remember.

9           Q     Fair enough, but you came in contact with him?

10          A     Yes.

11          Q     And do you recall describing him as a nice man?

12          A     Yeah.

13          Q     And that he was very attentive to Ledahlia?

14          A     Yeah.

15          Q     And he introduce himself both as Santa Claus and  
16 eventually as Mr. Steven Farmer?

17          A     Correct.

18          Q     And do you remember describing him as a nice  
19 competent man?

20          A     I did?

21          Q     Do you recall?

22          A     No.

23          Q     Okay. If -- do you remember talking to a detective  
24 in this case?

25          A     When?

1 Q On June 5th of 2008?

2 A Do I remember it?

3 Q Do you remember speaking with a detective?

4 A Yes.

5 Q Okay. Would looking at a transcript of what you  
6 told the detective about Mr. Farmer help refresh your  
7 recollection as to what you described him as? Would taking a  
8 look at what you'd said before help you remember?

9 A Oh, okay.

10 MR. BASHOR: Your Honor, may I approach?

11 THE COURT: Yes.

12 MR. BASHOR: Page 15.

13 BY MR. BASHOR:

14 Q Good morning. This question.

15 A Good morning.

16 Q It's the first question and answer, just read it to  
17 yourself.

18 A Okay.

19 Q Does that help you remember?

20 A No.

21 Q It does not help you remember. Fair enough. So at  
22 some point you and your sister are at either side of the bed,  
23 correct?

24 A Correct.

25 Q And Mr. Farmer enters -- or is already in the room



1 and at some point grabs your niece's feet, right?

2 A Right.

3 Q And while Mr. Farmer is holding her feet, your niece  
4 attempts to scoot herself up on the bed, right?

5 A Right.

6 Q Now do you remember if your niece was lying flat on  
7 her back or if she was kind of sitting up?

8 A I don't remember.

9 Q Now you had described on direct examination that Mr.  
10 Farmer was standing still; is that fair? Do you remember  
11 saying that?

12 A Yeah, I just said that, yeah.

13 Q Okay. So you didn't see him thrusting his hips, did  
14 you?

15 A No.

16 Q You didn't see his hips moving side-to-side?

17 A No.

18 Q And you didn't see him pushing his groin onto her  
19 feet?

20 A No.

21 Q Now while Mr. Farmer was holding her feet, he was  
22 talking to all three of you folks, right?

23 A Yes. We was all in the room.

24 Q And you're having a normal conversation?

25 A Well, yeah.

1 Q Okay. Now at some point, you testified that  
2 Ledahlia asked you to stick around until she was moved to  
3 another facility; is that correct?

4 A Right.

5 Q Okay. And you can't remember whether or not Mr.  
6 Farmer was in the room or not, right?

7 A Right.

8 Q Now did you -- at the time you saw Mr. Farmer  
9 holding Ledahlia's feet, did you think it was kind of awkward?

10 A Different.

11 Q It's not something you normally see?

12 A No.

13 Q Do you remember having a conversation with Ledahlia  
14 and your sister about how it was kind of weird?

15 A I'm sure we did, I don't remember it.

16 Q About how long after -- let me ask you this.

17 Did you think it was, as you said, as different  
18 enough to require you to complain to someone?

19 A I didn't complain to nobody.

20 Q And about how long after -- about how long does it  
21 take for the other facility to come along and pick up your  
22 niece?

23 A I don't know.

24 Q Fair enough. And you'd testified you did see  
25 something about Mr. Farmer on the news?

1 A Yeah.

2 Q But you didn't have a conversation with your sister  
3 or your niece about it?

4 A No, we don't live together.

5 Q Fair enough.

6 MR. BASHOR: Court's indulgence?

7 THE COURT: Okay.

8 (Pause in the proceedings)

9 MR. BASHOR: Thank you very much, ma'am.

10 THE WITNESS: Oh, thank you.

11 THE COURT: Redirect.

12 MR. KOCHEVAR: Just briefly, Judge.

13 REDIRECT EXAMINATION

14 BY MR. KOCHEVAR:

15 Q Ms. Dotson, when Mr. Farmer was holding onto  
16 Ledahlia's feet, you said she was trying to scoot up towards  
17 the head of the bed?

18 A Um-hum.

19 Q Is that a yes?

20 A Yes.

21 Q I know it's hard because it's not usually how we  
22 talk, but. So as Ledahlia was trying to scoot up towards the  
23 head of the bed --

24 A Yes.

25 Q -- was Mr. Farmer pulling on Ledahlia's feet to keep

1 her where she was?

2 A So he was holding them, so -- he was holding them.

3 Q Okay. As he was holding his (sic) feet, were her  
4 feet near any part of Mr. Farmer's body?

5 A Not that I could see, no.

6 Q Okay. Was Mr. Farmer standing right at the side of  
7 -- the end of the bed, close to the end of the bed?

8 A At the end of the bed.

9 Q Okay. You testified when Mr. Bashor was asking you  
10 questions about Mr. Farmer being a nice man, he was helpful  
11 and courteous; is that correct?

12 A Yes.

13 Q Do you recall -- and you recall having spoken to a  
14 detective shortly after this and giving the detective a  
15 statement about what you saw in that room, right?

16 A Yes.

17 Q Okay. Do you recall telling the detective that he  
18 was a real nice man until he grabbed her feet?

19 A Yes.

20 MR. KOCHVAR: Okay. Nothing further.

21 THE COURT: Recross.

22 MR. BASHOR: Very briefly.

23 RECROSS EXAMINATION

24 BY MR. BASHOR:

25 Q Again, we know this is six years ago. The bed that

1 your niece was in, you stated that Mr. Farmer was at the  
2 bottom of the bed; is that correct, near her feet?

3 A At the foot of the bed.

4 Q Okay. And you just used your hands in a holding  
5 motion. Were there rails at the end of this particular bed?

6 A It's a hospital bed, so I really didn't focus on  
7 that, so I don't really remember.

8 Q Fair enough, thank you.

9 THE COURT: May this witness be excused?

10 MR. KOCHVAR: Yes, Judge.

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

12 THE WITNESS: Thank you.

13 THE COURT: You may call your next witness.

14 MS. BLUTH: The State calls Ernestine Smith.

15 (Pause in the proceedings)

16 THE CLERK: Can you raise your right hand?

17 ERNESTINE SMITH, STATE'S WITNESS, SWORN

18 THE CLERK: Please be seated. Can you please state  
19 your name and spell it for the record?

20 THE WITNESS: Ernestine G. Smith.

21 E-r-n-e-s-t-i-n-e, initial G, S-m-i-t-h.

22 THE CLERK: Thank you.

23 THE COURT: You may proceed.

24 MS. BLUTH: Thank you, Your Honor.

25 DIRECT EXAMINATION

1 BY MS. BLUTH:

2 Q Good morning, Ms. Smith.

3 A Good morning.

4 Q How you feeling today.

5 A I'm okay.

6 Q You're doing okay?

7 A Yeah, I'll be all right.

8 Q Okay. All right. If you need a break at anytime,  
9 let me know, okay?

10 A Okay.

11 Q All right. Do you have a niece name Ledahlia  
12 Spurlock?

13 A Yes.

14 Q Okay.

15 A My -- I'm kind of --

16 Q I'll -- I'll speak up louder.

17 A Okay.

18 Q Okay. Oh, would you like to use their earphones,  
19 would that help you?

20 A It probably will.

21 Q Okay.

22 (Pause in the proceedings)

23 THE COURT: Other way, have it hang down, yeah.  
24 How's that? Does that help?

25 THE WITNESS: It's better. This one --

1 BY MS. BLUTH:

2 Q Does that help better?

3 A Yes. This is a little loud.

4 THE COURT: Show her how it works.

5 (Pause in the proceedings)

6 THE WITNESS: It's staticky.

7 THE MARSHAL: Try not to rub them.

8 MS. BLUTH: I can -- I can talk louder.

9 THE COURT: Let's have a test here.

10 BY MS. BLUTH:

11 Q Okay. Can you hear me now?

12 A I can hear you.

13 Q Okay.

14 A But it's kind of staticky.

15 Q Okay. Would you prefer me to just keep my voice up  
16 and not have to use those?

17 THE COURT: We can get you another pair. Let's try  
18 another pair.

19 (Pause in the proceedings)

20 BY MS. BLUTH:

21 Q How you doing now?

22 A Better.

23 Q Better?

24 A Yes.

25 Q Okay. If you can't hear me, just let me know and

1 I'll -- I'll speak a little bit louder. I just want to make  
2 sure I'm not yelling in your ear now with the --

3 A No, I'm fine.

4 Q Okay. All right. Now my question was do you have a  
5 niece by the name of Ledahlia Spurlock?

6 A Yes, I do.

7 Q Okay. And then do you have a sister by the name of  
8 Ada Dotson?

9 A Yes, I do.

10 Q And did Ms. Dotson just leave the courtroom?

11 A Yes.

12 Q Okay. I'd like to turn your attention way back to  
13 April 27th of 2008.

14 A Okay.

15 Q On that date, did you go to Centennial Hills  
16 Hospital to visit your niece Ledahlia?

17 A Yes, I did.

18 Q And who did you go to the hospital with?

19 A Ada Dotson, my sister.

20 Q All right. When you arrived at the hospital -- did  
21 I say -- was it Centennial Hills Hospital?

22 A Yes.

23 Q Okay. And when you arrived at the hospital with  
24 Ada, and you walked into Ledahlia's room, was she the only  
25 person in the room at that time?



1           A     Yes, she was.

2           Q     And did you and Ada stay for a time and sit with  
3 her?

4           A     Yes, we did.

5           Q     And during the time you sat with her, did a  
6 individual come in who was treating her, a male individual?

7           A     Yes.

8           Q     And what did that individual look like?

9           A     He's a male, Caucasian, (indiscernible) and light  
10 hair -- white hair, beard.

11          Q     Did you -- I'm sorry, I interrupted you, Ada. Or  
12 Ernestine. Do you see that person in the courtroom today?

13          A     Yes.

14          Q     Okay. Can you please point to him and tell me  
15 something that he's wearing.

16          A     He's wearing a grey shirt, grey tie, black or blue  
17 suit coat.

18          Q     And what color is his hair?

19          A     It's -- I call it white hair.

20                MS. BLUTH: Your Honor, may the record reflect  
21 identification of the defendant.

22                THE COURT: It will.

23                MS. BLUTH: Okay, thank you.

24 BY MS. BLUTH:

25          Q     Does he look a little different today?

1 A Yes.

2 Q How does he look different?

3 A Well, it's the hair, it's kind of got back, it was a  
4 full head of hair then.

5 Q Okay. All right. And when he came in, how did he  
6 introduce himself to you and Ada and Ledahlia?

7 A He introduced himself as Santa Claus.

8 Q Okay. And did he talk to you, some small talk about  
9 why people call him Santa?

10 A Well, yes. It's -- he said that he plays -- he's  
11 going to play Santa Claus, he's played Santa Claus.

12 Q Okay. Now at some point, did you find out his real  
13 name?

14 A Yes.

15 Q When was that?

16 A In the conversation, my sister, Ada, ask him his  
17 name and he says Steve.

18 Q And you were present during that?

19 A Steven, yeah. Yes.

20 Q Now while you were in the room, is Ledahlia in her  
21 patient bed?

22 A Yes.

23 Q And where are you and Ada in relation to Ledahlia?

24 A Ada was on her right and I was on her left.

25 Q Okay. So each of you were on one side of the bed?

1 A Yes.

2 Q While Mr. Farmer was in the room, and when I say Mr.  
3 Farmer, I'm talking about Steve. I'll say the defendant, that  
4 will make it easier.

5 A Okay.

6 Q When you were in the room, did he start doing things  
7 that you felt were inappropriate or uncomfortable to you?

8 A Yes.

9 Q And what did you see him do?

10 A I saw him, he caught her feet and --

11 Q Caught -- I'm sorry, caught -- caught her feet?

12 A Caught her feet.

13 Q Okay.

14 A And was kind of holding on and kind of massaging and  
15 pulling her feet towards him.

16 Q Okay. When he was -- when he caught her feet and he  
17 was pulling her feet towards him, could you see what Ledahlia  
18 was doing? What was her reaction?

19 A She started -- I call it a flinch. She started kind  
20 of draw in, taking her -- kind of bending -- bringing her  
21 knees up --

22 Q Okay.

23 A -- to her upper body.

24 Q Okay. And you said you call -- called it a flinch;  
25 is that what you said?

1           A     Yeah. Yeah. She's in the bed, kind of halfway  
2 sitting up, and she drew -- you know how you sit -- your  
3 knees, just kind of just start slowly bringing them back to  
4 her.

5           Q     Okay. Could you tell -- I mean, you know your  
6 niece. Could you tell she felt uncomfortable?

7           A     I felt -- yes, yes.

8           Q     And when Ledahlia would, you know, slowly try to  
9 bring her knees in, did the defendant keep holding onto her  
10 feet?

11          A     Yes.

12          Q     Could you tell if he was -- or did he ever hold her  
13 feet to an area on his body?

14          A     Yes.

15          Q     And what area did he hold her feet to?

16          A     In the groin area.

17          Q     And you saw him doing that?

18          A     Yes.

19          Q     And did he move her feet against his groin area?

20          A     Yes.

21          Q     And did you witness him do that?

22          A     Yes.

23          Q     When you're watching this going on, this -- when he  
24 is holding his feet -- I'm sorry, holding her feet against his  
25 groin area, what is Ledahlia doing?

1           A     She -- well, her expression changed and she kept  
2 bringing her legs towards her -- up to her body.

3           Q     Okay.

4           A     Trying to get away. Or move them out of, you know,  
5 his area.

6           Q     Now when he stopped holding her feet to his groin  
7 area and moving, did he leave the room for a certain period of  
8 time?

9           A     Yes. Well -- can I back up?

10          Q     I'm sorry.

11          A     I don't know if I'm going -- he told her that she  
12 was going to be moved that night --

13          Q     Okay.

14          A     -- to a different facility.

15          Q     Okay.

16          A     And that they were on their way to pick her up and  
17 he was going to get her a gown.

18          Q     Okay. And so did he leave the room to go get that  
19 gown?

20          A     Yes, he did.

21          Q     And when he left that room to go get that gown, did  
22 you guys talk about what you had just seen?

23          A     Yes, we did.

24          Q     And what did you say?

25          A     Well, it was Ledahlia. She said, "Did you see

1 that?" I said, "Yes, I did."

2 Q Okay. Did she express to you concern about being  
3 alone with him?

4 A Yes.

5 Q Did she ask you to stay?

6 A Yes, she did.

7 Q Okay. And did you stay because of that?

8 A Yes, we did.

9 Q Now did he ever come back into the room with the  
10 gown?

11 A Yes, he did.

12 Q And when he came back in the room with the gown, did  
13 he offer to put Ledahlia in the gown?

14 A Yes, he did.

15 Q And how did you feel about that?

16 A Well, I felt it wasn't appropriate --

17 Q Okay. And why?

18 A -- because -- well, we were in this -- three womens  
19 in there and she had said, "I can do it." And someone says  
20 there's a knot in there, so they got the knot out and start  
21 putting it on.

22 Q Okay.

23 A It -- you know, because you got the gown -- can I  
24 say it? They got the gown, your back -- the front's covered,  
25 your back's out.

1 Q Okay.

2 A And then the second gown you took the back to the  
3 front so you'll have a complete cover.

4 Q Okay.

5 A And he's going to help her, she said, "I can do it."

6 Q Okay. And even though she said that she could do  
7 it, did he still insist on being involved in the process?

8 A Yes.

9 Q And did you see him looking at Ledahlia's body?

10 A Well, he came between me and her. I could not see  
11 the whole thing, but it stayed there in kind of up and down,  
12 you know, from like you buttocks.

13 Q Looking at Ledahlia's buttocks?

14 A Yeah, that's what I say, down to their.

15 Q Okay.

16 A And that's what he did.

17 Q Okay. Now shortly after she is put in the gown,  
18 does the other treatment facility come to pick her up?

19 A They came shortly afterwards.

20 Q Okay. And so after that, do you have any further  
21 contact with the defendant?

22 A No.

23 Q And then sometime later, do you see a report on the  
24 news?

25 A I was called.

1 Q Okay. And so your family was aware of what you saw  
2 on the news? Or that it was on the news?

3 A It was on the news, yes.

4 Q Okay. And did someone notify Ledahlia?

5 A I believe so, or she saw it. I'm trying to -- some  
6 -- my -- someone called her mother.

7 Q Okay.

8 A And told her mother.

9 Q And so then Ledahlia was contacted in some way?

10 A Yes.

11 MS. BLUTH: Okay. I'll pass the witness, Your  
12 Honor.

13 THE COURT: Cross.

14 MR. BASHOR: Thank you, Your Honor. Court's  
15 indulgence.

16 CROSS-EXAMINATION

17 BY MR. BASHOR:

18 Q Good morning, Ms. Smith.

19 A Good morning.

20 Q My name is Ryan Bashor. I represent Mr. Farmer.

21 A Uh-huh.

22 Q If you don't understand any of my questions, I'll be  
23 happy to repeat them or rephrase them, okay?

24 A Okay.

25 Q Okay. Now you went to the emergency room to see



1 your niece on April 27th of 2008; is that right?

2 A Yes, I did.

3 Q Okay. And you arrived at the emergency room with  
4 your sister, Ms. Dotson?

5 A Yes.

6 Q And when you arrived, you are -- you find where your  
7 niece is located?

8 A Yes.

9 Q And you find her in a hospital bed, right?

10 A Yes.

11 Q And she's in a seated position or is she laying on  
12 her back?

13 A She was in a half-seated position.

14 Q Okay. By half-seated, if you would describe the  
15 hospital beds that they have there as motors that can adjust  
16 how --

17 A Right.

18 Q Right. And so you -- by half-seated, you would say  
19 about halfway to the perfect seat, so about a 45 degree angle?

20 A Yes, something like that.

21 Q Is that fair?

22 A That's fair.

23 Q Now at some point, Mr. -- whether he was already in  
24 the room when you got there or at some point, you encounter  
25 Mr. Farmer, right?

- 1           A     He was not in the room when we got there.
- 2           Q     Okay, thank you. And so at some point, then, Mr.
- 3 Farmer enters the room?
- 4           A     Yes.
- 5           Q     And he introduces himself first as Santa Claus?
- 6           A     He told her he was his -- her nurse for the night
- 7 first.
- 8           Q     Okay. So --
- 9           A     That's the first thing he said.
- 10          Q     -- the very first thing he says when he enters the
- 11 room is he -- and by he, speaking to your niece?
- 12          A     Right.
- 13          Q     He says, "I'll be your nurse of the evening?"
- 14          A     Right.
- 15          Q     Okay. And at some point, he introduces himself as
- 16 Santa Claus, correct?
- 17          A     Yes.
- 18          Q     Or at least refers to himself as Santa Claus?
- 19          A     Refers to himself as Santa Claus.
- 20          Q     Obviously, he's not Santa Claus.
- 21          A     Um-hum.
- 22          Q     And at some point, your sister asks him his name and
- 23 he identifies himself as Steve or Steven?
- 24          A     Yes, he did.
- 25          Q     Thank you. Now you were positioned on your niece's

1 left; is that correct?

2 A Yes.

3 Q And -- God bless you.

4 MS. BLUTH: Sorry.

5 BY MR. BASHOR:

6 Q And your sister was positioned on the right of the  
7 bed?

8 A Yes.

9 Q Okay. Now could you describe this particular bed?  
10 We already know that it's got that adjustment for the seating  
11 position. Does the bed have rails on it?

12 A The rails was down.

13 Q Okay.

14 A Most -- excuse me, I'm sorry.

15 Q Excuse me.

16 A They always have rails.

17 Q Okay. What about at the base of the bed?

18 A The basin?

19 Q The base, the very end of the bed, were there rails?

20 A It had a -- like a footboard.

21 Q A footboard, okay.

22 A Well, you know, headboard, footboard.

23 Q Fair enough. And was that footboard in the up  
24 position?

25 A It was low. It was kind of medium.

1 Q Okay. But it was in a vertical position to -- to  
2 the bed itself?

3 A Yes.

4 Q Okay. Now at some point, Mr. Farmer grabs a hold of  
5 your niece's feet, correct?

6 A Yes, he did.

7 Q And you see your niece attempting to draw her knees  
8 back in towards her body?

9 A Yes.

10 Q And during this time, is Mr. Farmer speaking to  
11 people in the room?

12 A You know, I don't remember him speaking to us.

13 Q Okay. Fair enough. You don't recall after  
14 identifying that he'd be the nurse, that a transport would be  
15 coming sometime soon?

16 A Yes, he -- repeat?

17 Q Do you recall him stating that a transfer to the  
18 other facility would be coming sometime soon?

19 A Yes, he did say that.

20 Q Thank you. Now after -- and you were able to  
21 observe Mr. Farmer grabbing your niece's feet, correct?

22 A Yes.

23 Q And you felt that that was inappropriate?

24 A It was, yes.

25 Q And it made, what appeared to be, your niece very

1 uncomfortable?

2 A Yes.

3 Q And did it make you uncomfortable?

4 A Yes.

5 Q And it's something that you described that's not  
6 something a hospital worker should be doing; is that correct?

7 A Did I say that? What page are you on, may I ask?

8 Q Oh, sure. Do you have your statement in front of  
9 you?

10 A Yes, I do.

11 Q Sure. I'm looking at page 12. About middle of the  
12 page. Read it to yourself if you would, ma'am.

13 A The middle of the page?

14 Q Yes, ma'am.

15 A Is that number five or number --

16 MR. BASHOR: If I could approach, Your Honor, to  
17 assist?

18 THE COURT: Yes. Do you have line numbers, though?  
19 She's --

20 MR. BASHOR: Unfortunately, these statements do not.

21 THE COURT: Okay.

22 THE WITNESS: I put numbers on mine.

23 BY MR. BASHOR:

24 Q Wow, okay. So you have yours numbered. It would be  
25 your number four.

1 A Thank you.

2 Q If you could read that to yourself.

3 A Something that made me feel --

4 Q To yourself, ma'am.

5 A Oh. Um-hum.

6 Q Was that helpful?

7 A Yes.

8 Q So you had described it as something that a hospital  
9 worker should not be doing, correct?

10 A Yes, right.

11 Q Okay.

12 A Yes.

13 Q Now after Mr. Farmer left the room, you spoke to  
14 both your sister and your niece about what you'd just observe,  
15 right?

16 A Yes.

17 Q And, ma'am, if it's all right with you, I don't mean  
18 to be rude, if there's another portion of the statement I need  
19 to refer you to, I will, okay? Because I notice you're  
20 looking down at the statement. If there's another section,  
21 I'll be happy to refer you, okay.

22 A No, I just -- repeat the question you just asked me,  
23 please?

24 Q Okay, sure. So after -- you'd stated that after Mr.  
25 Farmer had left the room, your sister and your niece had a

1 conversation about what had just occurred, right?

2 A The three of us?

3 Q Yes, the three of you.

4 A Um-hum.

5 Q And --

6 THE COURT: Is that a yes?

7 THE WITNESS: Yes.

8 THE COURT: Thank you.

9 BY MR. BASHOR:

10 Q And you would agree that all three of you agreed  
11 that what you saw was inappropriate?

12 A Right, yes.

13 Q And, in fact, your niece asked that you stay until  
14 she's transferred to that other facility, correct?

15 A Yes, she did.

16 Q And that's exactly what you did?

17 A Yes, we did.

18 Q Okay. Now at any point, did you ask anyone in the  
19 hospital for another nurse?

20 A No, we did not.

21 Q Did you alert a supervisor about what you had seen?

22 A No, we did not.

23 Q Did you call for security?

24 A No.

25 Q Did you call the police?

1 A No.

2 Q Okay. Now at some point after April 27th of 2008,  
3 you're notified that there was a story on the news; is that  
4 correct?

5 A Yes.

6 Q And then about, if this is correct, on June 5th of  
7 2008, you're interviewed by a detective in this case, correct?

8 A Yes.

9 MR. BASHOR: Court's indulgence?

10 THE COURT: All right.

11 (Pause in the proceedings)

12 MR. BASHOR: Thank you, ma'am. I pass the witness.

13 THE COURT: Any redirect?

14 MS. BLUTH: No, Your Honor.

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

16 THE COURT: You may call your next witness.

17 MR. BASHOR: Your Honor, if we could approach.

18 THE COURT: All right.

19 (Bench conference begins)

20 MR. BASHOR: Ryan Bashor. Your Honor, my co-counsel  
21 and boss has asked that we take a short recess for a minute.

22 MS. BLUTH: He's not my boss.

23 THE COURT: I think 10 minutes.

24 MR. MANINGO: That's great, five is fine.

25 THE COURT: All right.



1 (Bench conference ends)

2 THE COURT: There's been a request for a short  
3 restroom break. Everybody on board with that? Okay. All  
4 right. Everybody's had lots of coffee this morning, so. All  
5 right. Well, since everybody's on board with that, we'll take  
6 ten minutes because I know -- I don't want you to have a line  
7 forming out restroom, so.

8 During this recess, it is your duty not to  
9 converse --

10 MR. MANINGO: Should have it memorized by now.

11 THE COURT: I know, I do, but I want to make sure.  
12 Not to converse among yourselves or with anyone else on any  
13 subject connected with the trial, or to read, watch or listen  
14 to any report of or commentary on the trial by any person  
15 connected with the trial or by any medium of information  
16 including, without limitation, newspaper, television, radio or  
17 internet. And you are not to form an opinion or express an  
18 opinion on any subject connected with this case until it is  
19 finally submitted to you.

20 We'll be in recess for ten minutes which is going to  
21 take us till five till 11:00 or give you a little leeway.

22 (Outside the presence of the jury)

23 THE COURT: All right. The record will reflect the  
24 jury has departed the courtroom. Do we think we're going to  
25 be able to start back up at 11:00, you're going to be able to

1 get through this next witness by 11:30 and still make your --

2 MS. BLUTH: I called the doctor because I -- I don't  
3 want to mess with his schedule.

4 THE COURT: Okay.

5 MS. BLUTH: He's very important. So I just told him  
6 I'd work with him next week, so.

7 THE COURT: All right. All right, we're in recess.

8 (Court recessed at 10:45 a.m. until 10:59 a.m.)

9 THE COURT: Thank you, please be seated. The record  
10 will reflect we're back within the presence all 12 members of  
11 the jury as well as the four alternates, defendant is present  
12 with his counsel, the Deputies District Attorney prosecuting  
13 the case are both present and as are all officers of the  
14 court. Will counsel so stipulate?

15 MS. BLUTH: Yes, Your Honor.

16 MR. MANINGO: Yes, Your Honor.

17 THE COURT: You may call your next witness.

18 MS. BLUTH: Thank you. The State calls Ledhalia  
19 Spurlock.

20 LEDAHLIA SPURLOCK, STATE'S WITNESS, SWORN

21 THE CLERK: You may be seated. And can you please  
22 state your name and spell it for the record?

23 THE WITNESS: Ledahlia Spurlock, L-e-d-a-h-l-i-a,  
24 Spurlock, S-p-u-r-l-o-c-k.

25 THE CLERK: Thank you.

1 THE COURT: You may proceed.

2 MS. BLUTH: Thank you, Your Honor.

3 DIRECT EXAMINATION

4 BY MS. BLUTH:

5 Q Good morning, Ms. Spurlock.

6 A Good morning.

7 Q Before we get started, do you have some aunts that  
8 are outside, aunts?

9 A Yes.

10 Q Ernestine Smith and Ada Dotson?

11 A Yes.

12 Q Okay. I'd like to turn your attention to way back  
13 to May of 2008.

14 A Okay.

15 Q On -- or excuse me, I said May, but I mean April.

16 A Yeah.

17 Q I'd like you to turn your attention to April of  
18 2008. And April 26th of 2008, were you taken to Centennial  
19 Hills Hospital for treatment via ambulance?

20 A Yes.

21 Q Okay. And can you explain to the ladies and  
22 gentlemen of the jury why you needed treatment on that date?

23 A I was attempting suicide.

24 Q And how did you attempt that suicide?

25 A I took some Vicodin and some Tylenol. I think -- I

1 think it was like 10 Vicodin and 20 Tylenol.

2 Q Okay. Some pills.

3 A Pills, yeah.

4 Q Okay. And what was going on in your life that you  
5 made that decision to attempt suicide?

6 A My husband and I had broke up. I guess we were  
7 still legally married. And he was in California and I was  
8 here in Vegas. So we were having issues and that's -- I came  
9 to the conclusion that I didn't, you know, want to live at  
10 that time.

11 Q And so luckily did family members find you?

12 A Yes.

13 Q And you were taken to the hospital for treatment?

14 A Yes.

15 Q Okay. Shortly after getting to the hospital in the  
16 evening hours of May 26th, were you given -- it's called  
17 charcoal, were you given a substance so that your body can  
18 eject or throw up the pills?

19 A Yes, yes.

20 Q And how long was it -- if you arrived in the evening  
21 hours on the 26th, about how long was your stay at Centennial  
22 Hills?

23 A I would say maybe a day and a half, you know.

24 Q Okay. And so you were still there on the 27th?

25 A Yes.

1 Q So now I'd like to turn your attention to that day  
2 on the 27th, again, about the early evening hours. On that  
3 day, did Ada and Ernestine, your aunts, come to see you in the  
4 hospital?

5 A Yes.

6 Q And while they were there, was a male certified  
7 nursing assistant treating you?

8 A Yes.

9 Q And do you see that person in the courtroom today?

10 A Yes.

11 Q Okay. Can you please point to that person and  
12 describe an article of clothing --

13 A Right there.

14 Q -- that he's wearing?

15 A He's wearing a -- I think it's a black suit with a  
16 purple shirt and a tie with checkers.

17 Q I apologize, thank you, Ledahlia.

18 MS. BLUTH: Your Honor, may the record reflect  
19 identification of the defendant?

20 THE COURT: It will.

21 BY MS. BLUTH:

22 Q So by the time Mr. Farmer's treating you now on the  
23 27th, it's been about 24 hours that you've been in the  
24 hospital roughly?

25 A Um-hum. Yes.

1 Q Yes?

2 A Yes.

3 Q And are you -- are you feeling fine at that point?

4 A Yes.

5 Q You're not under the effects of any of the pills  
6 that you had taken before?

7 A No.

8 Q Okay. When your aunts come in to sit with you,  
9 where are they situated in comparison to where you are  
10 situated?

11 A On is on one side and on is on the other of the bed,  
12 like I'm in the middle. I'm in the bed and they're on one  
13 side of -- one is on this side, one is on the other side.

14 Q Okay, thank you. And when the defendant walks in,  
15 how does he introduce himself?

16 A He introduces himself as the nurse and he said his  
17 name -- I think he said his name.

18 Q Okay. Did he talk about his beard or anything about  
19 what he plays?

20 A He talked about his beard and that he had played  
21 Santa Claus before, you know.

22 Q Is it safe to say you just engaged in, you know,  
23 normal small talk?

24 A Normal small talk, yes.

25 Q So when -- when you were having these discussions

1 with him, did he begin to do something that made you feel  
2 uncomfortable?

3 A Yes.

4 Q Can you explain to the ladies and gentlemen what  
5 that was.

6 A So I was laying on the hospital bed and my feet  
7 were, you know, out of the end of the bed and he was standing  
8 at the end of the bed. And he grabbed the -- his hands were  
9 on the rails of -- at the end of the hospital bed. And he  
10 began to move his body in a circular motion, the groin area --

11 Q Okay.

12 A -- on my -- on my feet.

13 Q Okay. And so the way the hospital bed is situated  
14 -- so are you completely flat or explain to me, like, your  
15 body situation. Are you sitting up?

16 A I'm kind of sitting up, yeah.

17 Q Okay.

18 A Kind of sitting up, my feet are just -- are on -- at  
19 the end of the bed.

20 Q Okay. And he's holding, what, each side of the  
21 railings?

22 A Um-hum.

23 Q And then you say he's moving his body against your  
24 feet?

25 A Yes.

1 Q And you said it was his groin area --

2 A Yes.

3 Q -- so his pelvic region --

4 A Yes.

5 Q -- against your -- your feet?

6 A Yes.

7 Q Okay. Now what type of movement was it that his  
8 groin was doing?

9 A In a, like, circular, like he was moving in a  
10 circular.

11 Q And was it a fast movement? Like, was it really --  
12 was a rough or was it very slow?

13 A It was slow, um-hum.

14 Q And when he's doing that, is he still maintaining  
15 the conversation with you and your aunts?

16 A Yes.

17 Q And was he looking at you? What was he doing?

18 A He was looking at me and looking at my aunts, but he  
19 seemed to have some sort of a smirk or smile on his face.

20 Q Okay. What is -- what are you thinking during this  
21 process?

22 A I'm thinking, I can't believe that this is  
23 happening.

24 Q Okay.

25 A Or -- or first, is this happening, then it's, I



1 can't believe it's happening.

2 Q Okay. So at first you're like I'm not sure what's  
3 going on.

4 A Right.

5 Q It continues, and then you're like, I can't believe  
6 this is going on right now?

7 A Right.

8 Q Okay. So do you -- what's your physical reaction?  
9 I mean, do you sit there? What do you -- what do you do?

10 A I try to --

11 MS. BLUTH: Bless you.

12 THE WITNESS: I try to hold onto the rails and scoot  
13 back.

14 BY MS. BLUTH:

15 Q And when you attempt to scoot back, what does he do?

16 A He's pushing further up as I'm pushing up.

17 Q Pushing his groin further?

18 A Right. Or pushing his groin further up as I'm  
19 pushing back.

20 Q Were you -- were you careful about how you reacted  
21 to the situation?

22 A I was careful because it was -- I knew I was going  
23 to be having to go to the mental institution and I don't know.  
24 As far as him doing that and me trying to get away, I didn't  
25 -- trying to see that -- I mean, if I was kicking him or

1 something to get away, I think that's why I initially had  
2 pulled back on the rails because I didn't -- I thought maybe  
3 it would have been a, oh, she kicked me or -- I don't -- I  
4 don't know. I was just more afraid of it -- adding more to  
5 what I was already having to go through, you know.

6 Q Okay. You mean, like you already stated, you had  
7 attempted to take your life?

8 A Um-hum. Yes.

9 Q And so, after you left that hospital, were you going  
10 to have to go to, you know, a facility that helps with someone  
11 who's going through mental struggles?

12 A Yes.

13 Q And you knew you were going to that facility that  
14 night, correct?

15 A Yes.

16 Q Along with, you know, feeling careful on your  
17 reactions, were you fearful or uncomfortable?

18 A I was uncomfortable and -- I was -- I was  
19 uncomfortable.

20 Q At some point, does the defendant stop that, you  
21 know, slow movement towards your feet and exit the room?

22 A Yes.

23 Q When he exit the -- exits the room, do you discuss  
24 this with your aunts?

25 A Yes. We -- we discussed -- first it was just a

1 pause, we kind of just looked at each other. And then we were  
2 like did he -- did he do what I think he did and it's like,  
3 yeah. And we said, yeah, he -- he rubbed his genitals over on  
4 your feet.

5 Q Okay.

6 A And so it was, like -- just like, what -- like,  
7 really? You know, like, is this -- does this really happen,  
8 yeah, you know.

9 Q Did -- after you guys had that conversation, shortly  
10 thereafter does he come back into the room?

11 A Yes.

12 Q And I'm sorry, I should have -- I should back up.  
13 While he's out of the room, do you request that your aunts  
14 stay with you?

15 A I do. I ask them to stay with me because I knew  
16 that the mental hospital truck or van was coming to get me and  
17 I specifically had asked them to stay because I wasn't  
18 comfortable if the nurse was to return back to the room.

19 Q And so did they agree to stay with you for the  
20 duration?

21 A They did, they did.

22 Q And so now, moving to when he comes back into the  
23 room, does he have a gown in which to change you into?

24 A Yes.

25 Q And do you feel comfortable with him placing you in

1 that gown?

2 A No, I didn't.

3 Q Okay. And so did you express to him that you -- you  
4 would take care of it?

5 A I would take care it, yeah.

6 Q Okay. Now shortly after changing into that gown,  
7 were you taken to the facility we've been speaking of?

8 A Yes.

9 Q And your aunts remained with you until --

10 A Until I --

11 Q -- pickup time?

12 A Until pick-up time, yes.

13 Q Did you ever see the defendant again after that? At  
14 that stay at Centennial Hills Hospital?

15 A No.

16 Q And so at that point, did you feel like you were  
17 ever going to have to deal with him again?

18 A No. I did not think I had to deal with him again.  
19 I know at that point, I mean, I didn't -- I didn't want to go  
20 to a mental institution, but at that point, I was ready to go  
21 to get away.

22 Q Okay.

23 A You know.

24 Q Pretty safe to say you were committed to getting  
25 better at that point?

1 A Yes.

2 Q Now how long was your stay -- so after you leave  
3 Centennial Hills Hospital, you go to the other facility. And  
4 how long did you stay there?

5 A I want to say maybe two or three days. I know it  
6 was less than a week.

7 Q Okay.

8 A Yeah.

9 Q And so after that, you returned home?

10 A Yes.

11 Q Okay. So sometime after you return from the second  
12 facility do -- are you alerted by someone in your family that  
13 they've seen something on the news?

14 A Yes.

15 Q And did -- which member of your family was it?

16 A It was my mother.

17 Q And she let you know that she saw something about  
18 Centennial Hills on the news?

19 A She said that -- that -- that Ada had called her,  
20 that my Aunt Ada had called because Aunty Ada had seen  
21 something on the news.

22 Q Okay. And so did your mom provide you with a  
23 telephone number?

24 A Yes. To a detective, yes.

25 Q So did you -- you didn't see it on the news

1 yourself?

2 A I didn't see it on the news.

3 Q And your mom didn't see it. Ada had told your mom  
4 about it?

5 A Yeah. Because when my mom told me, I was kind of  
6 like, well, how do you know about this, you know, but it was  
7 on the news, so yeah.

8 Q Okay. So Ada tells your mom --

9 A Or Ada told -- yeah.

10 Q -- and your mom tells you?

11 A Yes.

12 Q Provides you with the number for the detective?

13 A Yes.

14 Q Now did you need -- did you need to think about  
15 whether or not you wanted to call the detective?

16 A I -- I did, because I knew that if -- if I was going  
17 to get, you know, press charges or something, I knew that I  
18 would be -- you know, if it got to this point, that I would be  
19 here, right here, and having to tell people I don't know that  
20 I tried to commit suicide. So, and -- you know.

21 Q A little difficult?

22 A Yeah, it was difficult. I mean, I had my own thing  
23 to already deal with, and then he just added insult to injury  
24 by doing that, so.

25 Q Okay. And you made this decision to speak with the

1 detective?

2 A I did, because -- I guess, because he was -- maybe  
3 he felt, you know -- it needed -- it needed to be -- to help  
4 other people.

5 Q Okay.

6 A You know.

7 Q And after you spoke with the detectives, you also  
8 had to come in and testify at a preliminary hearing?

9 A Yes.

10 Q And now you have to come in here again and discuss  
11 this?

12 A Yes.

13 Q Okay. I'm going to say some names to you and if you  
14 could just let me know whether or not you know these  
15 individuals, okay?

16 A Okay.

17 Q Denise Hanna?

18 A No.

19 Q Marcia Peterson?

20 A No.

21 Q Roxanne Cagnina?

22 A No.

23 Q Heather Shank?

24 A No.

25 Q So I'm assuming if you don't know these people,

1 you've never spoken to them?

2 A No.

3 Q And you never discussed what happened to you?

4 A No.

5 Q Were you -- did you ever contact, you know, any  
6 civil attorneys and try to sue the hospital or Mr. Farmer?

7 A No. No.

8 Q Thank you, Ms. Spurlock.

9 MS. BLUTH: I'll pass the witness.

10 THE COURT: Cross.

11 MR. MANINGO: Thank you, Your Honor.

12 CROSS-EXAMINATION

13 BY MR. MANINGO:

14 Q Hello, Ms. Spurlock.

15 A Good morning.

16 Q My name is Jeff Maningo and I'm just going to ask  
17 some questions, okay?

18 A Okay.

19 Q I understand you're not real comfortable talking  
20 about the reason you were there, so we'll get through that  
21 part quickly. You were having some marital issues?

22 A Yes.

23 Q Okay. And -- and you made a decision I -- that I  
24 assume you regret now?

25 A Yes.



1 Q Okay. And you took some pills and that's how you  
2 ended up in the emergency room?

3 A Yes.

4 Q Okay. And -- and when you went to the emergency  
5 room, one of the first things they did was give you the  
6 charcoal mix?

7 A Yes.

8 Q And that makes you vomit and get the bad stuff out  
9 of your system?

10 A Yes.

11 Q Okay. Now before you ever saw Mr. Farmer at  
12 Centennial Hills --

13 A Um-hum.

14 Q -- you were already extremely upset, correct?

15 A Yes.

16 Q Okay. You were sad?

17 A Sad. More -- yeah, sad.

18 Q Okay.

19 A Um-hum.

20 Q Fair to say that you were emotional?

21 A Yes.

22 Q Okay. Would it also be fair to say that you were a  
23 little bit embarrassed about what had happened?

24 A Yes.

25 Q Okay. And then on top of that, you come in and they

1 -- they make you throw up and do all that, right?

2 A Yes.

3 Q So physically, are you feeling kind of drained also?

4 A A little bit, yes.

5 Q Okay. Tired a little bit?

6 A Yes.

7 Q Okay. And then you knew that you were going to be  
8 at Centennial Hills only for a short time?

9 A Yes.

10 Q And that you were going to then be transported to a  
11 mental health facility?

12 A Yes.

13 Q Okay. Now at some point while you're in your room,  
14 your two aunts are with you, correct?

15 A Yes.

16 Q Okay. And on one side of the bed is Aunt Ida?

17 A Yes.

18 Q Or Ada, excuse me.

19 A Ada, yeah.

20 Q And on the other side is Aunt Ernestine?

21 A Yes.

22 Q Okay. And the lights are on in the room?

23 A The lights are on, yes.

24 Q Okay. And the door's open?

25 A And the door's open.

1 Q Okay. Now the -- the bed has rails on it, correct?

2 A Yes.

3 Q Okay. And behind -- at the back side where your  
4 head is, there's -- there's a board that goes up on the bed,  
5 correct?

6 A Yes.

7 Q Like a headboard?

8 A Yeah, um-hum.

9 Q Okay. And at the end at the bottom, there's a board  
10 where your feet go, correct?

11 A Yeah.

12 Q Okay. And the rails are up?

13 A The rails are up on the side, yeah.

14 Q Okay. Now you're -- you had stated that Mr. Farmer  
15 was making a -- a circular motion?

16 A Um-hum. Yes.

17 THE COURT: Is that a yes?

18 THE WITNESS: Yes, yes.

19 BY MR. MANINGO:

20 Q At the end of the bed?

21 A Yes.

22 Q And that he was holding your feet?

23 A I don't remember him holding my feet?

24 Q Okay. So do you remember -- well, I should say, to  
25 the best of your memory, where were his -- where were his

1 hands?

2 A At first you mean? Or --

3 Q Yeah. Well, I mean --

4 A They were on the --

5 Q -- while he was making the --

6 A Oh, while he was doing --

7 Q -- circular motion?

8 A They're holding on the side of the rail, the -- at  
9 the end.

10 Q Okay. Like this?

11 A Yeah. At the end of the bed on the --

12 Q Okay.

13 A -- on the rail, yeah.

14 Q And -- and so he's not holding your feet?

15 A I don't remember him holding my feet, no.

16 Q Okay. And when he started to do that --

17 A Yes.

18 Q -- you didn't -- you didn't pull your knees up away  
19 from him?

20 A No.

21 MS. BLUTH: Objection, Your Honor, it would be  
22 outside of her knowledge because she doesn't remember him  
23 doing it, so how could she have an independent knowledge of  
24 what she doesn't know?

25 MR. MANINGO: I believe the witness testified that

1 to the best of her memory, his hands were over on the side  
2 rails and that she doesn't remember him holding her feet. And  
3 so I was just asking if -- did you move your knees up.

4 THE COURT: Right.

5 MS. BLUTH: So not -- while the rail -- I'm sorry,  
6 Mr. Maningo, I'm talking about while holding the rails.

7 THE COURT: Okay.

8 MR. MANINGO: While he's making the circular motion.

9 MS. BLUTH: Okay.

10 THE COURT: Did she move her -- did she move her  
11 feet; I thought was the question?

12 MR. MANINGO: Yes.

13 THE COURT: Right, okay. So overruled, go ahead.

14 BY MR. MANINGO:

15 Q So -- so did you move your feet or bring your knees  
16 up and move your feet away?

17 A I held the rails and tried to pull up with my arms.

18 Q Okay.

19 A Yeah. Because I didn't want to press against him to  
20 move up.

21 Q Right. You didn't want to -- and you didn't want to  
22 kick him, right?

23 A Right.

24 Q Because you were worried because of the fact that  
25 you were already in there for mental health issues?

1           A     Yes.

2           Q     Okay.  So -- so we know you didn't do any kicking.

3           A     Right.

4           Q     But you also didn't just pull your knees up towards

5 your waist --

6           A     No.

7           Q     -- away from him?

8           A     No.

9           Q     Okay.  And you said that you tried to -- to scoot

10 yourself up?

11          A     Yes.

12          Q     Okay.  Now you don't remember him holding your feet,

13 though?

14          A     I don't remember him holding my feet.

15          Q     Okay.  So -- but you weren't able to scoot yourself

16 up?

17          A     On the rail you mean or --

18          Q     Right.  Like up towards the top of the bed?

19          A     I was able to move a little bit when I held the

20 rails.

21          Q     Okay.  You weren't strapped down?

22          A     I was not strapped down.

23          Q     Okay.  And both your aunts were there next to you,

24 correct?

25          A     Yes.

1 Q Still at this time?

2 A Yes.

3 Q Okay. Now as you -- as you mentioned on your direct  
4 examination, you had testified at a preliminary hearing about  
5 this?

6 A Yes.

7 Q Okay.

8 MR. MANINGO: And I'm looking at page 144 of the  
9 preliminary hearing.

10 MS. BLUTH: Thank you.

11 MR. MANINGO: Sure.

12 BY MR. MANINGO:

13 Q And you were asked the question at that time, "Was  
14 there anything preventing you from just scooting you way on --  
15 further on up the bed when this was going on?" And you had  
16 stated, "Well, I didn't want tom," blank, "since I was there  
17 for attempted suicide. Another thing I was concerned about  
18 was I felt like if I pushed away, it may have seemed like I  
19 was kicking him or something."

20 A Yes.

21 Q Okay. So I'm just -- I'm just trying to get a  
22 little bit more clear as to -- he wasn't holding your feet,  
23 but you weren't really able to just scoot yourself up?

24 A Right. I mean I was -- like I said, I used the  
25 rails to help push me up because I didn't want to kick, so.

1 Q And -- and you -- and you weren't able to just move  
2 your feet towards your rear end?

3 A I probably was able -- I mean, I probably could  
4 have, but I guess I didn't do that.

5 Q Okay. Okay. And this circular motion that went  
6 on --

7 A Yes.

8 Q -- that was going on, while you didn't move your  
9 feet away or scoot away, you said it went on for about 20 or  
10 30 seconds?

11 A Give or take. I don't remember exactly, but.

12 Q Okay. You spoke to detectives though about this?

13 A Right, yeah.

14 Q And you told the detectives 20 to 30 seconds?

15 A Okay. Then --

16 Q Well, I mean --

17 A I mean, I just -- yeah.

18 Q Would -- I could show you the statement if you --

19 A Okay, yeah.

20 Q Okay, sure. I'm sorry, I misspoke, that was at the  
21 preliminary hearing when you said that.

22 A Okay.

23 Q So, at page 138.

24 MR. MANINGO: If I may approach?

25 THE COURT: You may.



1 BY MR. MANINGO:

2 Q If you want to just look right --

3 A Yeah. "About how long was he pressing his -- 20 to  
4 30 seconds," okay.

5 Q Does reviewing that transcript help refresh your  
6 memory as to -- to what you had previously testified to?

7 A It does. I mean, I know it -- it wasn't like for a  
8 long time. I just know it was going on for a little bit,  
9 yeah.

10 Q Okay. Now after this went on, you had testified  
11 that it was -- it was pretty obvious what Mr. Farmer was  
12 doing?

13 A Yes.

14 Q Okay.

15 A Yes.

16 Q The circular motion for 20 to 30 seconds was  
17 something you could clearly see?

18 A Yes.

19 Q Okay. But your Aunt Ada didn't see anything, did  
20 she?

21 A I think she did see something, she did.

22 Q Okay. And you know that she testified this morning?

23 A I do.

24 Q Okay. And then you had said that the three of you  
25 discussed the matter after Mr. Farmer left the room?

1 A Yes.

2 Q Okay. Now Mr. Farmer came back at some point?

3 A Yes.

4 Q Okay. And there's been a lot of questions and talk  
5 about changing of a gown, correct?

6 A Yes.

7 Q Okay. Now Mr. Farmer was your nurse that evening,  
8 correct?

9 A Yes.

10 Q And actually a certified nursing assistant, right?

11 A Okay, yes.

12 Q Okay. And so your -- your certified nursing  
13 assistant came in and -- and said that you need to change into  
14 -- get changed into this gown, correct?

15 A Yes.

16 Q And then you said, I'd rather -- you know, I want to  
17 take care of it myself, correct?

18 A Yes.

19 Q And so he left it with you and let you take care of  
20 it yourself, correct?

21 A Yes.

22 Q And then he left the room, correct?

23 A Yeah, yes.

24 Q Okay. So there wasn't anything wrong with that?

25 A No.

1 Q Okay. He did as you requested?

2 A Yes.

3 Q Okay. Now after -- now that we've kind of cleared  
4 up anything with the gown, as far as the circular movement --

5 A Yes.

6 Q -- and your feet are concerned, and after the  
7 discussion with your -- your aunts, you didn't notify security  
8 about this 20 or 30 seconds of --

9 A No.

10 Q -- circular motion?

11 A I did not.

12 Q Okay. And you didn't notify your doctor?

13 A No.

14 Q You didn't notify any other nurse there?

15 A No.

16 Q You had your cell phone with you, correct?

17 A No.

18 Q Oh, you didn't have your cell phone?

19 A No.

20 Q But your aunts were there in the room?

21 A Yes.

22 Q Okay. And you didn't ask them to call the police?

23 A No.

24 Q You didn't ask them to call 911?

25 A Nope.

1 Q Okay.

2 A No.

3 Q You didn't ask them to go and report it to any  
4 doctors or nurses?

5 A No.

6 Q And then you were transported to the mental health  
7 facility, correct?

8 A Yes.

9 Q So you're at a complete separate hospital?

10 A Yes.

11 Q Okay. And you're there for two or three days?

12 A Yes.

13 Q Okay. And at that other hospital, you don't tell  
14 any of the doctors?

15 A No.

16 Q You don't mention it to any of the nurses?

17 A No.

18 Q You don't write it down in a note and give it to any  
19 of the -- the staff or personnel at that other hospital?

20 A No. No.

21 Q I'm guessing at a mental health facility, you  
22 probably spoke to psychiatrists or psychologists or something  
23 like that?

24 A Yes.

25 Q Okay. Didn't say anything to them about any of

1 this?

2 A No.

3 Q Okay. And then after those two to three days, you  
4 went home?

5 A Yes.

6 Q And hopefully you were feeling a little bit better?

7 A I was.

8 Q Okay, good.

9 A Yes.

10 Q And at that point, you didn't call and -- and file a  
11 complaint or anything with Centennial Hills?

12 A No.

13 Q Okay. You didn't call the police at that point?

14 A No.

15 Q Okay. You didn't tell anyone about it?

16 A No.

17 Q Okay. And as far as you know -- I mean, to the best  
18 of your knowledge, your aunts didn't say anything to anyone  
19 about it either?

20 A Not -- not at that -- no.

21 Q Okay.

22 A My -- no.

23 Q Okay. All three of you I'm talking about.

24 A Right.

25 Q Okay.

1           A     Yeah.

2           Q     So it doesn't -- none of it comes up again until

3 your Aunt Ada --

4           A     Calls my mom.

5           Q     -- sees it on --

6           A     Or sees it on TV.

7           Q     Sees it on the television?

8           A     Right.

9           Q     Okay. So she -- she sees this story on the

10 television and then she calls your mom?

11          A     Yes.

12          Q     Your mom didn't even know anything about it?

13          A     No.

14          Q     Because you didn't even tell your mom about anything

15 that happened?

16          A     No.

17          Q     Okay. So then your mom, obviously concerned after

18 hearing from your aunt, then calls you?

19          A     Yes.

20          Q     And when your mom calls you, you tell her that, oh,

21 yeah, I -- I actually remember that now, I remember that guy,

22 correct?

23          A     I -- yeah. I -- I just didn't tell her. I remember

24 -- I know what happened, I just didn't tell her.

25          Q     Okay. Well, so you're saying you hadn't forgot

1 anything and didn't have to remember it, that you did already  
2 know it?

3 A I already -- I mean, I knew what had happened to me,  
4 but I didn't tell her, I didn't share that with her.

5 Q Okay. And -- and you, as we mentioned earlier, you  
6 spoke to police about this?

7 A Yes.

8 Q And gave a tape-recorded statement?

9 A Yes.

10 Q And in that statement, you had said -- and I'm  
11 looking at page 18.

12 A Okay.

13 Q For counsel.

14 MS. BLUTH: Okay.

15 BY MR. MANINGO:

16 Q "And that's how -- and then my mom called me and  
17 said, do you remember?"

18 A Okay.

19 Q And then you said, "This man had worked at the  
20 hospital and when she said, I'm Santa Claus, she mentioned and  
21 I remember, and I remember it, like, yeah, I do actually  
22 remember that man."

23 A Yeah. I think because I was dealing so much about  
24 my suicide attempt and trying to be -- look forward and just  
25 knowing that I was going away -- get away from this. It was

1 not something that I -- that was first on my mind. First on  
2 my mind was me, and trying to get me better. So when she  
3 brought it up, I, nonchalantly, was like, okay, yeah, I do  
4 because I really didn't want to have to deal with that when I  
5 had to deal with me.

6 Q Okay. And this was about -- this was approximately  
7 two months, a month and a half, two months after that?

8 A Honestly, I don't remember how long it was after I  
9 -- when I talked to my mom about it.

10 Q Okay. You --

11 A I don't remember.

12 Q Okay. You were in the hospital at the end of April  
13 of 2008?

14 A Yes. Okay.

15 Q And then --

16 A Yes.

17 Q And then it was in June --

18 A June, okay.

19 Q -- that you spoke to detectives?

20 A Okay. Yeah.

21 Q Okay. Thank you, Ms. Spurlock.

22 THE COURT: Redirect.

23 MS. BLUTH: Thank you.

24 REDIRECT EXAMINATION

25 BY MS. BLUTH:



1 Q It was actually May 20 -- or May 31st that you spoke  
2 to the detectives --

3 A Oh.

4 Q -- if you would like to see your report.

5 A Okay.

6 MR. MANINGO: My apologies.

7 MS. BLUTH: It's okay.

8 BY MS. BLUTH:

9 Q Mr. Maningo asked you some questions about, you  
10 know, how you were feeling. I think you said emotional, sad,  
11 tired.

12 A Yeah.

13 Q However, the following day when your aunts came in,  
14 would it surprise you that the notes stated that you were  
15 alert, calm, happy, laughing, excited to see your family?

16 A Yeah.

17 Q That wouldn't -- that wouldn't surprise you?

18 A Right.

19 Q That's how you were?

20 A That's how I was, yeah, the next day, yeah, when  
21 they came, yeah.

22 Q You do not remember him holding your feet like you  
23 testified?

24 A I don't.

25 Q Do you remember having the conversation with Ada and

1 Ernestine in the room and them telling you he was doing that  
2 to your feet?

3 A Yes.

4 Q And do you remember --

5 A They did tell me that.

6 Q -- telling the detective, my aunts told me that they  
7 saw --

8 A Yes.

9 Q -- him holding my feet?

10 A Yes.

11 Q Okay. And that's when you spoke with the detectives  
12 on May 31st?

13 A Um-hum. Yes.

14 Q You were asked if you had a cell phone. Why didn't  
15 you have your cell phone?

16 A Because Mr. -- Mr. Farmer had taken it --

17 Q Away from you?

18 A -- away from me the night -- yeah. That night I  
19 came in.

20 Q And so you weren't allowed to use your cell phone?

21 A No.

22 Q There's some questions about the situation of -- on  
23 your bed. There were railings on the side and then you said  
24 there was a -- a post at the end where your feet was. Now did  
25 that post inhibit any way the defendant from pulling his groin

1 to your feet?

2 A No.

3 Q Just because that post was there, could you still  
4 feel his pelvic region against your feet?

5 A Yes. I -- yes.

6 MR. MANINGO: And, Your Honor, could I just get a  
7 clarification, I'm sorry.

8 MS. BLUTH: That's okay.

9 MR. MANINGO: What post are --

10 MS. BLUTH: I think you used the term "post" at the  
11 end of the bed, the bottom of the bed.

12 MR. MANINGO: Oh, okay. Thank you.

13 BY MS. BLUTH:

14 Q At any point in time, did you forget about what  
15 happened to you?

16 A I didn't forget.

17 Q You knew what Mr. Farmer did to you?

18 A I know what he did, but like I was saying, it was --  
19 I knew I was getting out of there, and it was a flight thing,  
20 just to let me deal with me. I don't want to have to deal  
21 with this, because then I would have to be dealing with more  
22 than what I was dealing with already.

23 Q And as you sit here today and you testify, you know  
24 what Mr. Farmer did to you?

25 A I do.

1 MS. BLUTH: Nothing further. Thank you, Ms.  
2 Spurlock.

3 THE COURT: Recross.

4 RECROSS EXAMINATION

5 BY MR. MANINGO:

6 Q Ms. Spurlock, you -- you understood at the time that  
7 your phone was taken from you because --

8 A For policy.

9 Q -- for policy.

10 A Um-hum.

11 Q And because of the mental -- the mental health --

12 A Yes.

13 Q -- intake at that time?

14 A Yes.

15 Q Okay. Okay. And I'm assuming that you received  
16 your phone back at some point?

17 A When they let -- when I was -- yeah, when I left the  
18 mental hospital, I received it back.

19 Q Oh, okay.

20 A Yeah.

21 Q Okay. And you had said that -- you couldn't -- you  
22 couldn't remember if he was holding your feet?

23 A Right.

24 Q Okay. Whether he was holding your feet -- let's --  
25 let's assume he was holding your feet.

1           A     Okay.

2           Q     Did -- at anytime did you say, let go of my feet?

3           A     No.

4           Q     Okay. Did you ever say, take your hands off my  
5 feet?

6           A     No.

7           Q     Did you ever say, what in the world are you doing?

8           A     No.

9           Q     Okay. Did you ever say, Aunt Ernestine, Aunt Ada,  
10 what the heck is going on?

11          A     No.

12          Q     Get this guy away from me?

13          A     No.

14          Q     Okay. But you don't even remember if he even held  
15 your feet?

16          A     I don't remember that he held my feet, no.

17          Q     Thank you, ma'am.

18          A     Um-hum.

19                THE COURT: May she be excused?

20                MS. BLUTH: Yes.

21                MR. MANINGO: Yes, Your Honor.

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

23                All right. Ladies and gentlemen, our next witnesses  
24 in the case are not scheduled until 1:00, correct? And so  
25 we're going -- you're going to get a little bit longer lunch

1 period, maybe like 20 minutes more.

2 So during this recess which will be until 1:00  
3 o'clock, it is your duty not to converse among yourselves or  
4 with anyone else on any subject connected with the trial, or  
5 to read, watch or listen to any report of the trial or  
6 commentary on the trial by any person or by any means of  
7 information, that including newspaper, television, radio or  
8 internet. And you are not to form or express an opinion on  
9 any subject connected with this case until it is finally  
10 submitted to you. We'll be in recess until 1:00 o'clock.  
11 Thank you.

12 (Outside the presence of the jury)

13 THE COURT: The record will reflect the jury has  
14 departed the courtroom. Are there any matters outside the  
15 presence before we recess for lunch?

16 MS. BLUTH: Not on behalf of the State.

17 MR. MANINGO: No, Your Honor. Thank you.

18 THE COURT: All right. We'll see you at 1:00.

19 (Court recessed at 11:38 a.m. until 1:01 p.m.)

20 (Outside the presence of the jury)

21 MR. KOICHEVAR: -- outside the presence.

22 THE COURT: Okay. Just give me a second to load up  
23 and find my notes.

24 All right. We're back in session after the noon  
25 break. We're outside the presence of the jury. The

1 defendant's present with his counsel, the Deputies District  
2 Attorney prosecuting the case are present as are all officers  
3 of the court. Would counsel so stipulate?

4 MR. KOCHEVAR: Yes, Judge.

5 MR. MANINGO: Yes, Your Honor.

6 THE COURT: Is there a matter outside the presence,  
7 were there two?

8 MR. KOCHEVAR: Just briefly, Judge. Just to make a  
9 record, we have now substituted State's Exhibit Number 19 --  
10 no, 23.

11 MS. BLUTH: Twenty-three.

12 MR. KOCHEVAR: Which was the photograph that had a  
13 little reference -- an erroneous reference to a date rape  
14 drug. We've now substitute a new copy that has that reference  
15 eliminated, so we will be -- that is the one that will get  
16 officially admitted. The other one will be returned or  
17 destroyed.

18 And then also the counsel, we all believe that  
19 State's Proposed 15 was admitted. It's one of the photo  
20 lineups. I think it was -- we were admitting 15 and 16 at the  
21 same time, and then there was a conference at the bench about  
22 16 and we never officially after the conference got on the  
23 record that 15 was admitted. So at this time I don't think  
24 the defense had any objection to 15 being admitted officially.

25 THE COURT: Right. Actually, I show 15 admitted,

1 but I don't -- didn't show 16. So --

2 THE CLERK: I showed all three, so.

3 THE COURT: All right. So if you've stipulated to  
4 the admission of 15 and 16?

5 MR. MANINGO: And those are the?

6 THE CLERK: All the photo lineups for the  
7 statements.

8 MR. KOICHEVAR: Photo lineups and -- and the  
9 instructions to the photo lineups.

10 MS. BLUTH: Yeah.

11 MR. MANINGO: Oh, yes. Yes.

12 THE COURT: That was the one that I asked about  
13 because I was confused because there was only one initial --

14 MR. KOICHEVAR: Yes.

15 MR. BASHOR: They had -- they had used 16 twice,  
16 Your Honor --

17 THE COURT: Right.

18 MR. BASHOR: -- because they couldn't located 15,  
19 but they're the same lineup. It's just who's initialed them  
20 is different. We have no objection.

21 THE COURT: Okay.

22 (State's Exhibit 15 is admitted)

23 MR. KOICHEVAR: With that, I think we're ready.

24 THE COURT: All right. Anything else outside the  
25 presence?



1 MR. KOCHVAR: No.

2 THE COURT: All right. Let's bring in the jury.

3 (In the presence of the jury)

4 THE COURT: Thank you, please be seated. The record  
5 will reflect we're back within the presence of the jury, all  
6 12 members are present as well as the four alternates. Good  
7 afternoon, ladies and gentlemen.

8 ALL JURORS: Good afternoon.

9 THE COURT: The State may call its next witness.

10 MS. BLUTH: Thank you, Your Honor. The State calls  
11 Emily Jeskie.

12 THE CLERK: Please raise your right hand.

13 EMILY JESKIE, STATE'S WITNESS, SWORN

14 THE CLERK: Please be seated. Please state and  
15 spell your name for the record.

16 THE WITNESS: Emily Jeskie, E-m-i-l-y, J-e-s-k-i-e.

17 THE COURT: You may proceed.

18 MS. BLUTH: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. BLUTH:

21 Q Good afternoon, Ms. Jeskie. How are you employed?

22 A I am employed at Sorenson Forensics.

23 Q And what is Sorenson Forensics?

24 A It's a private forensics lab in Salt Lake City,  
25 Utah.

1 Q Okay. And what is your position at Sorenson  
2 Forensics.

3 A I'm the forensic DNA analyst lead.

4 Q All right. What does all that mean?

5 A Well, as a forensics DNA analyst, we take evidence  
6 an try to obtain DNA profiles from them, compare them to known  
7 reference samples, write a report to summarize our findings  
8 and then testify in a court of law. And as the lead, I kind  
9 of just -- I'm the leader of everyone and head up --

10 Q You're in charge?

11 A Yes. Of the analysts, yes.

12 Q What type of education and training did you get in  
13 order to take that position?

14 A I have a Bachelor of Science in molecular biology  
15 from Brigham Young University. And I did extensive DNA work  
16 in college as an undergrad. Then I worked at a company called  
17 Sorenson Genomics for a little over seven years doing DNA  
18 testing, mostly paternity testing, also Y chromosome testing  
19 and mitochondrial DNA testing. And then about five years ago,  
20 I started working for Sorenson Forensics.

21 Q And if we can just get a brief background. I mean,  
22 we hear about DNA on what we see on TV, like CSI and things  
23 like that. But can you break down for us, what is DNA?

24 A DNA is the building block of life. It is in all of  
25 our cells. It's kind of to us like what a blue print is to a

1 house. And as humans we share 99 percent of that DNA. So  
2 that one percent that's different, that's what we use to  
3 differentiate before individuals.

4 Q Do any two people on earth have the same DNA?

5 A Only identical twins.

6 Q So for the rest of us, everybody else, that one  
7 percent, is different from the rest of the world except for  
8 twins?

9 A Yes.

10 Q Now are there different types of DNA; like touch DNA  
11 or, you know, saliva-type DNA. Can you explain that?

12 A Well, you can get DNA from many different sources in  
13 the body. Bodily fluids, such as saliva, semen, blood. You  
14 can also get DNA -- what she mentioned was touch DNA or  
15 contact DNA. When you touch an object or a thing, you can  
16 leave behind some of your DNA there as well.

17 Q And that's referred to as touch DNA?

18 A Yes.

19 Q Okay. So if I went up to you -- and that cup that's  
20 in front of you, that Styrofoam cup, if I went up to that cup  
21 and I licked the cup, would -- I mean, potentially, could that  
22 leave a strong source of the DNA found in my saliva?

23 A Yes.

24 Q Now if I went up there and I touched that cup,  
25 potentially, could I leave the touch DNA from my hand touching

1 it?

2 A Yes.

3 Q Now the DNA that potentially I could leave from my  
4 mouth, the saliva DNA, is that a stronger trace of DNA than  
5 the touch DNA?

6 A Yes. We -- we get more DNA from bodily fluids than  
7 we do from touch.

8 Q So saliva, blood, any type of vaginal secretions,  
9 semen, that leaves stronger traces of DNA than when we just  
10 touch something; would that be correct?

11 A Yes.

12 Q We're going to get into some specifics of your  
13 testing in a moment, but I'd just kind of like to walk through  
14 the process of how you conduct your analysis, starting with  
15 just receiving evidence. Can you tell the jury the steps that  
16 you go through?

17 A Sure. When evidence comes to our lab, normally it  
18 comes through the mail unless it's a local case and we have an  
19 evidence administrator who receives the evidence and logs it  
20 into our computer system, giving it specific numbers in our  
21 system and then starting the chain of custody.

22 And so after it's logged in, it's then put in a --  
23 stored in a secured location that can only be accessed by our  
24 employees. And every time anyone takes that evidence out of  
25 that location, it's logged on the chain of custody.

1           Q     And then, so once you're assigned a case, and the  
2 chain of custody and everything is taken care of, how do you  
3 conduct your analysis?

4           A     Basically, when we get a sample, the first -- after  
5 it's been itemized, the first step in the process is called  
6 extraction and that is just taking that DNA and separating it  
7 from everything else in the cell so that we're isolating that  
8 DNA.

9                     Then we do something called quantification.  
10 Basically, that's us finding out how much DNA we've isolated.  
11 After that, there's a process called amplification and we do  
12 that through the polymerase chain reaction. And basically  
13 that's just like a molecular xerox machine. It makes millions  
14 of copies of that DNA that we've isolated.

15                    It then goes to our genetic analyzer which compares  
16 that DNA with known sizes so that we're able to look at it and  
17 compare the profile that we get with any reference samples.  
18 And then I write a report.

19           Q     So when you -- you just said a known reference  
20 profile. So just generally when you're conducting testing,  
21 you -- you'll receive evidence that you're supposed to test,  
22 correct?

23           A     Yes.

24           Q     And then you'll have a known sample. So if I were  
25 accused of a crime, you would have a sample of my DNA, so you

1 would know what my DNA looks like, correct?

2 A Yes. Typically, we do get references from victims  
3 and suspects.

4 Q And then so you would have my DNA to compare to any  
5 of the evidence that was taken in the case?

6 A Yes.

7 Q So I would like to discuss the case you're here to  
8 testify for today, State of Nevada v. Steven Farmer. You were  
9 the analyst that conducted the DNA testing?

10 A Yes.

11 Q And that was outside of Sorenson which is in Salt  
12 Lake City, Utah?

13 A Yes.

14 Q The type of testing that you did in this case, does  
15 it have a specific name?

16 A In this case we did Y-STR testing and STR testing.

17 Q Okay. And what is the difference between those two?

18 A So, STR testing is when we're testing locations on  
19 all of the chromosomes in humans. And Y-STR testing, we are  
20 only looking at locations on the Y chromosome. So that is  
21 only in males.

22 Q So in Y-STR you're only looking at DNA samples left  
23 by males; is that correct?

24 A Yeah. We are only looking at locations on the Y  
25 chromosome.

1           Q     Now turning specifically to your testing in the  
2 matter you're here to testify for today, when -- when you  
3 received the evidence, did you go through the proper chain of  
4 custody that you've already testified to?

5           A     Yes.

6           Q     Okay. And what evidence did you receive? And if at  
7 anytime you need to refer to your report, I've already spoken  
8 with defense counsel and if you need to look at your three-  
9 page report, go ahead and do so.

10           THE WITNESS: Your Honor, is it okay?

11           THE COURT: Yes, you may.

12           MR. BASHOR: And, Your Honor, and for counsel's  
13 purposes, just so that we know for the record if she is  
14 actually referring, if she would just say so. I have no  
15 objection if she obviously --

16           THE WITNESS: I need to look at my report.

17           THE COURT: All right. So, you need to look at your  
18 report now?

19           THE WITNESS: Yes.

20           THE COURT: Okay, very good.

21           MR. BASHOR: Thank you.

22 BY MS. BLUTH:

23           Q     Do you remember the question?

24           A     You want to know what items we received?

25           Q     Yes, what items you received to test.

1           A     We received vaginal swabs, labial swabs, face swabs,  
2 a reference for Roxanne Cagnina, an extract from breast swabs,  
3 an extract from thigh swabs, an extract from reagent blank,  
4 right-hand finger swabs from Farmer, left-hand finger swabs  
5 from Farmer, and a reference sample for Steven Farmer.

6           Q     Okay. So I want to talk about a couple of those  
7 things. I think the vaginal swabs, labial swabs, face swabs,  
8 those are pretty much -- we can figure that out. We had the  
9 sexual assault nurse examiner testify yesterday and she talked  
10 about the swabs she took of those areas. And so you, then,  
11 received those swabs; is that correct?

12          A     Yes.

13          Q     Okay. In regards to the item number four, you  
14 indicated was referenced Roxanne Cagnina; what do you mean by  
15 referenced Roxanne Cagnina?

16          A     A reference sample is something that is known to  
17 come from that person. Usually it's a buccal swab which is a  
18 swab of the inside of your cheek. It can also be from -- it  
19 can be a blood sample from them or a hair sample.

20          Q     Okay. And then item five, extract from breast swab  
21 and what does that mean, extract?

22          A     It was an extract. So that means the DNA was  
23 extracted at a different lab and we just received a tube of  
24 what they got in their DNA extraction.

25          Q     Okay. And that's also for the thigh -- the thigh



1 swabs as well. And then what does extract from reagent blank  
2 mean?

3 A When an extraction is performed, a reagent blank is  
4 put through the same process that all the samples are. And a  
5 reagent blank is -- basically what it is, it's blank. There's  
6 no sample in it, you just put all the same chemicals that you  
7 put in the reaction in it to ensure that there's no  
8 contamination.

9 Q And was there any contamination noted?

10 A No.

11 Q Right-hand finger swabs, left-hand finger swabs,  
12 those are pretty self-explanatory. And the last thing is item  
13 ten, reference Steven Farmer. Is that the same as reference?

14 A Yes, a known sample from Steven Farmer.

15 Q Okay. And in regards to the testing process, you  
16 already testified the steps you go through. Did you preform  
17 those tests in this case?

18 A Those tests were performed in our lab, yes.

19 Q All right. And so I'd like to turn to your  
20 conclusions and opinions. And if we could just go item-by-  
21 item, the way that you have it explained on your report.

22 So starting with number one, the testing that you  
23 did on the vaginal swabs. If you could explain to the ladies  
24 and gentlemen your results there.

25 A No Y-STR DNA profile was obtained from this item.

1 Q And so what does that mean in laymen's terms?

2 A We did not get a profile from this item. We ran it  
3 on Y-STRs and we did not get any profile.

4 Q Okay. Now could you -- when you say you didn't  
5 receive a -- a DNA profile, could you tell whether or not  
6 there was any type of male DNA present on the vaginal swabs?

7 A At the quantification step that I talked about, male  
8 DNA was detected, but it was a very small amount of male DNA  
9 as compared to the amount of female DNA which is likely the  
10 reason that we didn't get a Y-STR DNA profile from it.

11 Q Okay. As we spoke about before, the vagina  
12 obviously has female fluids within it; would you agree with  
13 that?

14 A Yes.

15 Q Okay. And so when you do swabs -- when swabs are  
16 taken of the vagina, excuse me, is that usually a very strong  
17 source of female DNA?

18 A Yes.

19 Q Okay. If I were to -- and I'll just use the example  
20 of my mouth, but if I were to -- if someone were to stick  
21 their finger in my mouth, the saliva and the other fluids in  
22 my mouth, those are a strong sense of my DNA; is that correct?

23 A Yes.

24 Q Okay. So would it be difficult to find touch DNA  
25 from someone's hand inside my mouth?

1 A Yes.

2 Q And I'm using that analogy, but could that be the  
3 same said for the vagina?

4 A Yes.

5 Q If someone has urinated -- if a female has urinated  
6 and then wiped their vagina after urinating, can that also  
7 affect the type of DNA recovery you would be able to find in  
8 that area?

9 A Yes.

10 Q Moving on to item number two which is the labial  
11 swabs. Can you explain your results in that portion, please?

12 A A partial Y-STR DNA profile that is not suitable for  
13 comparison was obtained from this item. So we didn't get a  
14 full DNA -- Y-STR DNA profile, and it's at such low levels  
15 that we can't compare it to any knowns.

16 Q So there is male DNA in that area, but it's at such  
17 a low level, you can't compare -- or figure out who it is; is  
18 that fair?

19 A Yes.

20 Q The next item you have listed is item number three,  
21 face swabs. Can you explain your results for that?

22 A So we got a mixture of Y-STR DNA profiles from two  
23 individuals. And there was a major Y-STR DNA profile that we  
24 were able to obtain. And that matched the Y-STR DNA profile  
25 from Steven Farmer.

1 Q Okay. And did you have a -- like the results, the  
2 quantification that you were able to give to that -- those  
3 results, what are those?

4 A The major Y-STR DNA profile obtained was observed  
5 four times in a population of 13,248 individuals, applying a  
6 95 percent upper confidence interval results in the frequency  
7 of 0.00068 which is equivalent to approximately 1 in every  
8 1,471 individuals.

9 Q Okay. And also you discussed that Mr. Farmer and  
10 all of his paternal relatives cannot be excluded as a source  
11 of that male DNA. And so why are Mr. Farmer's paternal  
12 relatives included in that result?

13 A The Y chromosome is conserved through the male line.  
14 So if a male individual, his Y chromosome, he got it from his  
15 father, obviously, who also got it from his father. So  
16 someone and their father -- a male and his father have the  
17 same Y-STR DNA profile. That person, and if they have any  
18 sons, they will have the same. If they have an uncle who's a  
19 brother to the father, he will have the same. So anyone in  
20 that paternal line shares the same Y-STR DNA profile.

21 Q Okay. In regards to the levels of the male DNA you  
22 found in the face area, would the levels of DNA found in that  
23 area be consistent with touch DNA?

24 A Yes. It was a fairly small amount of male DNA.

25 Q Item four is the sample from Roxanne Cagnina. So

1 like we already discussed, you were given a buccal swab from  
2 Ms. Cagnina, so you have -- you know what her DNA looks like?

3 A Yes.

4 Q So no testing needs to be done on that?

5 A Well, we tested it to get the profile.

6 Q To make sure it was her.

7 A Yeah.

8 Q I apologize. Item five is the extract from the  
9 breast swab. Could you explain your conclusions on that?

10 A We got a partial Y-STR DNA profile that wasn't  
11 suitable for comparison.

12 Q Okay. And so therefore there is male DNA in that  
13 area?

14 A Yes, there was male DNA.

15 Q Low enough -- but too low to identify?

16 A Too low to make any comparisons, yes.

17 Q Thank you. Item six, conclusions from the testing  
18 done on the extract from the thigh swabs.

19 A We had a partial mixture of Y-STR DNA profiles from  
20 two contributors and there -- no comparisons could be made to  
21 that mixture.

22 Q Item eight -- or I should -- item seven we already  
23 spoke about. It's the extract from the reagent blank where  
24 you tested to make sure there was no contamination?

25 A Yes.

1 Q And there was not?

2 A Yes. No Y-STR DNA profile was obtained.

3 Q Moving to item eight, right-hand finger swabs from  
4 Mr. Farmer, what were your results on that?

5 A We got a complete DNA profile that matches the DNA  
6 profile obtained from Steven Farmer.

7 Q And item nine was the same type of testing, but done  
8 on the left-hand finger swabs from Mr. Farmer. What were you  
9 results on that?

10 A A complete DNA profile that matches the DNA profile  
11 obtained from Steven Farmer was obtained. An analysis for the  
12 presence of additional contributors was inconclusive.

13 Q And so what does that last part mean, the analysis  
14 for the presence of additional contributors was inconclusive?

15 A That means there could be someone else's DNA there,  
16 but it was at such low levels that it's inconclusive.

17 Q Okay. In regards to the DNA found on someone's  
18 hands or fingernails, if someone washes, you know, has someone  
19 else's DNA on their fingers and then they wash their hands or  
20 they eat, lick their fingers, et cetera, can that affect the  
21 DNA that would be able to be recovered?

22 A Yes.

23 Q And then in regards to item ten, it was the  
24 reference of Steven Farmer that you tested and were able to  
25 verify that that was Mr. Farmer's DNA?

1 A Yeah, we got a complete profile for him.

2 Q Okay.

3 MS. BLUTH: Court's indulgence, please, Your Honor.

4 (Pause in the proceedings)

5 MS. BLUTH: Thank you, Ms. Jeskie. I'll pass the  
6 witness, Your Honor.

7 THE COURT: Cross.

8 MR. BASHOR: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. BASHOR:

11 Q Good afternoon, Ms. Jeskie.

12 A Good afternoon.

13 Q I have a few questions and then I want to go line-  
14 by-line again with you.

15 A Okay.

16 Q Thank you. Now yesterday, you weren't here for this  
17 obviously, we heard about the collection of this -- these  
18 items, and you would agree that that's the important -- excuse  
19 me, an important part of the process in your analysis,  
20 correct?

21 A Yes.

22 Q Because the -- the quality of the collection is  
23 going to have an effect potentially along the quality of your  
24 results?

25 A Yes.

1 Q Okay. So, for instance, if an individual who has  
2 been very well trained, had decades of experience collecting  
3 the samples in this case, that is going to -- or should  
4 presumably help in your job of doing the analysis itself,  
5 correct?

6 A Yes.

7 Q Okay. I mean as opposed to somebody, first day on  
8 the job, may not be knowing exactly what they're doing or is  
9 as careful?

10 A You could assume that, yes.

11 Q Now you, in your testing, receive sexual assaults  
12 kits, as they're called, routinely, correct?

13 A Yes, we do.

14 Q And often times in these particular kits, sometimes  
15 you'll have DNA from several different sources, correct?

16 A Yes.

17 Q That would include saliva?

18 A Yes.

19 Q Semen?

20 A Yes.

21 Q Skin cells?

22 A Yes.

23 Q Hair?

24 A Yes.

25 Q And sometimes these kits include a combing that was



1 utilized on the pubic area of the alleged victim, correct?

2 A Yes.

3 Q Okay. Now in this particular case, did you do an  
4 analysis of a combing of the pubic area?

5 A No, we did not.

6 Q Okay. Did you receive that in your kit?

7 A No, we did not.

8 Q Now going line-by-line again with you, and forgive  
9 me if I misunderstand on item number one. Item number one is  
10 the vaginal swabs and it states that no Y-STR DNA profile was  
11 obtained. Now does that mean there is no male DNA there? Or  
12 there is male DNA there, but of an insignificant amount?

13 A More like the latter. So at the quantification  
14 step, male DNA was detected, but we got no Y-STR DNA profile  
15 when we ran the amplification step.

16 Q So no male could be compared?

17 A Male DNA was detected, but we got no DNA profile.

18 Q Right. So no profile meaning any -- if you had the  
19 profile of every single male on the face of the earth, you  
20 just didn't have sufficient amount to make a comparison, not  
21 against Mr. Farmer, but any male?

22 A Right. We got nothing.

23 Q Okay. And item number two was the labial swabs and  
24 a profile was obtained -- a partial, excuse me, a partial  
25 profile was obtained, but that, again, was not suitable for

1 comparison, correct?

2 A Right.

3 Q And presumably, again, if you had every single male,  
4 it's not that you just couldn't compare it against Mr. Farmer,  
5 you couldn't compare it against any man?

6 A Correct.

7 Q Now item- number three is the face swabs, and the  
8 first line of your opinions and conclusions states that there  
9 are two contributors, correct?

10 A Yes.

11 Q And Y-STR contributors?

12 A Yes. So the --

13 Q Meaning, two separate males?

14 A Yes.

15 Q Okay. And it was your determination that the -- the  
16 major Y-STR DNA profile obtained matched the profile obtained  
17 from Mr. Farmer, correct?

18 A Yes.

19 Q And you do some analysis, and in your report you  
20 indicated that that particular profile is present in one in  
21 every 1,471 individuals?

22 A That's the frequency that we got.

23 Q So I -- and correct me if I'm wrong. So in -- one  
24 in every 1,471 individuals, you would find this particular  
25 sequence of DNA?

1 A That's not exactly right.

2 Q Okay. You feel free to correct me.

3 A No. It's just a little more complicated with Y-STRs  
4 versus regular STRs because the statistics that we do are  
5 different. Do you want me to talk about that?

6 Q Sure.

7 A Okay. So for STRs, what I talked about when you're  
8 looking at all the different chromosomes, when we're doing  
9 statistics, we can use different formulas to be able to do  
10 that.

11 But for Y-STRs, you're only looking at one  
12 chromosome. So we have to do something called the counting  
13 method. So basically what that is, is you'll have a database  
14 of however many samples, and it's very much like it's named,  
15 the counting method, you will see how many times this -- a  
16 particular Y-STR haplotype profile is found in that database.

17 And in this case, as it says in the results, this  
18 Y-STR DNA haplotype was observed four times in the database  
19 and this database is 13,248 people.

20 Q Thank you. So that's very helpful. So in the  
21 database, the search that was done, this database contained  
22 13,248 Y-STR profiles?

23 A Yes.

24 Q And when you ran that search, four of those profiles  
25 had this particular sequence or profile?

1 A Yes.

2 Q Wonderful. Now you also indicate on item number  
3 three that because there are two contributors, that there was  
4 a minor profile in that particular sample, correct?

5 A Correct.

6 Q And we do know it's an unknown male because we did  
7 Y-STR?

8 A Yes.

9 Q And that minor profile is actually suitable for  
10 comparison?

11 A Yes.

12 Q What that means then, for the ladies and gentlemen  
13 of the jury is that there was sufficient amount of DNA found  
14 to run a comparison?

15 A Yes.

16 Q To an individual other than Mr. Farmer?

17 A Yes.

18 Q And you indicated that the levels of DNA found in  
19 this particular sample site would be consistent with touch  
20 DNA?

21 A Yes.

22 Q Meaning that if Mr. Farmer had touched Ms. Cagnina's  
23 face, his profile could have been left?

24 A Yes.

25 Q Now item number four is the reference, and you did a

1 complete DNA profile there. Does that presumably mean because  
2 (a) Ms. Cagnina is a miss, that you did the STR analysis?

3 A Yes.

4 Q Okay. Not a Y-STR analysis?

5 A Correct.

6 Q Okay. And in item number five which are the breast  
7 swabs, again, we have a similar situation where there was some  
8 Y-STR DNA but an insufficient amount for comparison, correct?

9 A Correct.

10 Q Now item number six is the thigh swabs, and again  
11 we have a situation where there are two contributors, correct?

12 A Yes.

13 Q But there's a partial mixture and again there's  
14 insufficient amount for comparison, correct?

15 A Correct.

16 Q But we do know, based on your analysis, that there  
17 are two contributors there?

18 A Yes.

19 Q Okay. And that would be two males?

20 A Yes.

21 Q Item seven is your control strip. Item number eight  
22 is a complete DNA profile of -- basically what you find there  
23 is underneath Mr. Farmer's fingernails is Mr. Farmer's DNA?

24 A Yes.

25 Q Okay. Item number five (sic), a complete DNA

1 profile that matches the DNA of Mr. Farmer was obtained for  
2 that item, correct?

3 A Correct.

4 Q And it was inconclusive as to any other contributor?

5 A Correct.

6 Q And then item number ten is another reference.

7 A Yes.

8 Q Now as sophisticated and as complicated as what you  
9 do is, when you find or -- is there anything about your  
10 testing that enables you to date how long the DNA was on a  
11 particular item?

12 A No.

13 Q Did you, in your analysis have any reference DNA of  
14 Scott Cagnina?

15 A No.

16 Q What about a Ray Sumera?

17 A No.

18 MR. BASHOR: Court's indulgence?

19 (Pause in the proceedings)

20 MR. BASHOR: Thank you, pass the witness.

21 THE COURT: Redirect?

22 MS. BLUTH: Just one question of a foundational  
23 nature.

24 REDIRECT EXAMINATION

25 BY MS. BLUTH:

1 Q In regards to the vaginal swabs, the labial swabs,  
2 those were all swabs from the kit taken from Roxanne Cagnina,  
3 correct?

4 A Yes.

5 MS. BLUTH: Okay, thank you. Nothing further.

6 MR. BASHOR: Nothing, thank you.

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

8 THE WITNESS: Thank you.

9 THE COURT: You may call your next witness.

10 MR. KOCHEVAR: The State would call Margaret Wolfe.

11 THE CLERK: Please remain standing and raise your  
12 right hand.

13 MARGARET WOLFE, STATE'S WITNESS, SWORN

14 THE CLERK: You may be seated. Please state your  
15 name and spell it for the record.

16 THE WITNESS: Margaret, M-a-r-g-a-r-e-t, Wolfe,  
17 W-o-l-f-e.

18 THE COURT: You may proceed.

19 MR. KOCHEVAR: Thank you, Judge.

20 DIRECT EXAMINATION

21 BY MR. KOCHEVAR:

22 Q Good afternoon, Margaret.

23 A Hi.

24 Q Can you tell us how you're currently employed?

25 A I am a nurse at UMC Pediatric Emergency Room.

1 Q And how long have you been a practicing nurse?

2 A About eight years.

3 Q And where did you get your education and any  
4 degrees?

5 A Here in Nevada at College of Southern Nevada.

6 Q Okay. Other than practicing as a registered nurse,  
7 have you had other -- any other jobs that were involved in the  
8 medical field?

9 A Yes, I have. I was an EMT for approximately three  
10 years prior to becoming an ER Tech which was -- I worked as  
11 that for about two years, and then obtained my nursing  
12 license.

13 Q Okay. Now I'd like to direct your attention back to  
14 May 16th of 2008. Where were you employed at that time?

15 A Centennial Hills Hospital.

16 Q And which part of the hospital were you working in?

17 A Emergency room.

18 Q And you were working there as a registered nurse?

19 A Yes.

20 Q During your employment there, did you have the  
21 opportunity to work with a certified nurses assistant by the  
22 name of Steven Farmer?

23 A Yes, I did.

24 Q Do you see Mr. Farmer here in the courtroom today?

25 A Yes, I do.



1 Q Would you point to him and describe something that  
2 he's wearing here in court today?

3 A Well, he's sitting right over there with a purple  
4 shirt and tie.

5 MR. KOCHEVAR: Your Honor, let the record reflect  
6 the witness has identified the defendant.

7 THE COURT: It will.

8 MR. KOCHEVAR: Thank you.

9 BY MR. KOCHEVAR:

10 Q On that day, on May 16th of 2008, did you have an  
11 opportunity to treat a patient by the name of Denise Hanna?

12 A Yes, I did.

13 Q Were you the primary nurse that was assigned to  
14 treat Ms. -- or take care of Ms. Hanna?

15 A Yes.

16 Q Do you recall what Ms. Hanna came into the emergency  
17 room for?

18 A I do. She was transferred from an Urgent Care to  
19 our facility for chest pain.

20 Q Okay. Were you able to determine at any -- during  
21 the course of her treatment there the cause of this chest  
22 pain?

23 A No, the doctors were not. They were running  
24 standard cardiac testing on her, but had not confirmed a  
25 diagnosis.

1 Q Okay. Is there a particular protocol when -- if a  
2 patient comes in complaining of chest pain, is there a  
3 particular protocol that's followed in the emergency room?

4 A Yes, there is.

5 Q And can you describe that protocol for us?

6 A We always hook them up to the cardiac monitor so we  
7 can see what their rhythm is doing, get their basic vital  
8 signs. We do lab work containing things like cardiac enzymes  
9 that are released if there's damage to the heart, other basic  
10 blood levels, EKGs, sometimes X-rays and CAT scans, it just  
11 depends on the situation.

12 Q Okay. And did you follow that protocol in the case  
13 of Ms. Hanna?

14 A Yes, we did.

15 Q Including the placement of running EKGs and the  
16 placement of EKG patches and leads?

17 A Correct.

18 Q Do you recall if you were the person that actually  
19 placed those leads or those patches on Ms. Hanna?

20 A Yes, I was.

21 Q Were you assisted by anyone in that process?

22 A I don't believe so.

23 Q In particular, was Mr. Farmer involved in the --  
24 assisting you in the placement of those leads and patches?

25 A No.

1 Q Was Mr. Farmer involved in the initial phase of  
2 assisting or helping with the treatment of Denise Hanna?

3 A No.

4 Q At some point in time, did you observe Mr. Farmer go  
5 into the room where Ms. Hanna was being kept in the emergency  
6 department?

7 A Yes, I did.

8 Q Where were you when you observed Mr. Farmer enter  
9 her room?

10 A I was standing directly across from her room at the  
11 nurse's station.

12 Q Okay. And if you could estimate how far away from  
13 -- from where you were seated, how far away was the room?

14 A Approximately, from you to I.

15 MR. KOCHEVAR: Okay. I'm not sure if we know what  
16 that distance is.

17 THE COURT: I don't.

18 MR. KOCHEVAR: So we won't make an official record  
19 of it.

20 BY MR. KOCHEVAR:

21 Q When you saw Mr. Farmer go into Ms. Hanna's room,  
22 did it -- what were you thinking?

23 A I was surprised, because there was no reason for him  
24 to have to go in there.

25 Q Had you -- had you just recently, prior -- prior to

1 Mr. Farmer going in there, had you just recently been into the  
2 room to check on Ms. Hanna?

3 A Yes, I had. And she was within eyesight of me, so I  
4 could see everything that was going on with her, everything  
5 that was going on on the monitor. If there were any problems,  
6 I would have known about it.

7 Q When you -- approximately how long, before Mr.  
8 Farmer went in there, had you been in to see Ms. Hanna and  
9 check on her?

10 A I would estimate less than five minutes.

11 Q Okay. And when you went in to check on her, was  
12 there anything about her condition that caused you any  
13 concerns?

14 A No. She was resting comfortably and doing very  
15 well.

16 Q Okay. Prior to you seeing Mr. Farmer enter Ms.  
17 Hanna's room, was this the first time Mr. Farmer had had any  
18 involvement in the care and treatment of Ms. Hanna?

19 A Yes.

20 Q From where you were seated, the room where Ms. Hanna  
21 was being treated, is it a room that has like four walls and a  
22 door? Explain to us the area where she was being kept.

23 A It has three walls with a curtain that closes off  
24 the front of the room.

25 Q Okay. Prior to Mr. Farmer going in, was that

1 curtain -- do you recall whether that curtain was open or  
2 close?

3 A It was open.

4 Q Okay. So from where you were seated, with the  
5 curtain being open, could you see Ms. Hanna?

6 A Yes. I was actually standing on the other side of  
7 the nurse's station, not sitting.

8 Q Okay. When Mr. Farmer entered into the room, did he  
9 close the curtain or leave it open?

10 A He left it open.

11 Q Okay. What, if anything, did you observe Mr. Farmer  
12 do once he entered into the room?

13 A He walked up to the head of the bed of Ms. Hanna and  
14 lifted up the sheet that was on top of her. Her gown was open  
15 in the front which is not typical for how we dress our  
16 patients. The Urgent Care's put their gowns on opening in the  
17 front. We do it in the back.

18 Q Okay.

19 A He opened up her gown and I just saw him put his  
20 hand underneath where the sheet was. It looked like he may  
21 have been touching where the leads were, but I couldn't see  
22 exactly where his hands were.

23 Q Okay. So Ms. -- Ms. Hanna was laying in her bed at  
24 this time?

25 A Yes.

1 Q Completely flat in the bed?

2 A On her back, a little bit head raised.

3 Q Okay. And Mr. Farmer walked around to the head of  
4 the bed?

5 A Yes.

6 Q And you said he lifted up the sheet. Was there  
7 anything -- other than the sheet, was there anything else on  
8 top of Ms. Hanna? A blanket or anything else other than the  
9 sheet?

10 A Not that I recall.

11 Q Okay. And you said he lifted up -- lifted up the  
12 sheet. So from your perspective, are you now looking face-to-  
13 face essentially with Mr. Farmer?

14 A Yes.

15 Q As far as you're facing each other?

16 A Yes.

17 Q So when he lifts up the sheet, the sheet is -- you  
18 can't see underneath the sheet from your vantage point?

19 A Correct.

20 Q But you indicated you could tell that -- was her  
21 gown -- could you tell whether her gown was already opened?  
22 Or did Mr. Farmer --

23 A I saw him move the gown to the sides.

24 Q Okay. Both sides of the gown?

25 A Both sides of the gown.

1 Q And then you indicated that his hands went, from  
2 what you could see, underneath the sheet in her chest area?

3 A Yes.

4 Q But from your advantage point, because of the sheet  
5 now, you could not tell exactly where his hands were -- were  
6 going?

7 A Correct.

8 Q Okay. Could you see Ms. Hanna's face from your  
9 vantage point?

10 A Yes.

11 Q Could you -- was there a change in her facial  
12 expression or her demeanor?

13 A Yes, there was. She looked very uncomfortable and  
14 confused.

15 Q Could you tell whether she said anything to Mr.  
16 Farmer at that point?

17 A I don't believe she did.

18 Q Okay. Could you tell from where you were, did Mr.  
19 Farmer say anything to Ms. Hanna during this interaction?

20 A He did say something to her, but I don't know what  
21 it was. I couldn't hear and I don't recall anything that he  
22 did say, but I know he said something to her.

23 Q Okay. After you observed Mr. Farmer lift his sheet,  
24 open the gown, placing his hands in and around the chest area,  
25 then what happens?

1           A     Then he closed the gown back up and he put the sheet  
2 back down and walked out of the room?

3           Q     How long would you estimate he was inside Ms.  
4 Hanna's room from when he entered till -- till when he left?

5           A     Possibly one or two minutes.

6           Q     Okay. After Mr. Farmer walked out of the room, what  
7 did you do?

8           A     I immediately went to our charge nurse, who happened  
9 to be a male charge nurse at that time, and told him what I  
10 had just observed. I went into the patient and checked her  
11 and just made sure that she was okay. I did not directly ask  
12 her questions about the situation that had just happened, but  
13 the demeanor between her and I had changed.

14          Q     Okay. You said first that you went and told the  
15 charge nurse. Do you know that charge nurse's name?

16          A     Yes, Ray Sumera.

17          Q     Okay. After advising the charge nurse, you said you  
18 went into the room. When you walked into the room, what's --  
19 what is Ms. Hanna doing?

20          A     She was very quiet. She was laying on the bed just  
21 very quiet where before she had been more talkative. She just  
22 -- her body language was a little bit more withdrawn.

23          Q     Okay. And you indicated you didn't say anything  
24 directly to her about what you had observed; and why not?

25          A     I wasn't exactly sure what I observed at first. I



1 was very caught off guard and shocked at what had just gone  
2 on. I didn't want to alarm her and get her excited over  
3 something that she may not have thought was any big deal. And  
4 like I said, I wasn't exactly sure what happened, so I just  
5 wanted to let her know that I was there, and be open if she  
6 wanted to say anything about the situation.

7 Q Okay. Were you concerned at all about the fact that  
8 she had -- she was a patient that had come in complaining of  
9 chest pains and alerting her or --

10 A Yes.

11 Q -- causing her -- may cause some problems with that?

12 A Yes. I didn't want, you know, her heart rate to be  
13 elevated or anything.

14 Q Okay. Let me back you up a little bit. Just in the  
15 ordinary process of the emergency room and CNAs, was it  
16 unusual for a CNA to just, out of the blue, walk into a  
17 patient's room to -- to do something?

18 A Yes, it was because there was -- there was no reason  
19 for it. There were no alarms going off, there -- the patient  
20 was lying comfortably, there was more than myself, several  
21 nurses very close to the patient's room. She didn't appear to  
22 need anything. It was unusual.

23 Q Okay. Other than the charge nurse, Ray Sumera, did  
24 you advise anybody else in the emergency department about what  
25 you had observed?

1           A     Yes, I did. At shift change, the nurse that I gave  
2 a report to and turned Ms. Hanna over to was -- her name was  
3 Julie, I don't recall her last name. And I did tell her what  
4 happened.

5           Q     Okay.

6           A     And I know that she told the department manager what  
7 I had told her and I -- my department manager called me later  
8 that day and spoke with me about it.

9           Q     So ultimately you had a conversation with your  
10 department manager about what you had observed Mr. Farmer do  
11 in relationship to Ms. Hanna?

12          A     Yes.

13          Q     In your experience -- well, let me back up.

14                Was this the only time that you had ever worked in  
15 the emergency department with Mr. Farmer?

16          A     No.

17          Q     Had you prior -- had prior occasions of where the  
18 two of you were working the same shifts in the emergency  
19 department?

20          A     Yes.

21          Q     In your experience and observations in working those  
22 same shifts with Mr. Farmer, what is your opinion about his  
23 willingness to treat female patients versus male patients?

24          A     It was very obvious that he was more willing to  
25 assist with female patients than the males.

1 Q Okay. At some point in time, did you become aware  
2 that detectives were in the emergency department asking  
3 questions about a different patient that had been seen there?

4 A Yes.

5 Q How long after what you've testified to about Ms.  
6 Hanna were the detectives there asking questions?

7 A Possibly within a week.

8 Q Okay. Did you -- when you became aware that the  
9 detectives were there asking questions, did you speak to one  
10 of those detectives?

11 A Yes, I did.

12 Q And what did you tell him initially?

13 A I told him that I observed another situation with a  
14 different patient that I wanted to speak with him about.

15 Q And did you -- and did you speak with the detective  
16 immediately at that time?

17 A No, because I was still on my shift. When my shift  
18 ended, we did go meet somewhere where we could talk privately  
19 and then I told him about the situation.

20 Q And so at that time, you gave a recorded statement  
21 to the detective about what you had observed?

22 A Yes.

23 Q Okay. Let me ask you generally -- some general  
24 questions about your treatment of female patients.

25 A Um-hum.

1           Q     In your experience, are there particular steps that  
2 need to be taken or that you would take in order to protect  
3 the privacy of a female patient, in particular, in the  
4 placement or the removal of EKG patches and leads?

5           A     Yes.

6           Q     And what would those steps be?

7           A     I always make sure that the patient is as covered as  
8 possible, not to expose them or make them feel uncomfortable.  
9 Certain things like when you need to move the breast out of  
10 the way to place the leads, you use the back of your hand to  
11 lift the breast instead of cupping it to lift it up. Things  
12 like that make the patient more comfortable and feel less  
13 violated or touched.

14          Q     Okay. When you're going in to initially place these  
15 leads and the patches, do you take time to explain to the  
16 patient exactly what -- what you're going to be doing and what  
17 will need to be done in order to complete this process?

18          A     Not every time. If it's an extreme emergent  
19 situation, no, we just do what needs to be done. But in a  
20 situation like Ms. Hanna's, we had the time, and so yes, I do  
21 explain to my patients what I'm going to do and what's going  
22 to happen in the process.

23          Q     In your years of experience, have you ever felt the  
24 need to -- if you're checking on the EKG leads or the patches,  
25 ever felt the need to go in and completely open up a patient's

1 gown exposing both of her breasts?

2 A Absolutely not.

3 Q During your experience at Centennial Hills Hospital,  
4 who is -- if a patient was being admitted to the hospital --  
5 so they came in the emergency and now they're going to be  
6 admitted to one of the floors, who ordinarily would do the  
7 transporting of the patients to the floor?

8 A Either a nurse or a CNA.

9 Q Okay. Did you ever do any of those transports?

10 A Yes, I did.

11 Q Okay. In your experience, how long would an average  
12 transport take if you were taking a patient from the emergency  
13 department to the seventh floor in the hospital?

14 A Five minutes.

15 MR. KOICHEVAR: Okay. I have no further questions.

16 THE COURT: Cross.

17 MR. BASHOR: Your Honor, may I approach with the  
18 State?

19 THE COURT: Yes.

20 (Bench conference begins)

21 MR. BASHOR: Ryan Bashor. Your Honor, we just heard  
22 a lot of testimony from this witness about following  
23 procedure, going and doing the correct protocols and that kind  
24 of thing. In pretrial discovery, I informed the State that  
25 this particular witness was fired for violating procedures and

1 protocols of this hospital. The State has asked that I  
2 approach Your Honor before I go into this line of questioning  
3 for a ruling, but it's my position that now that she's  
4 testified to her expertise and knowledge and following these  
5 protocols that it becomes relevant that a year later she was  
6 terminated for violating them.

7 THE COURT: What -- what were -- what were the  
8 procedures that she was accused of violating?

9 MS. BLUTH: Go ahead, Brian.

10 MR. BASHOR: She brought her daughter into the  
11 hospital, put her into an emergency room bed, administered an  
12 IV without admitting the daughter as a patient, without  
13 notifying supervisors or personnel and was discovered by  
14 another staff member.

15 MS. BLUTH: (Inaudible).

16 THE COURT: All right.

17 MR. KOCHVAR: Brian Kochevar on behalf of the  
18 State. There's a little more to the story about how she got  
19 fired, because there was a doctor that had authorized her to  
20 do it, but then when everything came to light, the doctor  
21 wasn't willing to step forward and take responsibility.

22 Nonetheless, regardless of all of that, I think that  
23 line of question is just totally irrelevant because it's not  
24 about did she follow procedures and protocols. What it is  
25 about is did the defendant follow procedures and protocols.

1 Whether she follows procedures and protocols is irrelevant to  
2 what we're here to decide.

3 THE COURT: Well, if she was fired for violating the  
4 protocols about how you put leads on a patient, I agree, that  
5 that would be relevant for everyone to see. (Inaudible).

6 MR. BASHOR: I would -- I would submit, Your Honor,  
7 that if she's offering an opinion as to whether or not Mr.  
8 Farmer follows protocols, it's relevant if the person herself  
9 cannot follow standard, simple hospital protocols, that her  
10 opinion is diminished in credibility and quality.

11 MR. KOCHVAR: Yeah, but it also -- I mean, the same  
12 relevance arguments that I made before -- it's Brian Kochevar  
13 -- but also what happened to her and her firing happened a  
14 significant period of time after all of this transpired.

15 MR. BASHOR: However, her opinion was given today.

16 MR. KOCHVAR: I don't think she ever -- Brian  
17 Kochevar -- I don't think she ever offered an opinion. She  
18 talked about her experience.

19 MR. BASHOR: Her -- Judge, respectfully, Mr.  
20 Kochevar asked in several questions, in your opinion X, Y, Z.

21 THE COURT: Well, he did use that -- that's how you  
22 phrased the question (inaudible) that, you know, but I still  
23 don't see how her bringing her daughter in, is relevant.

24 MR. BASHOR: Because it's -- it violates nursing  
25 guidelines, it violated hospital protocols and procedures,

1 just as he's alleging that Mr. Farmer did when he went into  
2 her room with no alarms, opened her gown, inspected leads.

3 THE COURT: Okay. But that's, you know, now we're  
4 getting into, again, where you want to explore a whole other -  
5 - basically a whole another litigation area.

6 MR. BASHOR: Okay.

7 THE COURT: In other words, was she properly  
8 terminate it and this whole thing about now she's going to be  
9 testifying about it, because, you know, get into that, now  
10 she's going to be testifying about this doctor and this is all  
11 collateral to what we're here for.

12 MR. MANINGO: And it also -- Jeff Maningo. It also  
13 goes to this witness's credibility because she's saying that  
14 while our client didn't -- did things that were reportable and  
15 that she went and reported these things and she followed all,  
16 you know, which is inconsistent with other witnesses we have,  
17 that she went and told her charge nurse and everything else.  
18 She didn't follow any of these protocols. And, in fact, she  
19 snuck her own child in and hooked the child up to an IV and we  
20 have that documented. We have a good faith belief to go into.  
21 I mean, if she wants to say there's more to the story, well,  
22 then she absolutely can. But --

23 THE COURT: If you want to -- if you want to put  
24 witnesses on to show that her testimony that she told the  
25 charge nurse that, you know, and only that she told other



1 people, and if you want to put witnesses on that go to attack  
2 her credibility on that, that's clearly relevant.

3 MR. MANINGO: Well, and -- and, Your Honor --

4 THE COURT: And if you want to cross-examine her and  
5 say, isn't it true that (inaudible) you know, and attack her  
6 credibility that way, but --

7 MR. MANINGO: Your Honor, this would be -- if the  
8 State wanted to, let's say, put a police officer on and say,  
9 look, here's the standard of how police work should be done,  
10 and then we can't get into the fact that he was removed from  
11 the force for being a dirty cop, okay? Because this nurse is  
12 saying here's what should have been done, this was not done  
13 properly, this was not done by hospital standards, and yet we  
14 know that she was terminated from the same hospital for  
15 violating the hospital standards.

16 So it's -- it's -- the example of a police officer  
17 is exactly on point. If they brought in -- and the police  
18 officer said, well, look this is how an investigation should  
19 be done, this is how it's supposed to be done, and then we  
20 can't cross examine on the fact that that officer was removed  
21 from the force and terminated because of the fact he didn't do  
22 those things.

23 THE COURT: Okay. And if you (inaudible) could you  
24 bring in evidence to show that she didn't follow the protocol  
25 she's just testified about that would be one thing. But to --

1 or to have it somehow be relevant to what we're discussing,  
2 but this is something totally outside of that,

3 MR. KOCHVAR: And it's Brian Kochvar. And I would  
4 agree with Mr. Maningo. If -- if she had testified about --  
5 if she had been fired about violating some protocol in regards  
6 to the placement of EKG leads, which is what the defendant  
7 is --

8 MR. MANINGO: (Inaudible) specific.

9 MR. KOCHVAR: -- then they would have the grounds  
10 to go into it. But even with the police officer, the only  
11 thing he would be allow to testify to -- I mean, if a police  
12 officer came in here and testified about his, you know,  
13 protocol and he had been fired because he failed to turn on  
14 his police lights when he's supposed to, it's not relevant to  
15 the collection of evidence. And it's not relevant to his --  
16 what we're alleging is he didn't follow proper protocol with  
17 regards to the EKGs. And that's what she's testified to.  
18 What she got fired for was completely irrelevant to that.

19 THE COURT: And I agree. I think it's relevant so  
20 I'm going to sustain it.

21 MR. MANINGO: Okay. We need to make a -- in that  
22 case, then we -- we feel that the Court and the State are  
23 limiting our ability to cross-examine a witness on her  
24 credibility, and it affects our client's right to a fair trial  
25 and we're going to ask for a mistrial at this point.

1 THE COURT: All right.

2 MR. MANINGO: Jeff Maningo.

3 THE COURT: Thank you. Okay. And this is the  
4 Judge, and that's -- Motion for Mistrial is denied.

5 MS. BLUTH: Thank you.

6 (Bench conference ends)

7 MS. BLUTH: Thank you.

8 MR. BASHOR: Your Honor, given what we discussed at  
9 the bench, can I have about 15 seconds just to check my notes  
10 here?

11 THE COURT: Of course.

12 (Pause in the proceedings)

13 CROSS-EXAMINATION

14 BY MR. BASHOR:

15 Q Good afternoon, Ms. Wolfe.

16 A Hello.

17 Q My name is Ryan Bashor, I represent Mr. Farmer. If  
18 you don't understand any questions or want them repeated, feel  
19 free, okay?

20 A Okay.

21 Q Now you were working the shift in the ER of  
22 Centennial Hills Hospital May 15th, going into May 16th of  
23 2008, correct?

24 A Yes.

25 Q And you were interviewed by a detective in this

1 case, I believe, on May 30th of 2008; does that sound correct?

2 A That sounds right.

3 Q Okay. And you -- was -- you had actually seen the  
4 detective in the emergency room and approached him with your  
5 concerns?

6 A Yes.

7 Q And when you sat down with that detective and  
8 discussed what you had witnessed with him, you were familiar  
9 with the fact that Mr. Farmer had been arrested?

10 A Yes.

11 Q And you were familiar with the fact that he was the  
12 subject of a sexual assault investigation?

13 A Yes, but I didn't know any of the details of that.

14 Q That's fair. But you knew he was being investigated  
15 for sexual assault?

16 A Yes.

17 Q Now I don't know the terms, the graveyard shift or  
18 the night shift?

19 A Um-hum, both.

20 Q Both, great. Okay. And you're in the emergency  
21 room and Mr. Farmer is a certified nursing assistant in that  
22 nursing room that evening, correct?

23 A Yes.

24 Q Typically in the emergency room you would have one  
25 certified nursing assistant?

1 A Not always. Sometimes we could have more.

2 Typically, though, there may be one CNA and one emergency room  
3 technician.

4 Q Okay. And you were assigned to a patient by the  
5 name of Denise Hanna?

6 A Yes.

7 Q Now Mr. Farmer is a certified nursing assistant,  
8 he's not assigned to patients, correct?

9 A Correct.

10 Q He assists all the nurses on the floor?

11 A Yes.

12 Q Now you are familiar with the duties of certified  
13 nursing assistants, correct?

14 A Yes, I am.

15 Q Included in those duties, obviously, fundamentally,  
16 number one is they assist the registered nurses?

17 A Yes.

18 Q They're also, however, involved in patient care; you  
19 would agree?

20 A Yes, they are.

21 Q Oftentimes taking patients to the bathroom?

22 A Yes.

23 Q Changing their clothing?

24 A Yes.

25 Q Cleaning up messes?

1 A Yes.

2 Q And by messes, I mean, sometimes, bodily fluids?

3 A Yes.

4 Q And also in charge of transportation to different  
5 units throughout the hospital?

6 A Correct.

7 Q Now some certified nursing assistants have  
8 additional training, correct?

9 A I'm not aware of that.

10 Q Do some certified nursing assistants have training  
11 in EKG and heart monitors?

12 A Yes.

13 Q And had -- do they have training on how those  
14 devices work?

15 A How to place the leads correctly, yes, but not how  
16 to interpret the results.

17 Q Far enough. So they are trained, though, however,  
18 in placing -- we've heard the term "dots", correct?

19 A Yes.

20 Q And those are the patches themselves?

21 A Yes.

22 Q And then they're also trained in how to attach the  
23 wiring to the dots?

24 A Yes.

25 Q Now, Ms. Hanna had five leads on her body; is that

- 1 correct?
- 2 A Correct.
- 3 Q Two under the midline, under the clavicle?
- 4 A Yes.
- 5 Q One between the breasts?
- 6 A Yes.
- 7 Q And two below the breasts?
- 8 A Yes.
- 9 Q And is that typical placement?
- 10 A Yes.
- 11 Q And in fact you were -- I heard -- I believe I heard
- 12 on direct examination you were the individual that placed
- 13 them?
- 14 A Yes.
- 15 Q Now, you were, I believe the testimony was, standing
- 16 at the nursing station, which was in relatively close
- 17 proximity to Ms. Hanna's room, correct?
- 18 A Correct.
- 19 Q And this room was described as having three walls
- 20 and a curtain?
- 21 A Yes.
- 22 Q And you see Mr. Farmer enter this area, correct?
- 23 A Yes.
- 24 Q He opens the curtain?
- 25 A The curtain was already open.

1 Q The curtain was already open.

2 A Um-hum.

3 Q Did Mr. Farmer close the curtain when he entered?

4 A No.

5 Q And you had testified that Mr. Farmer then opened  
6 both sides of Ms. Hanna's gown?

7 A Yes.

8 Q And from what you could tell, you weren't sure --  
9 exactly sure what he was doing?

10 A Right.

11 Q You suspected that he was checking the attached  
12 wires to the dots?

13 A The lead placement, yes.

14 Q Okay. And you said that his hands weren't directly  
15 in your view because the sheet had been lifted?

16 A Yes.

17 Q And who had lifted the sheet?

18 A Mr. Farmer.

19 Q Mr. Farmer. So between the nursing station and if  
20 you are Ms. Hanna, there is a sheet blocking your view?

21 A Blocking my view of -- from chest down, but not of  
22 her face or anything.

23 Q Okay. But the chest area?

24 A Yes.

25 Q And as we just discussed, this is not necessarily



1 outside the scope of practice of a CNA, correct?

2 A Not if they are trained in that, but there would  
3 need to be a reason for them to be doing that.

4 Q Fair enough, but it's not beyond the scope of a  
5 properly trained certified nursing assistant to do something  
6 like this?

7 A Probably not.

8 Q Now you said that you were able to witness Ms.  
9 Hanna's face; is that correct?

10 A Yes.

11 Q And so you were able to tell that she was awake?

12 A Yes.

13 Q And alert?

14 A Yes.

15 Q And you had noted a change in her demeanor as this  
16 was occurring?

17 A Yes.

18 Q And her face -- you could tell by the expression on  
19 her face that she felt awkward?

20 A Yes.

21 Q Now at this point, this lasts, I believe you  
22 testified, a minute to two minutes; is that correct?

23 A Yes.

24 Q And did Mr. Farmer then -- closes the gown?

25 A I don't recall.

1 Q You don't recall whether it was Ms. -- Mr. Farmer or  
2 Ms. Hanna, correct?

3 A I believe he did close the gown back up and place  
4 the sheet back over her.

5 Q Now you said you were at the nurses station,  
6 standing at the nurses station, and I'm going to do a little  
7 demonstration. If this podium were the desk at the nursing  
8 station, were in front of the desk or behind the desk exactly?

9 A In front of the desk.

10 MR. BASHOR: So if I could step into the well, Your  
11 Honor?

12 BY MR. BASHOR:

13 Q I'm positioning myself in front of the desk so  
14 there's no furniture between you and the room?

15 A Correct.

16 Q Now you had also stated that you weren't alone at  
17 the nursing station, correct?

18 A Yes.

19 Q Nursing stations are pretty busy places, right?

20 A Yes.

21 Q Kind of the headquarters for nurses?

22 A Um-hum.

23 Q Is that a yes?

24 A Yes.

25 Q So nurses are going in and out of the area

1 constantly?

2 A Correct.

3 Q Okay. And you're in the emergency room, so a  
4 nursing station's one of the more busy ones at that?

5 A Yes.

6 Q Now you had stated that immediately after witnessing  
7 this, you spoke with a charge nurse, correct?

8 A Yes.

9 Q And is that charge nurse sort of the supervisor?

10 A Yes.

11 Q Okay. And in this instance, you went to charge  
12 nurse, Ray Sumera, correct?

13 A Correct.

14 Q And you told him what you observed?

15 A Yes, I did.

16 Q So you had told him that you had witnessed -- I  
17 guess, how specific did you get with what you told Mr. Sumera?

18 A I told him exactly what I've told you here today.

19 Q Okay. And eventually -- and I don't mean the word  
20 "eventually". And you ended up speaking with the department  
21 manager, correct?

22 A Yes.

23 Q Was that the same day?

24 A Yes.

25 Q Same shift?

1 A No, it was after my shift, after I had gone home.

2 Q And what was the name of the department manager?

3 A Amy Bochenek.

4 Q Now, a shift change comes and you are replaced by  
5 another registered nurse, correct?

6 A Yes.

7 Q And that nurse was Julie Montero?

8 A I know her name is Julie, I don't know her last  
9 name.

10 Q And you informed her of what you had witnessed,  
11 correct?

12 A Yes.

13 Q And would it be fair that you gave the same amount  
14 of detail to Julie that you gave to Mr. Sumera?

15 A Yes.

16 Q Now, immediately -- did you go to Mr. Sumera before  
17 or after you reentered the room where Ms. Hanna was?

18 A After.

19 Q So you went and checked on Ms. Hanna first?

20 A Yes.

21 Q Okay. Before we get into that, Mr. Sumera, where --  
22 where did you have to go to find him?

23 A He was at the nurses station.

24 Q Okay. So eventually or at some point he came to the  
25 nursing station and you tapped him on the shoulder?

1           A     I pulled him aside.

2           Q     Okay. Now, you entered the room where Ms. Hanna was  
3 after this occurred, correct?

4           A     Yes.

5           Q     And Ms. Hanna did not mention what had occurred to  
6 you?

7           A     No.

8           Q     And you didn't mention to her what you had seen?

9           A     No.

10          Q     Now, you testified on direct that you -- the reason  
11 why you didn't say anything to Ms. Hanna is that you just  
12 weren't sure what had happened?

13          A     I wasn't sure, you know, where he had touched under  
14 the sheet. I knew that he had exposed her and lifted the  
15 sheet and opened the gown. His hands were under the sheet,  
16 but I wasn't sure where he had touched her.

17          Q     Okay. So you weren't exactly sure where she was  
18 touched, correct?

19          A     Right.

20          Q     Now, did you note -- make a notation anywhere in the  
21 medical records that you had observed Mr. Farmer enter her  
22 room and check the leads?

23          A     Not to my knowledge.

24          Q     And you stated you went to your charge nurse. Did  
25 you go to any of the doctors on the floor and voice your

1 concerns?

2 A No, I did not.

3 Q Okay. And now you're aware that Dr. Slaughter was  
4 the physician that evening on that emergency room, correct?

5 A Yes.

6 Q Did you talk to him about what you observed?

7 A No.

8 Q Did you contact security?

9 A No.

10 Q And did you contact the police?

11 A No, I did not.

12 Q It wasn't until you contacted -- or you approached  
13 Detective Saunders with what occurred that you made contact  
14 with the police?

15 A Yes.

16 Q Now, you'd stated on direct examination that in  
17 Urgent Care, the gowns would be tied in the front, but it's  
18 not typical where you were, correct?

19 A Correct.

20 Q Now, the Urgent Care section of the ER is on the  
21 same floor as --

22 A No, it's a completely different building, it's a  
23 different company.

24 Q Okay, very good. Did you witness Mr. Sumera having  
25 a conversation with Mr. Farmer after you had a conversation

1 with Mr. Sumera?

2 A No, I did not witness the conversation.

3 MR. BASHOR: Court's indulgence.

4 (Pause in the proceedings)

5 BY MR. BASHOR:

6 Q Before you ended -- between the time you entered Ms.  
7 Hanna's room after what you observed, to the end of your  
8 shift, did Ms. Hanna say anything to you about what had  
9 happened with Mr. Farmer?

10 A No.

11 MR. BASHOR: Thank you. Pass the witness.

12 THE COURT: Redirect.

13 MR. KOCHEVAR: Just briefly.

14 REDIRECT EXAMINATION

15 BY MR. KOCHEVAR:

16 Q Ms. Wolfe, was there any medical reason for Mr.  
17 Farmer to enter Ms. Hanna's room?

18 A Absolutely not.

19 Q Do you, yourself -- I mean, at the time in May of  
20 2008, did you have any personal vendettas or beefs with Mr.  
21 Farmer?

22 A No.

23 MR. KOCHEVAR: I have nothing further, Judge.

24 THE COURT: Any recross?

25 MR. BASHOR: No, thank you.

1 THE COURT: Thank you very much for your testimony.  
2 You may call your next witness. How's -- how's the  
3 jury doing, because I don't know how long the next witness  
4 will be.

5 MS. BLUTH: It's going to be a bit if you need a  
6 break.

7 THE COURT: Break, then? Okay. All right. So  
8 we've been about an hour and a quarter since you were on-call  
9 out there.

10 All right. So we're going to take a ten-minute  
11 recess. During this recess, it is your duty not to converse  
12 among yourselves or with anyone else on any subject connected  
13 with the trial, or to read, watch or listen to any report of  
14 or commentary on the trial by any person connected with the  
15 trial or by any medium of information including, without  
16 limitation, newspaper, television, radio or internet. And you  
17 are not to form or express an opinion on any subject connected  
18 with this case until it is finally submitted to you. We'll be  
19 in recess for ten minutes.

20 (Outside the presence of the jury)

21 THE COURT: The record will reflect that the jury  
22 has departed the room. Are there any matters outside the  
23 presence of the jury?

24 MR. BASHOR: Yes, Your Honor. I'm going to be  
25 showing three pieces of paper to the State. It's a personnel



1 action form, a counseling notice, and the actual signature  
2 page of Ms. Wolfe's termination that I've asked to be made as  
3 a court exhibit for appellate review to show that we did, in  
4 fact, have a good faith basis, and that the reason for her  
5 termination was for policy violations.

6 THE COURT: All right. Any objection to marking  
7 this -- I mean, I wish I had seen it beforehand, but.

8 MS. BLUTH: Sure. And I have no objection to it  
9 being marked as a Court exhibit. I just want to make sure  
10 that our entire arguments at the bench, that everything was --  
11 got on the record.

12 THE COURT: All right. So, yes. I want to make  
13 sure this is clear, as well, because counsel approached the  
14 bench and wanted to be able to cross-examine the witness who  
15 just departed, Ms. Wolfe, that -- in regards to the fact that  
16 she was terminated from the hospital, allegedly, for violating  
17 hospital policies and procedures in that she brought her  
18 daughter into the emergency room, hooked her up to an IV and  
19 was -- what, treating her; is that right? In the ER without  
20 having permission or she wasn't admitted.

21 State indicated that the story from Ms. Wolfe would  
22 be that a doctor had authorized that, but then later, when  
23 push came to shove regarding the termination that he wouldn't  
24 vouch for that and so she was terminated.

25 And the argument by defense was that it would go to

1 her credibility, because she was terminated for violating  
2 policies and procedures; is that correct?

3 MR. BASHOR: Yes, Your Honor. And I would just  
4 supplement the reason we felt it relevant was because she did  
5 testify as to the following of protocols at the hospital,  
6 including, placing of the leads, the patches, how cardiac  
7 monitors work, et cetera. So she opined as to whether or not  
8 Mr. Farmer was compliant with those policies and procedures,  
9 obviously in the negative, to our detriment.

10 Our position was that, you know, what's good for  
11 the -- good for the goose is good for the gander, that she  
12 isn't conversant or perfect in following the policy and  
13 procedures herself. It would be relevant to the credibility  
14 of the opinions that she gave. And we eventually, at the end  
15 of the -- the bench conference, moved for a mistrial which  
16 Your Honor denied.

17 Upon reflection, I felt that because it was of such  
18 import, I made the application to put these three documents  
19 into the appellate record.

20 THE COURT: And does State want to make a further  
21 record?

22 MR. KOCHER: Yes, Judge, just to clarify exactly  
23 what our position was at the bench. Our position was that the  
24 -- the witness testified about whether Mr. Farmer followed  
25 policies and procedures in regards to the placement or the

1 removal of EKG leads and patches.

2 If her termination had been for violation of that  
3 policy and those procedures, then it would have been relevant  
4 to the discussion. But it was a termination for something  
5 completely unrelated to that policy, and happened, you know,  
6 much later after the events that we have -- were talking about  
7 here today.

8 And for those reasons, the State believes that any  
9 questioning of her about her termination would have been  
10 irrelevant.

11 MR. BASHOR: And our position would have been that,  
12 in retort, that, you know, her violation of policy was a  
13 violation of general policy in general and a disregard for  
14 policies.

15 THE COURT: And the Court's ruling was based on the  
16 fact that this was a collateral issue that doesn't go to her  
17 credibility concerning the testimony that she gave here today,  
18 that basically, you wanted to get into what could be  
19 considered bad acts by a witness that wasn't relevant, and  
20 that doesn't demonstrate any bias against the defendant, or  
21 for that matter, the hospital because all of her testimony  
22 concerned what happened at -- on a -- at a time that was --  
23 that predated any of the events you wanted to ask her about  
24 by, I got the impression, a significant time period.

25 And so there -- I don't -- did not see that it was

1 relevant to her credibility or any other -- any other purpose  
2 other than to just basically try and show that the witness is  
3 a bad person.

4 MR. BASHOR: And just for the record, for the time  
5 frame, Your Honor, the incident we're discussing here is May  
6 15th, May 16th of 2008. She was terminated in May 7th of  
7 2009. May I approach your Clerk?

8 THE COURT: Yes. And you'll mark those documents as  
9 Court's exhibit next in order. I think we may have some  
10 others.

11 THE CLERK: All together?

12 MR. BASHOR: Yes, all together.

13 THE COURT: All together. And, of course, the  
14 record will reflect that the Court wasn't shown any of those  
15 documents prior to the ruling, but that's fine.

16 MR. BASHOR: Very good.

17 THE COURT: All right, thank you.

18 MR. BASHOR: Thank you.

19 MR. KOICHEVAR: Thank you, Judge. Anything else?

20 MR. BASHOR: No, thank you.

21 MS. BLUTH: No, Your Honor.

22 MR. KOICHEVAR: Nothing from the State.

23 THE CLERK: These will be Court's 6 if you need to  
24 know.

25 MR. BASHOR: Thank you.

1 THE COURT: We're in recess.

2 (Court recessed at 2:19 p.m. until 2:28 p.m.)

3 (In the presence of the jury)

4 THE COURT: Thank you, please be seated. The record  
5 will reflect we are back within the presence of all 12 members  
6 of the jury as well as the four alternates. Defendant is  
7 present with his counsel, Deputies District Attorney  
8 prosecuting the case are present, as are all officers of the  
9 court. Will counsel so stipulate?

10 MS. BLUTH: Yes, Your Honor.

11 MR. MANINGO: Yes, Your Honor.

12 THE COURT: Thank you. You may call your next  
13 witness.

14 MS. BLUTH: Thank you. The State calls Denise  
15 Hanna.

16 THE CLERK: Please raise your right hand.

17 DENISE HANNA, STATE'S WITNESS, SWORN

18 THE CLERK: Please be seated. Would you please  
19 state and spell your name for the record?

20 THE WITNESS: My name is Denise Hanna and it's  
21 spelled D-e-n-i-s-e, H-a-n-n-a.

22 THE COURT: Thank you. You may proceed.

23 MS. BLUTH: Thank you, Your Honor.

24 DIRECT EXAMINATION

25 BY MS. BLUTH:

1 Q And, Ms. Hanna, if you could just scoot up a little  
2 bit towards that microphone, otherwise someone's going to yell  
3 at me that they can't hear you. Okay.

4 A Okay.

5 Q Thank you so much. I would -- first of all, do you  
6 have asthma or are you asthmatic?

7 A I am.

8 Q Okay. And because of that, do you have to obtain  
9 medical care because of your asthma concerns and issues?

10 A From time-to-time, yes.

11 Q And this may sound like a silly question, but how  
12 long have you had asthma? How long have you been dealing with  
13 it?

14 A About 12 years.

15 Q Okay. All right. I'd like to turn your attention  
16 back to the evening hours of May 16th of 2008. During that  
17 evening, were you having some issues with your asthma?

18 A Yes.

19 Q And can you explain what those issues were?

20 A I was having shortness of breath and chest pains.  
21 And I was -- I do have some albuterol that I use as an inhaler  
22 that I was using, but it wasn't giving me any relief, so.

23 Q So because you weren't getting any relief from your  
24 inhaler, did you make the decision to go a Quick Care? Or an  
25 Urgent Care?

- 1           A     Yes.
- 2           Q     Okay. And what Urgent Care is that?
- 3           A     It's the Southwest Medical's Urgent Care at Rancho.
- 4           Q     And while at Urgent Care, were you informed that you  
5 were going to be transported to Centennial Hills Hospital?
- 6           A     Yes.
- 7           Q     And were you, in fact, transported to Centennial  
8 Hills Hospital?
- 9           A     Yes.
- 10          Q     And was that via ambulance?
- 11          A     It was.
- 12          Q     Okay. Now, were leads or we've called -- we've had  
13 several different names for them, dots, stickies, leads, but  
14 were patches put on certain parts of your bodies?
- 15          A     Yes.
- 16          Q     Or body? And was that done at the Rancho Urgent  
17 Care or at Centennial Hills, if you recall?
- 18          A     It was done originally at Rancho.
- 19          Q     So when you arrived to Centennial Hills Hospital,  
20 you already had the stickies on your body?
- 21          A     I did.
- 22          Q     And where were the placement of those stickies, if  
23 you remember?
- 24          A     There was one on my right ankle, there were a couple  
25 on, I believe, my upper arm, kind of inner-upper arm and my

1 chest area and my abdomen area.

2 Q Okay. And --

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

4 (Pause in the proceedings)

5 BY MS. BLUTH:

6 Q And when you -- I should state for the record, when  
7 you pointed to the upper part, you pointed to the upper part  
8 of your chest and you said there were two here; is that  
9 correct?

10 A I believe so, yes.

11 Q And then -- I mean after that you said -- where were  
12 the other ones placed?

13 A There was a couple of them down below, my abdominal  
14 area, lower abdominal area.

15 Q Okay. And when you say lower abdominal area, where  
16 were they in comparison to your -- under your breast line?

17 A Maybe a hands length of -- you know, a couple  
18 fingers length, hands length.

19 Q Okay. All right. And so when you get to Centennial  
20 Hills Hospital, are you being treated by a female nurse?

21 A Yes.

22 Q And do you remember the name of that female nurse?

23 A Yes. Margaret.

24 Q Margaret, okay. And how did you feel that Margaret  
25 was treating you as a patient?



1           A     Fair. I mean, you know, she was very attentive  
2 and --

3           Q     Did you have any issue with her? Did you feel like  
4 she wasn't coming in enough?

5           A     No, not at all, um-um.

6           Q     Okay. So you felt like she was attentive to your  
7 needs?

8           A     That's correct.

9           Q     When you got to Centennial Hills Hospital, were you  
10 changed into a gown?

11          A     I was already in a gown.

12          Q     So were you changed into the gown at Rancho? At the  
13 Urgent Care?

14          A     Yes.

15          Q     And what is underneath your gown, if anything?

16          A     Just my underwear.

17          Q     When the leads were placed on your body, at any  
18 point in time when they were being placed on your body, were  
19 your breasts exposed in anyway?

20          A     You mean, originally?

21          Q     Correct.

22          A     No.

23          Q     So when you were at the Urgent Care and those leads  
24 were placed in the positions that you spoke about, at any  
25 point during that examination or placement of those leads,

1 were your one or either breasts fully exposed?

2 A No.

3 Q During your time at Centennial Hills Hospital when  
4 you were being treated by Nurse Margaret, were you also  
5 treated by another male certified nursing assistant?

6 A Yes.

7 Q Do you see that person in the courtroom today?

8 A Yes, I do.

9 Q Okay. Can you please point to him and describe an  
10 article of clothing that he's wearing?

11 A He's seated over there on the left-hand side of the  
12 desk wearing a black jacket and a purple shirt.

13 MS. BLUTH: Okay. Your Honor, may the record  
14 reflect the identification of the defendant?

15 THE COURT: It will.

16 BY MS. BLUTH:

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

19 A No.

20 Q Okay. What has changed?

21 A His appearance has changed a lot. It looks like  
22 he's a lot thinner.

23 Q Okay. And so how did he come in and introduce  
24 himself to you?

25 A He came into the area I was in in the emergency room

1 and introduced himself, he said, "Hi, I'm Steven Farmer. I'm  
2 a CNA, certified nursing assistant, and I'm here to check  
3 things out."

4 Q Okay. And shortly after telling you that, what did  
5 he do?

6 A He walked over to the left side of the bed I was at  
7 -- in and he opened my gown.

8 Q And when you say, he opened your gown, how much of  
9 your body was exposed?

10 A To my waist.

11 Q So opening the gown -- so all the way from, you  
12 know, the -- under your chin to your waist was completely open  
13 and exposed?

14 A That's correct.

15 Q And after he opened your gown -- or while he was  
16 opening your gown, did he say to you, Ms. Hanna, I'm going to  
17 be opening your gown now?

18 A Never.

19 Q Okay. Did he ask you permission, may I open your  
20 gown?

21 A No.

22 Q Okay. So the next thing you know, your gown's just  
23 open?

24 A That's correct.

25 Q And what does he do after he opens the gown?

1           A     He proceeded to -- to press on a couple of the leads  
2 that were down on my abdomen and right in my lower chest area.

3           Q     And did he -- did he say anything when he was doing  
4 that?

5           A     No.

6           Q     And did he touch the lead on your ankle?

7           A     No.

8           Q     Did he touch the lead on your arm?

9           A     No.

10          Q     So just in the chest area?

11          A     Correct.

12          Q     What are you thinking at this point?

13          A     Well, I was a little confused why he was even doing  
14 it, because I was hooked up to a monitor behind me and it  
15 hadn't been beeping or, you know, giving any indication that  
16 there was something wrong. So, I -- I -- you know, I was a  
17 little confused there was a necessity to even come, you know,  
18 press on the leads or check those leads.

19          Q     Did you notice whether or not any of the leads were  
20 coming off?

21          A     Not to my knowledge.

22          Q     Okay. Did -- so you didn't feel anything that felt  
23 off?

24          A     No.

25          Q     The machines weren't going off?

1 A They were not.

2 Q Had you just been seen by Nurse Margaret?

3 A Yes.

4 Q And so nothing had changed from the last time that  
5 you had seen Nurse Margaret?

6 A That's correct.

7 Q When -- when the defendant opened your gown and is  
8 touching the leads in the area you've discussed, can you tell  
9 whether or not other people can see what's going on?

10 A Well, when he first -- the curtain was closed. So  
11 when he came in, he opened the curtain and left it open and  
12 the nurses station was in eyeshot from where I was at and I  
13 could see Margaret and two other nurses there.

14 Q And could you see whether or not they could see what  
15 was going on?

16 A I could see them. I don't know if they could see  
17 exactly what was going on, no.

18 Q Okay. So after the defendant was done touching the  
19 leads that you've discussed, what happened after that?

20 A Then he started to close my gown and then I grabbed  
21 it and closed it the rest of the way.

22 Q Okay. And when he was --

23 A And he left.

24 Q -- touching the leads, did you feel his arm brush  
25 against -- brush against one of your body parts?

1 A Yes.

2 Q Okay. And what did you -- which body part was that?

3 A It was my right breast.

4 Q At any point, did you feel like what Mr. Farmer was  
5 doing was medically necessary?

6 A No.

7 Q Did you feel it was inappropriate?

8 A Definitely.

9 Q Had you -- obviously you had been to the Urgent Care  
10 before that, but before May 16th, had you been in hospitals  
11 before and received this type of treatment? And what I mean  
12 by that is, had you had EKGs done before?

13 A Yes.

14 Q Okay. Had you ever had anyone -- how many do you  
15 think you would have had?

16 A In my lifetime or before -- probably a dozen times.

17 Q Okay. And in those dozen times, has anyone ever  
18 opened your gown and fully exposed both breasts?

19 A No.

20 Q Has anyone, you know, has anyone done the things  
21 that Mr. Farmer did to you on May 16th?

22 A No.

23 Q Have you had EKGs since this hospital stay?

24 A Yes.

25 Q Have you ever had both breasts exposed during any of

1 those EKGs?

2 A No.

3 Q Shortly after the defendant, like you said, closed  
4 your gown, he left the room?

5 A He did.

6 Q Did you have contact with Nurse Margaret shortly  
7 after that?

8 A Yes.

9 Q Did she come into the room right after he left?

10 A Within a couple of minutes, yes.

11 Q And did the two of you discuss that incident at all?

12 A No.

13 Q And why did you not say anything?

14 A I don't know.

15 Q Were you embarrassed?

16 A Very, yeah.

17 Q Were you embarrassed I just referred today?

18 A Yes, yes.

19 Q Okay. So you didn't report anything to the  
20 hospital?

21 A No.

22 Q Did there come in time -- I'm sorry, did there come  
23 a time when you were approached at work by a detective?

24 A Yes.

25 Q And how were you alerted that the detective was --

1 were you at work when this happened?

2 A Yes.

3 Q Okay. And how were you alerted that there was a  
4 detective at your work to see you?

5 A He came to our security desk and then the security  
6 guards called me downstairs from my workplace to let me know  
7 he was there.

8 Q Okay. So you didn't know right away why he was  
9 there?

10 A No.

11 Q Was that alarming?

12 A Yes, very. I -- I thought it was -- we have elderly  
13 parents that live here, I thought maybe something happened --  
14 happened to one of our elderly parents or my husband or  
15 children and, you know, never in a million years, so.

16 Q So when he came to see you, what did he say?

17 A He first introduced himself as Detective Saunders  
18 and the first thing he said is "everything's okay, I'm not  
19 here for any kind of an emergency," so he must have been able  
20 to see the look on my face of, you know, desperation coming  
21 down those five flights of stairs --

22 Q Sure.

23 A -- not knowing, you know.

24 Q And did he ask you a question or how did your  
25 conversation get started?



1           A     Yes, what -- he asked me if I was recently a patient  
2 at Centennial Hills Hospital, I answered him, yes.

3           Q     When he asked you that question, did you know then  
4 why he was there?

5           A     I made a guess.

6           Q     Immediately?

7           A     Yeah.

8           Q     Why?

9           A     Just a creepy -- same creepy feeling that came over  
10 me when it happened, it happened again, just kind of the light  
11 bulb.

12          Q     And so when he says to you, "Were you a patient at  
13 Centennial Hills Hospital" and you say "yes," what happens  
14 next?

15          A     His next question was, "Was there anything  
16 inappropriately that might have happened while you were a  
17 patient there?" And I said, "Yes." And then he said, "Can  
18 you tell me what happened on your visit there?" And so I went  
19 on to tell him the same story I just shared.

20          Q     Okay. So had you seen anything on the news about  
21 Mr. Farmer or anybody else involved in this case?

22          A     No.

23          Q     So the first time you hear about this -- or even  
24 know something's going on is when Detective Saunders comes to  
25 you?

1 A Yes.

2 Q And he doesn't discuss with you the details of  
3 anybody else's case?

4 A No, no.

5 Q Do you know an individual by the name of Marcia  
6 Petersen?

7 A No.

8 Q Okay. Do you know an individual by the name of  
9 Ledahlia Spurlock?

10 A No.

11 Q Do you know an individual by the name of Heather  
12 Shank?

13 A No.

14 Q Do you know an individual by the name of Roxanne  
15 Cagnina?

16 A No.

17 Q Okay. Did you ever attempt to hire or contact any  
18 civil attorneys in suing Mr. Farmer or the hospital?

19 A No.

20 MS. BLUTH: Thank you, Ms. Hanna. I'll pass the  
21 witness.

22 THE COURT: Cross.

23 MR. BASHOR: Thank you.

24 CROSS-EXAMINATION

25 BY MR. BASHOR:

1 Q Good afternoon, Ms. Hanna.

2 A Hi.

3 Q Well, afternoon, Ms. Hanna.

4 A Good afternoon.

5 Q My name is Ryan Bashor. I'm representing Mr.

6 Farmer. If you don't understand one of my questions, let me

7 know. If you need me to ask a question again, I will, okay?

8 A Sure.

9 Q Thank you. Okay, let's talk about the end first.

10 Do you have an interview, a recorded interview with Detective

11 Saunders about this case, correct?

12 A That's correct.

13 Q And you were told at that interview that he was

14 investigating an individual by the name of Mr. Farmer,

15 correct?

16 A Correct.

17 Q And he asked you if you recognized that individual,

18 correct? Or recognized that name?

19 A I guess I'm confused about your line of -- what

20 you're asking me.

21 Q Do you recall him asking you if you knew who that

22 individual was?

23 A Yes.

24 Q And did you say, yes?

25 A Yes, I did.

1 Q Okay. Now you'd indicated that Mr. -- excuse me,  
2 Detective Saunders came to your place of business and you had  
3 to come to him, meaning, come down some flights of stairs,  
4 correct?

5 A That's correct.

6 Q And you'd indicated that when you were coming down  
7 those flights of stairs, you weren't thinking he was there  
8 about what had occurred in Centennial Hills Hospital?

9 A No.

10 Q I believe you had said never in a million years  
11 would you have thought --

12 A That's correct.

13 Q Okay. Now on May 15th and May 16th of 2008, you  
14 were in the hospital, correct?

15 A That's correct.

16 Q It was in the late evening, early morning hours?

17 A That's correct.

18 Q You were in a room in the emergency room, correct?

19 A I was.

20 Q And you -- when -- before Mr. Farmer enters your  
21 room, was the curtain open or closed?

22 A It was closed.

23 Q And was it closed all the way?

24 A Yes.

25 Q So, Mr. Farmer has to open the curtain to enter the

- 1 room?
- 2 A Correct.
- 3 Q And he introduces himself, correct?
- 4 A He does.
- 5 Q He gives you his first name?
- 6 A Yes.
- 7 Q Gives him -- gives you his last name?
- 8 A Yes.
- 9 Q And indicates that he's a certified nursing
- 10 assistant?
- 11 A That's correct.
- 12 Q He tells you that he's there to check things out?
- 13 A Yes.
- 14 Q And you had indicated that this was within eyeshot of
- 15 the nursing station, correct?
- 16 A Correct.
- 17 Q So from what I understand, then, when Mr. Farmer
- 18 enters the room and opens the curtain, he doesn't close the
- 19 curtain behind him?
- 20 A That's correct.
- 21 Q So there's a line of sight between your room and the
- 22 nursing station?
- 23 A Correct.
- 24 Q Now, at this point, Mr. Farmer opens your gown,
- 25 correct?

1 A Yes.

2 Q Now he doesn't rip it open, does he?

3 A No.

4 Q And your gown opened in the front?

5 A Well, most hospital gowns are very large on me, so  
6 it was just kind of wrapped and I had it tucked to my side.

7 Q Okay. So he went to your side and opened the gown  
8 from there, correct?

9 A Correct.

10 Q And you -- at this particular point, the sheet to  
11 your bed, that was at your feet and ankle area?

12 A Yes.

13 Q So your -- the sheet wasn't up over your body?

14 A No.

15 Q So it would be fair to say that you're lying in the  
16 bed, the sheets are at the base of the bed, correct?

17 A Yes.

18 Q And what is -- the only thing that is covering your  
19 body is the gown, correct?

20 A Yes.

21 Q There's nothing -- there's no sheets to your right  
22 or to your left?

23 A No.

24 Q During the time where he opens your gown, does he  
25 lift up a sheet?

1           A     No.

2           Q     Now at this point, he inspects some of the leads on  
3 your body, correct?

4           A     Yes.

5           Q     And you were under the impression that he was there  
6 to see if they were tightened down and attached correctly?

7           A     I assumed, he never said.

8           Q     Never said, but you assumed?

9           A     Right.

10          Q     Okay. And he spent a couple of seconds on each  
11 lead, right?

12          A     Yes.

13          Q     And you indicated that while moving from one lead to  
14 another, his arm brushed your right breast?

15          A     No, that's not -- that's not correct.

16          Q     That's not correct?

17          A     That's not correct.

18          Q     (Inaudible) Can you correct me?

19          A     Yes. He pressed on three -- about three or four of  
20 the leads -- I think it was about three leads. And as he was  
21 leaving the area, he brushed up against my breast.

22          Q     So at the conclusion of examining the leads in your  
23 chest area?

24          A     Those leads, yes.

25          Q     Those particular leads?

1 A Yes.

2 Q Okay, that's fair. Now, this occurs, I believe,  
3 about a minute to two minutes in time, is that fair?

4 A Yes.

5 Q Is that fair?

6 A Yes.

7 Q And at the conclusion, does he state, everything  
8 looks okay?

9 A I don't recall him saying anything after that.

10 MR. BASHOR: Court's indulgence.

11 (Pause in the proceedings)

12 BY MR. BASHOR:

13 Q Would looking at your statement, the recorded  
14 statement that you gave to the police, help refresh your  
15 recollection as to whether or not he had said everything looks  
16 okay?

17 A Yes.

18 Q Great.

19 MR. BASHOR: Page 7, counsel.

20 MS. BLUTH: Thank you.

21 MR. BASHOR: At the bottom. Your Honor, may I  
22 approach?

23 THE COURT: Yes, you may.

24 THE WITNESS: Is it alright to get my glasses? My  
25 glasses.



1 THE COURT: Of course. She needs to get her  
2 glasses.

3 MR. BASHOR: Oh, please.

4 (Pause in the proceedings)

5 THE WITNESS: Okay.

6 BY MR. BASHOR:

7 Q Does that help refresh your recollection?

8 A Just in the written form, yes. I don't remember off  
9 the top of my head, no.

10 Q But you remember telling the police officer --  
11 excuse me, the detective that every -- that he -- that Mr.  
12 Farmer said everything looks okay and then proceeded to take  
13 the gown and crisscross it across your chest?

14 A Do I remember at this point? No. I don't remember  
15 that ever being said, so.

16 Q Do you not remember telling the police officer?

17 A That's correct.

18 Q Okay. Now, at -- Mr. Farmer then replaces -- or  
19 crisscrosses the gown across your body?

20 A Yes.

21 Q And he then exits the room, correct?

22 A Yes.

23 Q And he leaves the curtain open behind him?

24 A Yes.

25 Q Now, this experience made you feel uncomfortable,

1 right?

2 A It did.

3 Q It gave you a funny feeling?

4 A Yes.

5 Q You thought it was inappropriate?

6 A I thought it might be, yes.

7 Q That you didn't think it was medically necessary?

8 A That's correct.

9 Q Thought it was odd?

10 A Thought it was odd?

11 Q Um-hum.

12 A Yes.

13 Q That you felt that there were discrete ways of doing  
14 things and he wasn't being very discrete?

15 A Yes,

16 Q And after Mr. Farmer leaves your room, Nurse  
17 Margaret Wolfe comes back a certain time later, correct?

18 A Yes.

19 Q Did you tell her what had happened?

20 A No.

21 Q Did you ask that another -- that Mr. Farmer not come  
22 back to your room?

23 A No.

24 Q Did you ask for a supervisor?

25 A No.

1 Q Did you ask to speak with security?

2 A No.

3 Q Human Resources?

4 A No.

5 Q Police?

6 A No.

7 MR. BASHOR: Court's indulgence.

8 (Pause in the proceedings)

9 MR. BASHOR: Thank you, Ms. Hanna. Pass the  
10 witness, Your Honor.

11 THE COURT: Thank you. Redirect.

12 REDIRECT EXAMINATION

13 BY MS. BLUTH:

14 Q Just a few things, Ms. Hanna. When you were -- I  
15 know we spoke about when you were at Urgent Care, they placed  
16 leads. And then once you arrived at the hospital, Margaret  
17 worked on your leads as well, correct? With -- with placement  
18 and more stickies?

19 A Yes.

20 Q Okay. And I know it's hard, six years later, but do  
21 you remember the exact placement or would looking at your  
22 preliminary hearing transcript help refresh your recollection  
23 to where exactly they were plus? Placed?

24 A The exact placement? No. I mean, I -- I can kind  
25 of recall because I've had them before, but --

1 Q Sure.

2 A -- exactly, I don't know.

3 Q And so my question is would looking at your previous  
4 testimony shortly after the incident, would that help you  
5 remember where they were placed at the time?

6 A Probably, yes.

7 MR. BASHOR: Okay. May I approach (inaudible)?

8 THE COURT: Yes, you may.

9 BY MS. BLUTH:

10 Q There. If you could just read this portion to  
11 yourself and then let me know when you're finished.

12 A Okay.

13 Q Okay. Does that help refresh your recollection as  
14 to what you stated?

15 A Um-hum, yes, it does.

16 Q Okay. And so where was it that the leads were  
17 placed?

18 A There was one on my ankle, two on my upper arms on  
19 the inside. There's two on the upper chest and there's either  
20 three or four down below.

21 Q Okay. And the placement of the ones below, you  
22 stated that there was two underneath your breasts and two  
23 below that on your stomach; is that correct?

24 A Right.

25 Q Okay.

1 A That's correct.

2 Q And it was your testimony that he only touched the  
3 ones underneath your breasts and on your stomach?

4 A Yes.

5 MS. BLUTH: Okay. Nothing further.

6 THE COURT: Any cross?

7 MR. BASHOR: No, thank you, Your Honor.

8 THE COURT: Thank you. Thank you very much for your  
9 testimony.

10 THE WITNESS: Okay.

11 (Pause in the proceedings)

12 THE COURT: All right. Ladies and gentlemen, it's  
13 not quite 3:00, but we are out of witnesses for you for the  
14 day. We had another witness originally scheduled, but, you  
15 know, we're trying to accommodate all these medical care  
16 providers and their schedules. And so that witness needed to  
17 be rescheduled which is why we're done a little early today.  
18 These things happen typically in trials. So you're going to  
19 get an early out, as they say. Oh, darn.

20 Ladies and gentlemen, we are going to take an  
21 overnight recess. During this recess, it is your duty not to  
22 converse among yourselves or with anyone else on any subject  
23 connected with the trial, or to read, watch or listen to any  
24 report of or commentary on 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 Because I have a civil calendar in the morning,  
5 we're going to be resuming at 1:00 o'clock tomorrow, and so I  
6 expect -- are we expecting to go through till 5:00 tomorrow?

7 MS. BLUTH: No, Your Honor. We should -- it should  
8 be a short session on today and Tuesday -- tomorrow and  
9 Tuesday, and then the State will be completed.

10 THE COURT: So you're going to, of course, have a  
11 long weekend because the Monday holiday is President's Day,  
12 the courthouse is closed. And so it sounds like you'll have  
13 -- oh, are there some of you who will have to go to work? Oh,  
14 sorry. So it's not a long weekend for you, but -- but we  
15 would be here, we would -- all the lawyers would want to be  
16 here but they -- they'll lock the courthouse doors, so we  
17 won't be able to be here.

18 All right. Good evening to you. We'll see you  
19 tomorrow at 1:00.

20 (Outside the presence of the jury)

21 THE COURT: All right. The record will reflect the  
22 jury has departed the courtroom. Are there any matters  
23 outside the presence?

24 MS. BLUTH: Not on behalf of the State.

25 MR. MANINGO: No, Your Honor.

1 THE COURT: Thank you. I'll see you tomorrow at  
2 1:00.

3 (Court recessed at 2:57 p.m., until Friday,  
4 February 14, 2014, at 1:07 p.m.)

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