

IN THE SUPREME COURT OF THE STATE OF NEVADA

CENTURY SURETY COMPANY,

Appellant,

vs.

DANA ANDREW, AS LEGAL
GUARDIAN OF RYAN T. PRETNER;
AND RYAN T. PRETNER,

Respondents.

Case No. 73756

Electronically Filed
Jan 08 2018 09:35 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPENDIX TO RESPONDENT'S ANSWERING BRIEF

VOL. 10 OF 11

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Nevada Bar No. 5092

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CHRONOLOGICAL INDEX TO RESPONDENT’S APPENDIX

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Incident Report

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Printed by: solmarin2
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HENDERSON POLICE
 223 LEAD ST,
 HENDERSON, NEVADA 89015

Incident Number: 09-00612-003

III. NARRATIVE:

On 01-12-2009, at approximately 1815 hours, I, Officer R. Matuszak #794, was called out from my residence in reference to a serious injury accident that had occurred on eastbound St. Rose Parkway just east of Executive Airport Drive in the City of Henderson.

Upon my arrival in the area I noted that the two right most (#2 and #3) travel lanes of eastbound St. Rose Parkway just east of Executive Airport Drive had been closed to traffic by several Police Patrol units using cones and flares. I noted that parked along side the roadway approximately 300' east of the immediate scene was a white truck. There was a bicycle lying on its left side on the shoulder of the roadway in the immediate vicinity of the Police Units.

I spoke to Sgt. R. Rysewyk and Officer J. Clear who were among the first units to arrive. They advised me that the rider of the bicycle had been transported to University Medical Center Trauma unit for a severe head injury. Officer K. Avery responded to the Trauma Center where he took photographs of the victim and impounded the victim's clothing, helmet and personal items. Officer Avery also obtained a blood sample from the victim for processing.

I walked the scene of the accident and observed the following: on the south side of the roadway near the white fog line there was a black bicycle (V2) lying on its left side with the front wheel pointing south. Just east of V2 there was a large pool of blood from the victim. This was approximately 4' from the position of the bicycle.

Immediately east of the blood pool, there was a pair of white sunglasses presumably belonging to the victim. These were near the edge of pavement. Also, from this point and continuing east-southeast, was a debris field made up of several pieces of plastic and glass from the outside right mirror of V1; see photographs for specific locations and details of the debris.

Approximately 275' further east of this area, I observed V1 was stopped and parked on the south shoulder of St. Rose Parkway. The vehicle's lights were out and the vehicle was not running. I conducted a brief exterior examination of the vehicle and noted the following. The right outside mirror was broken off and parts of the base and mounting assembly were still attached to the truck. There was an impression on the right side front window of V1 which appeared to be from the outside mirror striking the side window with a significant amount of force sufficient to leave an impression in the glass and embed parts of the mirror into the glass as well.

I observed minor scuffs to the right front door of V1 which were black in color. There was a small scratch congruent to a body line on the right rear door of V1 and a small scratch and dent on the same door lower down.

On the front bumper I observed a small gouge in the plastic bodywork just below the bumper. This damage appeared to be older and unrelated to the collision which I was investigating. In a later conversation with Michael Vasquez, I learned that this was from road debris on a previous date. There was no corresponding damage or scuffing to the undercarriage of V1. The damage to V2 was inconsistent to this damage.

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Incident Report

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HENDERSON POLICE
 223 LEAD ST,
 HENDERSON, NEVADA 89015

Incident Number: 09-00812-003

Additionally I noted that the front side windows of V1 appeared to have an extremely dark tint applied. I was later able to measure the window tint as 02%. Refer to NRS 484.6195 for specifics, but paraphrased it states that the front side windows may have a tint of 35% with \pm plus or minus of 07%. Michael advised that the vehicle was purchased with the tint as-is from the dealer.

Examination of the right side tires and undercarriage of V1 were inconclusive in that there was no evidence of damage or collision with another object.

GSA Patrick Farrell was on scene taking digital photographs of the scene and the vehicles involved. He later downloaded these photographs into the HPD DESS.

I then examined V2 more closely and noted that the right side of the bicycle was undamaged and appeared to be intact. I inspected the tires looking for any scuffing or other indication that the bicycle itself had been struck and there was no such evidence. I then righted the bicycle and examined the left side. I observed that the saddle had a scuff on the left rear quarter. There was a small abrasion to the front brake padding/hand support on the left handlebar. There was a small scratch to the left pedal and several small scratches to the left rear wheel axle bolt. There was no other damage noted.

I then looked for safety devices on the bicycle; i.e. reflectors or lighting equipment and there was none affixed to the bicycle whatsoever. The bicycle itself is constructed of what appears to be carbon fiber and there are no reflective surfaces on the bicycle.

Sgt. T. Onell who is assigned to the traffic bureau diagrammed the scene using a Leica GPS Smart Rover. I later downloaded this data to Crash Zone 6.5 and with this information I created a scene diagram which is attached to this report.

I spoke to the driver of V1 who remained at the scene and was accompanied by his mother during my interview with him. Officer R. Galbraith who was also on scene was with me when I spoke to Michael Vasquez. Vasquez had verbally identified himself as he did not have his driver license in his possession. It was later confirmed that Michael has a valid class C NV driver license.

I explained to Michael Vasquez that he was not under arrest and that at this time there were no charges pending against either of the involved. I asked him if he would be willing to answer questions in regard to the accident and he consented. I specifically asked him questions pertaining to what his destination was and he stated that he was on his way to his Uncle's home coming from his house. I asked Michael if he had been drinking or taking any drugs either illicit or prescription and he stated that he did not. I asked if he was currently under the care of a dentist or physician and he stated that he was not. I asked when he had slept last and he stated that he had slept the prior evening and gotten a full night sleep. I inquired as to whether Michael required corrective lenses for either reading or driving and he stated that he did not.

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Incident Report

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HENDERSON POLICE
 223 LEAD ST,
 HENDERSON, NEVADA 89016

Incident Number: 09-00812-003

In speaking to Vasquez, I noted that he was completely lucid and understood all my questions. His eyes were clear and he gave no outward indications of being under the influence of either drugs or alcohol. His mannerisms and actions at the scene were that of a concerned individual and he repeatedly asked the condition of the victim. I advised him that I had no further information other than that the victim was currently undergoing medical treatment and I had no prognosis.

Michael stated that he had been on his way to his Uncle's house and had just made a right turn from northbound Executive Airport Drive onto St. Rose Parkway into the furthest right eastbound lane. Michael said that there was no traffic moving his direction and that there were no other cars around him when he made his turn.

Vasquez said that he continued traveling eastbound in the right most lane and he saw no one on the roadway at the time. He said that his headlamps were on and that they were set to Automatic which was later verified. I also checked to see that the automatic setting was operative and it was. Michael said that he heard a loud noise on his right side which was when he simultaneously saw the bicyclist and struck him. He immediately commented that he saw no lights or reflectors on the bicycle and that it was dark out at the time of the collision.

Michael said he immediately pulled over to the right side of the roadway and saw the bicyclist lying on the shoulder of the road and called 911.

I spoke to Officer J. Clear who was among the first arriving units and asked her what the lighting conditions were. She stated that she had arrived and that her headlights were not on. She further said that though there was no direct sunlight there was sufficient ambient lighting to see a considerable distance.

I called the National Weather Service and verified that sunset on January 12th 2009 was at 1647 hours. Based upon the time of the collision, V2 should have been equipped with reflectors and lights as required by NRS 484.513 and the time requirements as outlined in NRS 484.545.

V1 was released at the scene to the driver, Michael Vasquez. V2 was impounded for safekeeping as the victim's identity was unknown at that time.

I later received a phone call from Officer Avery who advised that he had been contacted by a person identifying themselves as the sister of the victim rider. Dana Andrew said that the victim was her brother, Ryan Terry Pretner (08-22-1971). From Andrew, Officer Avery was able to provide all the personal information regarding the victim.

Officer Avery then met me at the Henderson Police Department West Substation where I was able to examine the clothing and other items belonging to Pretner. I first examined the helmet which was taken to the hospital with the victim by HFD Rescue. The helmet was a light colored helmet with what appeared to be damage to the back portion of the helmet. There were no reflective devices affixed to the helmet.

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 HENDERSON, NEVADA 89015


Incident Number: 09-00812-003

The clothing worn by the victim was a multi-colored bicycling jersey and garment combining both shorts and a tank top type upper garment. There was a zip-up jacket of the same material and color. These items appear to have been cut from the victim by HFD Rescue. The clothing consisted of a white background with broad red and green stripes covering the garment along with various logos. This garment is typical of those worn by bicycling enthusiasts. Digital photographs were taken of the garment using a flash. There was no reflective material on any portion of the garment.

I then examined the shoes worn by the rider. These were clip-on type shoes designed to be used with special pedals affixed to the bicycle. The shoes had two small reflective squares on the heel portion of the shoe and were each approximately 3/16" square. The squares were placed vertically on the heel of each shoe. There was also a blackberry phone and a silver metal ring. All these items were impounded for evidentiary and safekeeping purposes.

As of the time of this report, Pretner is still listed in critical condition in the Trauma ICU at UMC. His injuries are listed as severe head trauma with internal bleeding and swelling of the brain. His condition has remained unchanged for the time since his initial treatment and surgery to relieve the pressure and swelling. There is some brain activity and medical staff is hopeful that he may regain consciousness but are unable to provide a time-line for the patient due to the uncertain nature of head injuries.

On 02-02-2009 I again met with

Michael Vasquez where he was cited for Failing to Yield Right of Way to a Bicyclist; a misdemeanor violation of NRS 484.324. Citation number H-106730-A. 

IV.a CALCULATIONS:

Due to the nature of this collision I am unable to conduct speed workups. There is insufficient physical evidence to make any accurate calculations; and any estimates as to the speed of the vehicles involved would be merely conjecture on my part.

V.n VEHICLE DISPOSITION:

V1 was released to Michael Vasquez at the scene.
 V2 is currently impounded in the HPD Evidence Vault for safekeeping.

□

VI.e CONCLUSION:

V2 was traveling eastbound on St. Rose Parkway on or near the white fog line on the south side of the roadway. Per NRS 484.509 V2 was operating his bicycle in a manner consistent to that described in the NRS specifically NRS 484.509-1.

V1 was traveling eastbound on St. Rose Parkway in the number 3 travel lane. At a point approximately 1340' east of Executive Airport Drive, the driver of V1 struck the rider of V2 with the outside right mirror of V1 causing

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Incident Report

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HENDERSON POLICE
223 LEAD ST,
HENDERSON, NEVADA 89015

Incident Number: 09-00812-003

substantial bodily harm to the rider of V2.

Pursuant to NRS 484.324 subsections 1(b) and 4(a), driver of V1 did not operate his vehicle in a manner to ensure the safety of the bicyclist.

Contributing Factors:

There was an insignificant amount of reflective material on the rider of V2 as well as V2 (bicyclist).

V1 had extremely dark tinting on the front side windows, later measured at 02%.

Lighting conditions were deteriorating at the time of the collision as the sun had set at 1847 hours though some ambient light was still available.

VII.2 ASSISTING UNITS ON SCENE:

Unit arrival time in parenthesis * denotes traffic unit

HPD UNITS:

Ofc L. Morrison (1730) Ofc J. Clear (1730) Ofc A. Abreau (1732)
Ofc K. Avery (1732) Sg. R. Rysewyk (1737) Ofc S.A. Farrell (1820)
Ofc R. Matuszak* (1840) Sgt T. Oneill* (1851) Ofc R. Galbraith* (1856)

HPD UNITS:

Unit arrival time in parenthesis:

Battalion 9 (1729) T-Rescue 97 (1729) R-Engine 95 (1730)

VIII. APPLICABLE NEVADA REVISED STATUTES CITED IN ABOVE TEXT:

"It should be noted that these Statutes are copied from the Nevada Law Library Website: " <http://www.leg.state.nv.us/law1.cfm>

NRS 484.145 "Roadway" defined. "Roadway" means that portion of a highway which is improved and ordinarily used for vehicular traffic, exclusive of the shoulder.

(Added to NRS by 1973, 448)

NRS 484.324. Vehicles and bicycles.

1. The driver of a motor vehicle shall not:

(a) Intentionally interfere with the movement of a person lawfully riding a bicycle, or

(b) Overtake and pass a person riding a bicycle unless he can do so safely without endangering the person riding the bicycle.

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2. The driver of a motor vehicle shall yield the right-of-way to any person riding a bicycle on the pathway or lane. The driver of a motor vehicle shall not enter, stop, stand, park or drive within a pathway or lane provided for bicycles except:

- (a) When entering or exiting an alley or driveway;
- (b) When operating or parking a disabled vehicle;
- (c) To avoid conflict with other traffic;
- (d) In the performance of official duties;
- (e) In compliance with the directions of a police officer; or
- (f) In an emergency.

3. Except as otherwise provided in subsection 2, the driver of a motor vehicle shall not enter or proceed through an intersection while driving within a pathway or lane provided for bicycles.

4. The driver of a motor vehicle shall:

- (a) Exercise due care to avoid a collision with a person riding a bicycle; and
- (b) Give an audible warning with the horn of the vehicle if appropriate and when necessary to avoid such a collision.

5. The operator of a bicycle shall not:

- (a) Intentionally interfere with the movement of a motor vehicle; or
- (b) Overtake and pass a motor vehicle unless he can do so safely without endangering himself or the occupants of the motor vehicle.

(Added to NRS by 1991, 2228; A 1997, 738; 1999, 1664)

NRS 484.503. Traffic laws apply to person riding bicycle. Every person riding a bicycle upon a roadway has all of the rights and is subject to all of the duties applicable to the driver of a vehicle except as otherwise provided in NRS 484.504 to 484.513, inclusive, and except as to those provisions of this chapter which by their nature can have no application.

(Added to NRS by 1957, 504; A 1997, 1728)

NRS 484.509. Operating bicycle on roadway.

1. Every person operating a bicycle upon a roadway shall, except:

- (a) When travelling at a lawful rate of speed commensurate with the speed of any nearby traffic;
- (b) When preparing to turn left; or
- (c) When doing so would not be safe;

It ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

2. Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

(Added to NRS by 1957, 504; A 1991, 2229)

NRS 484.513. Lamps, reflectors and brakes required on bicycles.

1. Every bicycle when in use at night must be equipped with:

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HENDERSON POLICE
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HENDERSON, NEVADA 89015

Incident Number: 09-00812-003

- (a) A lamp on the front which emits a white light visible from a distance of at least 500 feet to the front;
 - (b) A red reflector on the rear of a type approved by the Department which must be visible from 50 feet to 300 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle; and
 - (c) Reflective material of a sufficient size and reflectivity to be visible from both sides of the bicycle for 600 feet when directly in front of the lawful lower beams of the head lamps of a motor vehicle, or in lieu of such material, a lighted lamp visible from both sides from a distance of at least 500 feet.
2. Every bicycle must be equipped with a brake which will enable the operator to make the wheels skid on dry, level, clean pavement.
- (Added to NRS by 1957, 505; A 1961, 138; 1975, 30; 1985, 1464, 1952; 1991, 2229)

NRS 484.645 When lighted lamps are required.

1. Every vehicle upon a highway of this State, subject to exceptions with respect to parked vehicles as stated in this chapter, must display lighted lamps and illuminating devices as respectively required in this chapter for different classes of vehicles:

- (a) At any time from one-half hour after sunset to one-half hour before sunrise;
 - (b) At any other time when, because of insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead; and
 - (c) When directed by an official traffic control device.
2. Every vehicle upon a highway must be equipped with stop lights, turn signals and other signaling devices to be lighted in the manner prescribed for the use of such devices.
- [Part 6:160:1925; A 1939, 316; 1945, 268; 1955, 40]-(NRS A 1969, 1211; 2001, 1507)

CASE DISPOSITION:

This case is closed by adult citation # H-106730-A.

CC: DCA

Attachments: Scene Diagram

□

To: dprince@princekeating.com;
From: LMHENDER
Cc:
Bcc:
Subject: 01061367 BLUE STREAK AUTO DETAILING
Date/Time Sent: 03/07/2011 2:58 PM

=====BEGINNING OF MESSAGE=====

Drawer: CLM
FileNo: 01061367

Mr. Prince,
I am the claims attorney assigned to handle this claim by your clients against Blue Streak Auto Detailing. Regarding your request for a full copy of the policy, Century cannot disclose any policy information without the written consent of the named insured. I am contacting the named insured to see if I can obtain permission to disclose. I will advise you if I receive permission.

Thank you,

Lisa

Lisa M. Henderson

Claims Attorney

Century Insurance

A Subsidiary of Meadowbrook Insurance Group

23733 N. Scottsdale Road, Ste. 100

Scottsdale, Arizona 85255

(602) 216-6589 Direct

(800) 840-0463 Toll Free

(614) 895-7040 Fax

LHenderson@centurysurety.com

=====END OF MESSAGE=====

Attached Files:
IR110000.pdf

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PRINCE & KEATING
 ATTORNEYS AT LAW
 3230 SOUTH BUFFALO DRIVE, SUITE 108
 LAS VEGAS, NEVADA 89117
 TELEPHONE (702) 238-6800
 FACSIMILE (702) 238-0443
 WWW.PRINCEKEATING.COM

Reply To: Dennis M. Prince
 Email: DPrince@PrinceKeating.com

March 3, 2011

VIA FACSIMILE (614) 895-7040

Charles C. Holland
 Senior Claims Handler
 Century Insurance Company
 P.O. Box 163340
 Columbus, Ohio 43216-3340

RE: Our Client : Ryan T. Pretner
 Your Insured : Blue Streak Auto Detailing, Inc.
 Claim No. : 01-061367
 Date of Loss : 01/12/09

Dear Mr. Holland:

Please be advised that this firm has been retained to represent the interests of Ryan T. Pretner in connection with the above-referenced motor vehicle accident. Please direct all future communication to this office.

As you know, this claim arises from a motor vehicle accident which occurred on January 12, 2009. Your insured, Michael Vasquez, struck Mr. Pretner with the side view mirror of his truck while Mr. Pretner was riding his bicycle. Mr. Pretner was violently thrown from his bike, and sustained catastrophic injuries. To date, Mr. Pretner continues to receive rehabilitative treatment for his injuries. Mr. Vasquez was cited for causing the accident. We are enclosing the Traffic Accident Report for your reference.

Mr. Vasquez maintained automobile insurance with liability limits of \$100,000/\$300,000 with Progressive Casualty Insurance Company on the date of loss. Progressive has tendered their policy of insurance, but we are not in a position to accept this policy and release Mr. Vasquez until this claim is resolved as it relates to any other available insurance policy. We have been advised that Blue Streak Auto Detailing maintained a garage policy which was in effect at the time of the accident under which you have denied coverage. Our legal research indicates coverage exists under your policy. Please provide a certified copy of the garage policy for our review.

CSC000131

Andrew v CSC
 CF000131

R.App. 001359



Ameritrust Insurance Corporation • Century Surety Company • ProCentury Insurance Company • Star Insurance Company • Savers Property & Casualty Insurance Company • Williamsburg National Insurance Company

March 8, 2011

VIA REGULAR MAIL AND EMAIL mav7778@yahoo.com

Michael Vasquez
Blue Streak Auto Detailing
3675 E. Post Road, Suite B
Las Vegas, NV 89120

Michael Vasquez
Blue Streak Auto Detailing
1886 Via Ferenz
Henderson, NV 89044

Re: *Ryan Pretner, et. al. v. Michael Vasquez and Blue Streak Auto Detailing, LLC*

Named Insured: Blue Streak Auto Detailing
Policy No.: CCP502869
Effective Dates: 06-27-08 to 06-27-09
Date of Loss: January 12, 2009
Claim No.: 01-061367

Dear Mr. Vasquez:

I am an in-house claims attorney for Meadowbrook Claim Services assigned to oversee this claim on behalf of Century Surety Company ("Century"). As you are aware, Mr. Pretner has filed a lawsuit against you and Blue Streak Auto Detailing.

The attorney for Mr. Pretner has requested a complete copy of Blue Streak Auto Detailing's policy with Century. Century cannot give this attorney a copy of the policy without your written consent. Please advise in writing if you will allow us to give a copy of the policy to Mr. Pretner's attorney. Please either fax me a note giving written permission to 614-895-7040 or send an email letting me know if I have permission to disclose the policy to lhenderson@centurysurety.com.

Should you wish to discuss this matter, please do not hesitate to contact me at 602-216-6589.

Very truly yours,

CENTURY SURETY COMPANY

Lisa M. Henderson
Claims Attorney

LMH/mk

Lisa Henderson
Claims Attorney
LHenderson@centurysurety.com | 800-840-0463
Mailing Address: P.O. Box 163340 Columbus, Ohio 43216-3340
Physical Address: 23733 N. Scottsdale Rd., Suite 100, Scottsdale, AZ 85255
Phone: 888-651-6424 Fax: 614-895-7040 Website: www.centurysurety.com

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Blue Streak Auto Detailing
March 8, 2011
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cc: The Harris Agency
5105 South Durango Dr., Suite 100
Las Vegas, NV 89113

Worldwide Facilities, Inc.
Via email gaclaims@wwfi.com

**WARNING
(Nevada)**

If a hospital submits to an insurer the form commonly referred to as the "UB-82," the form must contain or be accompanied by a statement in substantially the following form: "Any person who misrepresents or falsifies essential information requested on this form may, upon conviction, be subject to a fine and imprisonment under state or federal law, or both."

If a person who is licensed to practice one of the health professions regulated by Title 54 of NRS submits to an insurer the form commonly referred to as "HCFA-1500" for a patient who is not covered by any governmental program which offers insurance coverage for health care, the form must be accompanied by a statement in substantially the following form: "Any person who knowingly files a statement of claim containing any misrepresentation or any false, incomplete or misleading information may be guilty of a criminal act punishable under state or federal law, or both, and may be subject to civil penalties."

Revised 12/2009

Marjorie Kilwine

From: Lisa Henderson
Sent: Monday, March 07, 2011 3:19 PM
To: Claims Transcription
Subject: 61367 Blue Streak Auto



61367 Blue Streak
Auto Detail...

This can go out. Thanks

Lisa M. Henderson

Claims Attorney
Century Insurance
A Subsidiary of Meadowbrook Insurance Group
23733 N. Scottsdale Road, Ste. 100
Scottsdale, Arizona 85255
(602) 216-6589 Direct
(800) 840-0463 Toll Free
(614) 895-7040 Fax
LHenderson@centurysurety.com

To: mav7778@yahoo.com;
From: MRKILWIN
Cc: gaclaims@wwfi.com;

Bcc:
Subject: 01061367 BLUE STREAK AUTO DETAILING
Date/Time Sent: 03/08/2011 10:22 AM

=====BEGINNING OF MESSAGE=====

Drawer: CLM
FileNo: 01061367

Correspondence from Lisa Henderson
LHenderson@centurysurety.com

=====END OF MESSAGE=====

Attached Files:
IR_Ltr_to_Insd_req_permission_to_disclose_policy110001.pdf

Lisa Henderson

From: Marjorie Kilwine
Sent: Tuesday, March 08, 2011 11:42 AM
To: Lisa Henderson
Subject: FW: 01061367 BLUE STREAK AUTO DETAILING

From: Mike Vasquez [mailto:mav7778@yahoo.com]
Sent: Tuesday, March 08, 2011 11:28 AM
To: Marjorie Kilwine
Subject: Re: 01061367 BLUE STREAK AUTO DETAILING

Yes I Michael Vasquez give you permission to disclose policy. To Mr. Printner's attorney.

Thank you for your business,

Mike Vasquez
Owner
Blue Streak Auto Detailing
(702)286-8450

President
Pristine House Cleaning
(702)755-2107

Mobiledetailinglasvegas.net
Pristinehousecleaning.com

On Mar 8, 2011, at 9:22 AM, Marjorie Kilwine <MKilwine@centurysurety.com> wrote:

Drawer: CLM
FileNo: 01061367

Correspondence from Lisa Henderson
LHenderson@centurysurety.com

<IR_Ltr_to_Insd_req_permission_to_disclose_policy110001.pdf>

03/08/2011

CSC000136

Andrew v CSC
CF000136

R.App. 001364

To: DPrince@princekeating.com;
From: JMBUSSAR
Cc:
Bcc:
Subject: 01061367 BLUE STREAK AUTO DETAILING
Date/Time Sent: 3/8/2011 2:27 PM

=====BEGINNING OF MESSAGE=====

Hello Dennis,

Please see the attached complete policy of CCP502869 Blue Streak Auto Detailing.

Thank you,

Jen Bussard
Claims Processing Specialist
614-543-7749
jbussard@centurysurety.com

=====END OF MESSAGE=====

Attached Files:
IR110000.pdf



Century Surety Company

465 Cleveland Avenue
Westerville, Ohio 43082
614-895-2000

www.centurysurety.com

COMMERCIAL LINES POLICY COMMON POLICY DECLARATIONS

POLICY NO.: CCP502869

NAMED INSURED AND ADDRESS:

BLUE STREAK AUTO DETAILING

3675 E POST RD
SUITE B
LAS VEGAS

NV 89120

**NEW
CODE NO.:** 5718A
INSUREDS AGENT:

THE HARRIS AGENCY

5105 S DURANGO DR
SUITE 100
LAS VEGAS

NV 89113

POLICY PERIOD: From: 06/27/2008 To: 06/27/2009 at 12:01 A.M. Standard time at your mailing address shown above.

Business Description: AUTO DETAILING AND WASH

Individual Joint Venture Partnership Limited Liability Company (LLC) Organization (Other than Partnership, LLC or Joint Venture)

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

THIS POLICY CONSISTS OF THE FOLLOWING COVERAGE PARTS FOR WHICH A PREMIUM IS INDICATED. THIS PREMIUM MAY BE SUBJECT TO ADJUSTMENT.

	PREMIUM
GARAGE COVERAGE FORM	\$ 1,508.00

25 % of the Policy Premium is fully earned as of the effective date of this policy and is not subject to return or refund.

TOTAL \$ 1,508.00

Service of Suit (if form CCP 20 10 is attached) may be made upon:

HERITAGE GENERAL AGENCY INSURANCE SERVICES
ERNST & YOUNG BLDG, 725 S FIGUEROA ST, 19 FL, LOS ANGELES, CA 90017

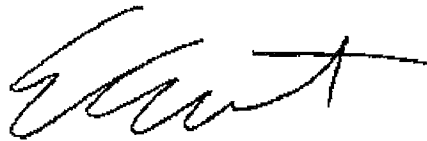
Form(s) and Endorsement(s) made a part of this policy at time of issue*:
SEE ATTACHED SCHEDULE OF FORMS: CIL 15 00b 02 02


*Omits applicable Forms and Endorsements if shown in specific Coverage Part/Coverage Form Declarations.
Any person who, with intent to defraud or knowing that he is facilitating a fraud against an insurer, submits an application or files a claim containing false or deceptive statement is guilty of insurance fraud.

COMPANY REPRESENTATIVE:
HERITAGE GENERAL AGENCY INSURANCE SVCS
THE ERNST & YOUNG BLDG
725 S FIGUEROA ST, 19TH FLOOR
LOS ANGELES CA 90017

Countersigned By _____
Authorized Representative
07/24/2008 TLH

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly Authorized Agent of this Company at the Agency hereinbefore mentioned.


Secretary


President

CSCP 10 01 03 06

COMPANY

Andrew v CSC
CF000138

CSC000138

R.App. 001366

Century Surety Company

Garage Coverage Form Declarations

ITEM ONE

POLICY NO.: CCP502869

EFFECTIVE DATE: 06/27/2008

12:01A.M. Standard Time

NAMED INSURED: BLUE STREAK AUTO DETAILING

ITEM TWO

SCHEDULE OF COVERAGES AND COVERED AUTOS

This policy provides only those coverages where a charge is shown in the premium column below. Each of these coverages will apply only to those "autos" shown as covered "autos". "Autos" are shown as covered "autos" for a particular coverage by the entry of one or more of the symbols from the Covered Autos Section of the Garage Coverage Form next to the name of the coverage. Entry of a symbol next to Liability provides coverage for "garage operations".

COVERAGES	COVERED AUTOS (Entry of one or more of the symbols from the Covered Autos Section of the Garage Coverage Form shows which autos are covered autos.)	LIMIT			PREMIUM
		Each "Accident" "Garage Operations"	Aggregate - "Garage Operations"		
LIABILITY	29				\$ 1,508
		"Auto" Only	Other Than "Auto" Only	Other Than "Auto" Only	
		\$ 1,000,000	\$ 1,000,000	\$ 2,000,000	
PERSONAL INJURY PROTECTION (or equivalent No-fault Coverage)		SEPARATELY STATED IN EACH P.I.P. ENDORSEMENT MINUS \$ DED.			\$
ADDED PERSONAL INJURY PROTECTION (or equivalent Added No-fault Coverage)		SEPARATELY STATED IN EACH ADDED P.I.P. ENDORSEMENT.			\$
PROPERTY PROTECTION INSURANCE (Michigan only)		SEPARATELY STATED IN THE P.P.I. ENDORSEMENT MINUS \$ DED. FOR EACH ACCIDENT.			\$
MEDICAL PAYMENTS		\$			\$
MEDICAL EXPENSE AND INCOME LOSS BENEFITS (Virginia only)		SEPARATELY STATED IN EACH MEDICAL EXPENSE AND INCOME LOSS BENEFITS ENDORSEMENT			\$
UNINSURED MOTORISTS		\$			\$
UNDERINSURED MOTORISTS (When not included in Uninsured Motorists Coverage)		\$			\$
GARAGEKEEPERS COMPREHENSIVE COVERAGE		\$ EACH LOCATION MINUS \$ DED. FOR EACH CUSTOMER'S AUTO FOR LOSS CAUSED BY THEFT OR MISCHIEF OR VANDALISM SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT;			\$
GARAGEKEEPERS SPECIFIED CAUSES OF LOSS COVERAGE		OR \$ EACH LOCATION MINUS \$ DED. FOR EACH CUSTOMER'S AUTO FOR ALL PERILS SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT			\$

POLICY NUMBER: CCP502869

ITEM TWO

SCHEDULE OF COVERAGES AND COVERED AUTOS (Cont'd)

COVERAGES	COVERED AUTOS (Entry of one or more of the symbols from the Covered Autos Section of the Garage Coverage Form shows which autos are covered autos.)	LIMIT	PREMIUM
GARAGEKEEPERS COLLISION COVERAGE		\$ EACH LOCATION MINUS \$ DED. FOR EACH COVERED AUTO.	\$
PHYSICAL DAMAGE COMPREHENSIVE COVERAGE		ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO, BUT NO DEDUCTIBLE APPLIES TO LOSS CAUSED BY FIRE OR LIGHTNING. See Supplementary Schedule For Dealers "Autos" And "Autos" Held For Sale By Trailer Dealers And Non-Dealers.	\$
PHYSICAL DAMAGE SPECIFIED CAUSES OF LOSS COVERAGE		ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO FOR LOSS CAUSED BY MISCHIEF OR VANDALISM. See Supplementary Schedule For Dealers "Autos" And "Autos" Held For Sale By Trailer Dealers And Non-Dealers.	\$
PHYSICAL DAMAGE COLLISION COVERAGE		ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO. See Supplementary Schedule For Dealers "Autos" And "Autos" Held For Sale By Trailer Dealers And Non-Dealers.	\$
PHYSICAL DAMAGE TOWING AND LABOR		\$ For Each Disablement Of A Private Passenger "Auto".	\$
			\$
		PREMIUM FOR ENDORSEMENTS	\$
		TRIA COVERAGE	\$
		* ESTIMATED TOTAL PREMIUM	\$ 1,508

* This policy may be subject to final audit.

ENDORSEMENTS ATTACHED TO THIS POLICY (other than applicable Forms and Endorsements shown elsewhere in the policy):
Forms and Endorsements applying to this Coverage Part and made part of this policy at time of issue:

THIS DECLARATION MUST BE COMPLETED BY THE ATTACHMENT OF A SUPPLEMENTARY SCHEDULE.

CAG 1900 1203

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R.App. 001368

POLICY NUMBER: CCP502869

COMMERCIAL AUTO
CA 03 01 03 06

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DEDUCTIBLE LIABILITY COVERAGE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: BLUE STREAK AUTO DETAILING Endorsement Effective Date: 06/27/2008
Countersignature Of Authorized Representative
Name: Not Applicable Title: Not Applicable Signature: Not Applicable Date: Not Applicable

SCHEDULE

Liability Deductible:	\$	1,000	Per "Accident"
"Property Damage" Deductible:	\$		Per "Accident"
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

Liability Coverage is changed as follows:

A. Liability Coverage Deductible

The damages caused in any one "accident" that would otherwise be payable under Liability Coverage will be reduced by the Liability Deductible shown in the Schedule prior to the application of the Limit of Insurance provision.

B. Property Damage Liability Coverage Deductible

The damages that would otherwise be payable under Liability Coverage for "property damage" caused in any one "accident" will be reduced by the "Property Damage" Deductible shown in the Schedule prior to the application of the Limit of Insurance provision.

C. Our Right To Reimbursement

To settle any claim or "suit" we may pay all or any part of any deductible shown in the Schedule. If this happens, you must reimburse us for the deductible or the part of the deductible we paid.

CAG 1919 0807

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GARAGE OPERATIONS LIMITATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

GARAGE COVERAGE FORM

SCHEDULE

The following work and operations are included within the definition of "Garage operations":

AUTO DETAILING AND WASH

Coverage for classifications, operations or premises not shown above can only be covered if agreed to, in writing, by us as evidenced by endorsement to this policy.

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GARAGE COVERAGE FORM – NON-DEALERS' AND TRAILER DEALERS' SUPPLEMENTARY SCHEDULE

POLICY NUMBER: CCP502869

ITEM THREE

LOCATIONS WHERE YOU CONDUCT GARAGE OPERATIONS

LOCATION NO.	ADDRESS State Your Main Business Location As Location No. 1.
1	3675 E POST RD, STE B, LAS VEGAS, NV 89120
2	
3	

ITEM FOUR

LIABILITY COVERAGE – PAYROLL RATING BASIS FOR YOUR PREMISES AND OPERATIONS AND NONOWNED AUTOS USED IN YOUR BUSINESS. REFER TO ITEM SIX FOR THE LIABILITY PREMIUMS FOR THE COVERED AUTOS YOU HIRE OR BORROW. REFER TO ITEM SEVEN FOR COVERED AUTOS YOU OWN.

LOCATION NO.	ESTIMATED PAYROLL	RATE PER \$100 OF PAYROLL	PREMIUM
1	\$ 10,400	\$ 14.499	\$ 1,508
2	\$	\$	\$
3	\$	\$	\$
TOTAL PREMIUM			\$ 1,508

ITEM FIVE

GARAGEKEEPERS COVERAGES AND PREMIUMS

Location No.	Coverages	Limit Of Insurance For Each Location (Absence of a limit or deductible below means that the corresponding ITEM TWO limit or deductible applies.)
1	Comprehensive	\$ MINUS \$ DEDUCTIBLE FOR EACH CUSTOMER'S AUTO FOR LOSS CAUSED BY THEFT OR MISCHIEF OR VANDALISM SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT; OR
	Specified Causes Of Loss	\$ MINUS \$ DEDUCTIBLE FOR ALL PERILS SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT.
	Collision	\$ MINUS \$ DEDUCTIBLE FOR EACH CUSTOMER'S AUTO.
2	Comprehensive	\$ MINUS \$ DEDUCTIBLE FOR EACH CUSTOMER'S AUTO FOR LOSS CAUSED BY THEFT OR MISCHIEF OR VANDALISM SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT; OR
	Specified Causes Of Loss	\$ MINUS \$ DEDUCTIBLE FOR ALL PERILS SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT.
	Collision	\$ MINUS \$ DEDUCTIBLE FOR EACH CUSTOMER'S AUTO.

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ITEM FIVE (Cont'd)

3	Comprehensive	\$	MINUS \$	DEDUCTIBLE FOR EACH CUSTOMER'S AUTO FOR LOSS CAUSED BY THEFT OR MISCHIEF OR VANDALISM SUBJECT TO
		\$		MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT; OR
	Specified Causes Of Loss	\$	MINUS \$	DEDUCTIBLE FOR ALL PERILS SUBJECT TO
		\$		MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT.
	Collision	\$	MINUS \$	DEDUCTIBLE FOR EACH CUSTOMER'S AUTO.

PREMIUM FOR ALL LOCATIONS

Comprehensive	\$
Specified Causes Of Loss	\$
Collision	\$

DIRECT COVERAGE OPTIONS

Indicate below with an "X" which, if any, Direct Coverage Option is selected.

EXCESS INSURANCE

If this box is checked, Garagekeepers Coverage remains applicable on a legal liability basis. However, coverage also applies without regard to your or any other "insured's" legal liability for "loss" to a "customer's auto" on an excess basis over any other collectible insurance regardless of whether the other insurance covers your or any other "insured's" interest or the interest of the "customer's auto's" owner.

PRIMARY INSURANCE

If this box is checked, Garagekeepers Coverage is changed to apply without regard to your or any other "insured's" legal liability for "loss" to a "customer's auto" and is primary insurance.

ITEM SIX

SCHEDULE OF HIRED OR BORROWED COVERED AUTO COVERAGE AND PREMIUMS

LIABILITY COVERAGE - RATING BASIS, COST OF HIRE				
STATE	ESTIMATED COST OF HIRE FOR EACH STATE	RATE PER EACH \$100 COST OF HIRE	FACTOR (if Liability Coverage Is Primary)	PREMIUM
	\$	\$		\$
TOTAL PREMIUM				\$

Cost of hire means the total amount you incur for the hire of "autos" you don't own (not including "autos" you borrow or rent from your partners or "employees" or their family members). Cost of hire does not include charges for services performed by motor carriers of property or passengers.

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POLICY NUMBER: CCP502869

PHYSICAL DAMAGE COVERAGE

COVERAGES	LIMIT OF INSURANCE THE MOST WE WILL PAY DEDUCTIBLE	ESTIMATED ANNUAL COST OF HIRE	RATE PER EACH \$100 ANNUAL COST OF HIRE	PREMIUM
COMPREHENSIVE	ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO, BUT NO DEDUCTIBLE APPLIES TO LOSS CAUSED BY FIRE OR LIGHTNING.	\$	\$	\$
SPECIFIED CAUSES OF LOSS	ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO FOR LOSS CAUSED BY MISCHIEF OR VANDALISM.	\$	\$	\$
COLLISION	ACTUAL CASH VALUE OR COST OF REPAIR, WHICHEVER IS LESS, MINUS \$ DED. FOR EACH COVERED AUTO.	\$	\$	\$
TOTAL PREMIUM				\$

ITEM SEVEN

SCHEDULE OF COVERED AUTOS YOU OWN

Covered Auto No.	DESCRIPTION		PURCHASED		TERRITORY			
	Year, Model, Trade Name, Body Type Serial Number (S) Vehicle Identification Number (VIN)		Original Cost New	Actual Cost & NEW (N) USED (U)	Town & State Where The Covered Auto Will Be Principally Garaged			
1			\$	\$				
2			\$	\$				
3			\$	\$				
4			\$	\$				
5			\$	\$				
Covered Auto No.	CLASSIFICATION							EXCEPT For Towing, All Physical Damage Loss Is Payable To You And The Loss Payee Named Below As Interests May Appear At The Time Of The Loss.
	Radius Of Operation	Business Use s= service r= retail c= commercial	Size GVW, GCW Or Vehicle Seating Capacity	Age Group	Primary Rating Factor		Secondary Rating Factor	
1					Liab.	Phy. Dam.		
2								
3								
4								
5								

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POLICY NUMBER: CCP502869

ITEM SEVEN

SCHEDULE OF COVERED AUTOS YOU OWN (Cont'd)

Covered Auto No.	COVERAGES – PREMIUMS, LIMITS AND DEDUCTIBLES (Absence of a deductible or limit entry in any column below means that the limit or deductible entry in the corresponding ITEM TWO column applies instead.)						
	LIABILITY		PERSONAL INJURY PROTECTION		ADDED P.I.P.	PROPERTY PROTECTION (Michigan Only)	
	Limit	Premium	Limit Stated In Each P.I.P. End. Minus Deductible Show n Below	Premium	Limit Stated In Each Added P.I.P. End. Premium	Limit Stated In P.P.I. End. Minus Deductible Show n Below	Premium
1	\$	\$	\$	\$	\$	\$	\$
2	\$	\$	\$	\$	\$	\$	\$
3	\$	\$	\$	\$	\$	\$	\$
4	\$	\$	\$	\$	\$	\$	\$
5	\$	\$	\$	\$	\$	\$	\$
Total Premium		\$		\$	\$		\$
Covered Auto No.	COVERAGES – PREMIUMS, LIMITS AND DEDUCTIBLES (Absence of a deductible or limit entry in any column below means that the limit or deductible entry in the corresponding ITEM TWO column applies instead.)						
	AUTO MEDICAL PAYMENTS		COMPREHENSIVE		SPECIFIED CAUSES OF LOSS		
	Limit	Premium	Limit Stated In ITEM TWO Minus Deductible Show n Below	Premium	Limit Stated In ITEM TWO Minus Deductible Show n Below	Premium	
1	\$	\$	\$	\$	\$	\$	
2	\$	\$	\$	\$	\$	\$	
3	\$	\$	\$	\$	\$	\$	
4	\$	\$	\$	\$	\$	\$	
5	\$	\$	\$	\$	\$	\$	
Total Premium		\$		\$		\$	
Covered Auto No.	COVERAGES – PREMIUMS, LIMITS AND DEDUCTIBLES (Absence of a deductible or limit entry in any column below means that the limit or deductible entry in the corresponding ITEM TWO column applies instead.)						
	COLLISION		TOWING & LABOR				
	Limit Stated In ITEM TWO Minus Deductible Show n Below	Premium	Limit Per Disablement	Premium			
1	\$	\$	\$	\$			
2	\$	\$	\$	\$			
3	\$	\$	\$	\$			
4	\$	\$	\$	\$			
5	\$	\$	\$	\$			
Total Premium		\$		\$			

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POLICY NUMBER: CCP502869

ITEM EIGHT

MEDICAL PAYMENTS COVERAGE – PREMISES AND OPERATIONS – NONOWNED AUTOS USED IN YOUR BUSINESS (REFER TO ITEM SEVEN FOR MEDICAL PAYMENTS PREMIUMS FOR COVERED AUTOS YOU OWN.)

COVERAGE	PREMIUM DETERMINATION	PREMIUM
Auto Medical Payments Only	Auto Medical Payments Premium equals % of the Liability Premium.	\$
Premises and Operations Medical Payments (Does not apply to bodily injury caused by any auto)	Premises and Operations Medical Payments Premium equals % of the Liability Premium.	\$
Premises and Operations and Auto Medical Payments	Premises and Operations and Auto Medical Payments Premium equals % of the Liability Premium.	\$

ITEM NINE

PHYSICAL DAMAGE COVERAGE – AUTOS HELD FOR SALE – TYPES OF COVERED AUTOS AND INTERESTS IN THESE AUTOS – PREMIUMS – REPORTING OR NONREPORTING BASIS

The Physical Damage Coverage provisions of the Garage Coverage Form relating to dealers apply to those "autos" held for sale by non-dealers and trailer dealers.

Each of the following Physical Damage Coverage coverages that is indicated in ITEM TWO applies only to the types of "autos" and interests indicated below by "X".

COVERAGES	TYPES OF "AUTOS"		INTERESTS COVERED			
	New "Autos"	Used "Autos" Demonstrators	Your Interest In Covered "Autos" You Own	Your Interest Only In Financed Covered "Autos"	Your Interest And The Interest Of Any Creditor Named As A Loss Payee	All Interests In Any "Auto" Not Owned By You Or Any Creditor While In Your Possession On Consignment For Sale
Comprehensive	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Specified Causes Of Loss	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Collision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

LOCATION NO.	COVERAGES	LIMIT OF INSURANCE FOR EACH LOCATION	RATES	PREMIUM
1	Comprehensive	\$ MINUS \$ DEDUCTIBLE FOR EACH COVERED AUTO FOR LOSS CAUSED BY THEFT OR MISCHIEF OR VANDALISM SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT; OR \$ MINUS \$ DEDUCTIBLE FOR ALL PERILS		\$
	Specified Causes Of Loss	SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT.		
2	Comprehensive	\$ MINUS \$ DEDUCTIBLE FOR EACH COVERED AUTO FOR LOSS CAUSED BY THEFT OR MISCHIEF OR VANDALISM SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT; OR \$ MINUS \$ DEDUCTIBLE FOR ALL PERILS		\$
	Specified Causes Of Loss	SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT.		

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POLICY NUMBER: CCP502869

ITEM NINE (Cont'd)

3	Comprehensive	\$ MINUS \$ DEDUCTIBLE FOR EACH COVERED AUTO FOR LOSS CAUSED BY THEFT OR MISCHIEF OR VANDALISM SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT; OR \$ MINUS \$ DEDUCTIBLE FOR ALL PERILS				\$
	Specified Causes Of Loss	SUBJECT TO \$ MAXIMUM DEDUCTIBLE FOR ALL SUCH LOSS IN ANY ONE EVENT.				
All	Collision	\$ MINUS \$ DEDUCTIBLE FOR EACH COVERED AUTO.				\$
		BLANKET ANNUAL COLLISION RATES				
		First \$50,000	\$50,001 to \$100,000	Over \$100,000	Adjustment Factor	Premium
						\$
TOTAL PREMIUM					\$	

Our limit of insurance for "loss" at locations other than those stated in ITEM THREE.

- \$ Additional locations where you store covered "autos"
- \$ In transit

PREMIUM BASIS – Reporting (Quarterly or Monthly) or Nonreporting (Indicate Basis Agreed Upon by "X").

REPORTING BASIS (Quarterly or Monthly as indicated below by "X")

You must report to us on our form the location of your covered "autos" and their total value at each such location. For your main sales location identified as location no. 1, you must include the total value of all covered "autos" you have furnished or made available to yourself, your executives, your "employees" or family members and other non-"employees", and covered "autos" that are temporarily displayed or stored at locations other than those stated in ITEM THREE above. For your main sales location you must include the total value of all service vehicles.

YOUR REPORTING BASIS IS:

QUARTERLY

You must give us your first report by the fifteenth of the fourth month after the policy begins. Your subsequent reports must be given to us by the fifteenth of every third month. Your reports must contain the value for the last business day of every third month coming within the policy period.

MONTHLY

You must give us your reports by the fifteenth of every month. Your reports will contain the total values you had on the last business day of the preceding month.

Premiums will be calculated pro rata of the annual premium for the exposures contained in each report. At the end of each policy year we will add the monthly premiums or the quarterly premiums to determine your final premium due for the entire policy year. The estimated total premiums shown above will be credited against the final premium due.

NONREPORTING BASIS

Stated limit of insurance shown above applies.

Loss Payee – Any loss is payable as interest may appear to you and:

Policy Number CCP502869

CIL 15 00b 02 02

SCHEDULE OF FORMS AND ENDORSEMENTS

(other than applicable forms and endorsements shown elsewhere in the policy)

Forms and Endorsements applying to the Coverage Parts listed below and made a part of this policy at time of issue:

Form/ Endt. #	Edition Date	Title	Total # of forms selected: 15
------------------	-----------------	-------	-------------------------------

Forms Applicable to this Coverage Part - INTERLINE-ALL COVERAGE PARTS

CIL 15 00B 02 02.....SCHEDULE OF FORMS AND ENDT
 CSCP 10 00 02 04.....POLICY JACKET
 CSCP 10 01 03 06.....COMMON POLICY DECLARATIONS
 CCP 20 10 03 07.....SERVICE OF SUIT CLAUSE
 IL 00 03 09 07.....CALCULATION OF PREMIUM
 IL 00 17 11 98.....COMMON POLICY CONDITIONS

Forms Applicable to this Coverage Part - GARAGE

CAG 1900 12 03.....GARAGE COVERAGE FORM DECLARATIONS
 CA 00 05 10 01.....GARAGE COVERAGE FORM
 CA 01 36 10 01.....NV CHANGES
 CA 03 01 03 06.....DEDUCTIBLE LIABILITY COVERAGE
 CA 23 84 01 06.....EXCLUSION OF TERRORISM
 CAG 1917 03 06.....REDUCED LIMITS ENDT-YOUTHFUL DRIVERS
 CAG 1919 08 07.....GARAGE OPERATIONS LIMITATION ENDT
 CAG 1951 12 03.....GARAGE COV FORM-NON-DEALERS SCHEDULE
 IL 00 21 05 04.....NUCLEAR ENERGY LIAB EXCL ENDT

CAG1901(01/08) - ADDITIONAL CONDITIONS AND EXCLUSIONS
 IL0110(07/01) - NEVADA CHANGES - CONCEALMENT; MISREPRESENTATION OR FRAUD

CIL 15 00b 02 02

CCP 20 10 03 07

SERVICE OF SUIT CLAUSE

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE PART
COMMERCIAL AUTO COVERAGE PART
COMMERCIAL CRIME COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART
COMMERCIAL UMBRELLA LIABILITY COVERAGE PART
COMMERCIAL EXCESS LIABILITY COVERAGE PART
OCEAN MARINE COVERAGE PARTS
ASSISTED LIVING CLAIMS MADE LIABILITY COVERAGE PART
REAL ESTATE AGENTS ERRORS & OMISSIONS COVERAGE

It is agreed that in the event of the failure by us to pay any amount claimed to be due hereunder, we will, at your request, submit to the jurisdiction of any court of competent jurisdiction within the United States of America and will comply with all requirements necessary to give such court jurisdiction and all matters arising hereunder shall be determined in accordance with the law and practice of such court.

It is further agreed that service of process in such suit may be made upon the person or organization shown in the Policy Declarations or upon us at the address shown in the policy jacket.

And that in any suit instituted against any one of them upon this contract, we will abide by the final decision of such court or of any Appellate Court in the event of an appeal.

The above named are authorized and directed to accept service of process on behalf of us in any such suit and/or upon your request to give a written undertaking to you that we will enter a general appearance upon our behalf in the event such a suit shall be instituted.

Further, pursuant to any statute of any state, territory, or district of the United States of America, which makes provision therefore, we hereby designate the Superintendent, Commissioner, or Directors of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on your behalf or any beneficiary hereunder arising out of this contract of insurance, and hereby designates the above named as the person to whom the said officer is authorized to mail such process or a true copy thereof.

CCP 20 10 0307

CSC000151

Andrew v CSC
CF000151

R.App. 001379

IL 00 03 09 07

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

CALCULATION OF PREMIUM

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
CRIME AND FIDELITY COVERAGE PART
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART
EQUIPMENT BREAKDOWN COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

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COMMON POLICY CONDITIONS

All Coverage parts included in this policy are subject to the following conditions.

A. Cancellation

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advanced written notice of cancellation.
2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
 - a. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
 - b. 30 days before the effective date of cancellation if we cancel for any other reason.
3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.
6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Changes

This policy contains all the agreements between you and us concerning the insurance afforded. The first named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

C. Examination Of Your Books And Records

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

D. Inspections And Surveys

1. We have the right to:
 - a. Make inspections and surveys at any time;

- b. Give you reports on the conditions we find; and

- c. Recommend changes.

2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
 - a. Are safe or healthful; or
 - b. Comply with laws, regulations, codes or standards.

3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate services or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

E. Premiums

The first Named Insured shown in the Declarations:

1. Is responsible for the payment of all premiums; and
2. Will be the payee for any return premiums we pay.

F. Transfer Of Your Rights And Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

COMMERCIAL AUTO
CA 00 05 10 01**GARAGE COVERAGE FORM**

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the Company providing this insurance.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section VI – Definitions.

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

Symbol	Description Of Covered Auto Designation Symbols	
21	Any "Auto"	
22	Owned "Autos" Only	Only those "autos" you own (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" you acquire ownership of after the policy begins.
23	Owned Private Passenger "Autos" Only	Only the private passenger "autos" you own. This includes those private passenger "autos" you acquire ownership of after the policy begins.
24	Owned "Autos" Other Than Private Passenger "Autos" Only	Only those "autos" you own that are not of the private passenger type (and for Liability Coverage any "trailers" you don't own while attached to power units you own). This includes those "autos" not of the private passenger type you acquire ownership of after the policy begins.
25	Owned "Autos" Subject To No-Fault	Only those "autos" you own that are required to have No-Fault benefits in the state where they are licensed or principally garaged. This includes those "autos" you acquire ownership of after the policy begins provided they are required to have No-Fault benefits in the state where they are licensed or principally garaged.
26	Owned "Autos" Subject To A Compulsory Uninsured Motorists Law	Only those "autos" you own that because of the law in the state where they are licensed or principally garaged are required to have and cannot reject Uninsured Motorists Coverage. This includes those "autos" you acquire ownership of after the policy begins provided they are subject to the same state uninsured motorists requirement.
27	Specifically Described "Autos"	Only those "autos" described in Item Seven of the Non-Dealers' and Trailer Dealers' Supplementary Schedule or Item Nine of the Dealers' Supplementary Schedule for which a premium charge is shown (and for Liability Coverage any "trailers" you don't own while attached to a power unit described in Item Seven or Item Nine).
28	Hired "Autos" Only	Only those "autos" you lease, hire, rent or borrow. This does not include any "auto" you lease, hire, rent, or borrow from any of your "employees", partners, (if you are a partnership), members (if you are a limited liability company) or members of their households.
29	Non-Owned "Autos" Used In Your Garage Business	Any "auto" you do not own, lease, hire, rent or borrow used in connection with your garage business described in the Declarations. This includes "autos" owned by your "employees" or partners (if you are a partnership), members (if you are a limited liability company), or members of their households while used in your garage business.

Symbol	Description Of Covered Auto Designation Symbols
30	"Autos" Left With You For Service, Repair, Storage Or Safekeeping Any customer's land motor vehicle or trailer or semitrailer while left with you for service, repair, storage or safekeeping. Customers include your "employees", and members of their households, who pay for the services performed.
31	Dealers "Autos" And "Autos" Held For Sale By Non-Dealers Or Trailer Dealers (Physical Damage Coverages) Any "autos" and the interests in these "autos" described in Item Seven of the Dealers' Supplementary Schedule or Item Nine of the Non-Dealers' and Trailer Dealers' Supplementary Schedule.

B. Owned Autos You Acquire After The Policy Begins

1. If Symbols **21**, **22**, **23**, **24**, **25**, or **26** are entered next to a coverage in Item Two of the Declarations, then you have coverage for "autos" that you acquire of the type described for the remainder of the policy period.
2. But, if Symbol **27** is entered next to a coverage in Item Two of the Declarations, an "auto" you acquire will be a covered "auto" for that coverage only if:
 - a. We already cover all "autos" that you own for that coverage or it replaces an "auto" you previously owned that had that coverage; and
 - b. You tell us within 30 days after you acquire it that you want us to cover it for that coverage.

C. Certain Trailers And Temporary Substitute Autos

If Liability coverage is provided by this Coverage Form, the following types of vehicles are also covered "autos" for Liability Coverage:

1. "Trailers" with a load capacity of 2,000 pounds or less designed primarily for travel on public roads.
2. Any "auto" you do not own while used with the permission of its owner as a temporary substitute for a covered "auto" you own that is out of service because of its:
 - a. Breakdown;
 - b. Repair;

- c. Servicing;
- d. "Loss"; or
- e. Destruction.

SECTION II – LIABILITY COVERAGE

A. Coverage

1. "Garage Operations" – Other Than Covered "Autos"

- a. We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies caused by an "accident" and resulting from "garage operations" other than the ownership, maintenance or use of covered "autos".

We have the right and duty to defend any "insured" against a "suit" asking for these damages. However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the applicable Liability Coverage Limit of Insurance – "Garage Operations" – Other Than Covered "Autos" has been exhausted by payment of judgments or settlements.

- b. This insurance applies to "bodily injury" and "property damage" only if:
 - (1) The "accident" occurs in the coverage territory;
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and

- (3) Prior to the policy period, no "insured" listed under **Who Is An Insured** and no "employee" authorized by you to give or receive notice of an "accident" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed "insured" or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
- c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any "insured" listed under **Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "accident" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
- d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any "insured" listed under **Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "accident" or claim:
- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

2. "Garage Operations" – Covered "Autos"

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from "garage operations" involving the ownership, maintenance or use of covered "autos".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from "garage operations" involving the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance – "Garage Operations" – Covered "Autos" has been exhausted by payment of judgments or settlements.

3. Who Is An Insured

- a. The following are "insureds" for covered "autos":
- (1) You for any covered "auto".
 - (2) Anyone else while using with your permission a covered "auto" you own, hire or borrow except:
 - (a) The owner or anyone else from whom you hire or borrow a covered "auto". This exception does not apply if the covered "auto" is a "trailer" connected to a covered "auto" you own.
 - (b) Your "employee" if the covered "auto" is owned by that "employee" or a member of his or her household.
 - (c) Someone using a covered "auto" while he or she is working in a business of selling, servicing, repairing, parking or storing "autos" unless that business is your "garage operations".
 - (d) Your customers, if your business is shown in the Declarations as an "auto" dealership. However, if a customer of yours:
 - (i) Has no other available insurance (whether primary, excess or contingent), they are an "insured" but only up to the compulsory or financial responsibility law limits where the covered "auto" is principally garaged.
 - (ii) Has other available insurance (whether primary, excess or contingent) less than the compulsory or financial responsibility law limits where the covered "auto" is principally garaged, they are an "insured" only for the amount by which the compulsory or financial responsibility law limits exceed the limit of their other insurance.

- (e) A partner (if you are a partnership), or a member (if you are a limited liability company), for a covered "auto" owned by him or her or a member of his or her household.
 - (3) Anyone liable for the conduct of an "insured" described above but only to the extent of that liability.
- b. The following are "insureds" for "garage operations" other than covered "autos":
- (1) You.
 - (2) Your partners (if you are a partnership), members (if you are a limited liability company), "employees", directors or shareholders but only while acting within the scope of their duties.

4. Coverage Extensions

a. Supplementary Payments

In addition to the Limit of Insurance, we will pay for the "insured":

- (1) All expenses we incur.
- (2) Up to \$2,000 for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (3) The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- (5) All costs taxed against the "insured" in any "suit" against the "insured" we defend.
- (6) All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

b. Out-Of-State Coverage Extensions

While a covered "auto" is away from the state where it is licensed we will:

- (1) Increase the Limit of Insurance for Liability Coverage to meet the limits specified by a compulsory or financial responsibility law of the jurisdiction where the covered "auto" is being used. This extension does not apply to the limit or limits specified by any law governing motor carriers of passengers or property.

- (2) Provide the minimum amounts and types of other coverages, such as no-fault, required of out-of-state vehicles by the jurisdiction where the covered "auto" is being used.

We will not pay anyone more than once for the same elements of loss because of these extensions.

B. Exclusions

This insurance does not apply to any of the following:

1. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the "insured". But for "garage operations" other than covered "autos" this exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

2. Contractual

Liability assumed under any contract or agreement. But this exclusion does not apply to liability for damages:

- a. Assumed in a contract or agreement that is an "insured contract" provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement; or
- b. That the "insured" would have in the absence of the contract or agreement.

3. Workers' Compensation

Any obligation for which the "insured" or the "insured's" insurer may be held liable under any workers' compensation, disability benefits or unemployment compensation law or any similar law.

4. Employee Indemnification And Employer's Liability

"Bodily injury" to:

- a. An "employee" of the "insured" arising out of and in the course of:
 - (1) Employment by the "insured"; or
 - (2) Performing the duties related to the conduct of the "insured's" business; or
- b. The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph a. above.
- c. A person arising out of any:
 - (1) Refusal to employ that person;
 - (2) Termination of that person's employment; or
 - (3) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or
- d. The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" to that person at whom any of the employment-related practices described in Paragraphs (1), (2) or (3) above are directed.

This exclusion applies:

- (1) Whether the "insured" may be liable as an employer or in any other capacity; and
- (2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

But this exclusion does not apply to "bodily injury" to domestic "employees" not entitled to workers' compensation benefits or to liability assumed by the "insured" under an "insured contract". For the purposes of the Coverage Form, a domestic "employee" is a person engaged in household or domestic work performed principally in connection with a residence premises.

5. Fellow Employee

"Bodily injury" to any fellow "employee" of the "insured" arising out of and in the course of the fellow "employee's" employment or while performing duties related to the conduct of your business.

6. Care, Custody Or Control

"Property damage" to or "covered pollution cost or expense" involving:

- a. Property owned, rented or occupied by the "insured";
- b. Property loaned to the "insured";
- c. Property held for sale or being transported by the "insured"; or
- d. Property in the "insured's" care, custody or control.

But this exclusion does not apply to liability assumed under a sidetrack agreement.

7. Leased Autos

Any covered "auto" while leased or rented to others. But this exclusion does not apply to a covered "auto" you rent to one of your customers while their "auto" is left with you for service or repair.

8. Pollution Exclusion Applicable To "Garage Operations" – Other Than Covered "Autos"

- a. "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
 - (1) At or from any premises, site or location that is or was at any time owned or occupied by, or rented or loaned to, any "insured";
 - (2) At or from any premises, site or location that is or was at any time used by or for any "insured" or others for the handling, storage, disposal, processing or treatment of waste;
 - (3) At or from any premises, site or location on which any "insured" or any contractors or subcontractors working directly or indirectly on any "insured's" behalf are performing operations:
 - (a) To test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of the "pollutants"; or
 - (b) If the "pollutants" are brought on or to the premises, site or location in connection with such operations by such "insured", contractor or subcontractor; or

- (4) That are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for any "insured" or any person or organization for whom you may be legally responsible.

Paragraphs **a.(1)** and **a.(3)(b)** do not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a hostile fire. A hostile fire means one that becomes uncontrollable, or breaks out from where it was intended to be.

Paragraph **a.(1)** does not apply to "bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot from equipment used to heat that building.

Paragraph **a.(3)(b)** does not apply to "bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from material brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor.

b. Any loss, cost or expense arising out of any:

- (1) Request, demand, order or statutory or regulatory requirement that any "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants";
- (2) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to or assessing the effects of "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the "insured" would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

9. Pollution Exclusion Applicable To "Garage Operations" – Covered "Autos"

"Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a.** That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled, or handled for movement into, onto or from, the covered "auto";

- (2) Otherwise in the course of transit by or on behalf of the "insured"; or

- (3) Being stored, disposed of, treated or processed in or upon the covered "auto";

b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or

c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph **a.** above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if the "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants".

Paragraphs **b.** and **c.** above of this exclusion do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and

- (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.

10. Racing

Covered "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

11. Watercraft Or Aircraft

Any watercraft or aircraft except watercraft while ashore on premises where you conduct "garage operations".

12. Defective Products

"Property damage" to any of your "products", if caused by a defect existing in your "products" or any part of your "products", at the time it was transferred to another.

13. Work You Performed

"Property damage" to "work you performed" if the "property damage" results from any part of the work itself or from the parts, materials or equipment used in connection with the work.

14. Loss Of Use

Loss of use of other property not physically damaged if caused by:

- a. A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.
- b. A defect, deficiency, inadequacy or dangerous condition in your "products" or "work you performed". But this exclusion, **14.b.**, does not apply if the loss of use was caused by sudden and accidental damage to or destruction of your "products" or "work you performed" after they have been put to their intended use.

15. Products Recall

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of your "products" or "work you performed" or other property of which they form a part, if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

16. War

"Bodily injury" or "property damage" due to war, whether or not declared, or any act or condition incident to war. War includes civil war, insurrection, rebellion or revolution. This exclusion applies only to liability assumed under a contract or agreement.

17. Liquor Liability

"Bodily injury" or "property damage" for which an "insured" may be held liable by reason of:

- a. Causing or contributing to the intoxication of any person;
- b. The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- c. Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you use the premises in part for the following purposes:

(1) Serving or furnishing alcoholic beverages for a charge whether or not such activity:

- (a) Requires a license; or
- (b) Is for the purpose of financial gain or livelihood; or

(2) Serving or furnishing alcoholic beverages without a charge, if a license is required for such activity.

C. Limit Of Insurance**1. Aggregate Limit Of Insurance – "Garage Operations" – Other Than Covered "Autos"**

For "garage operations" other than the ownership, maintenance or use of covered "autos", the following applies:

Regardless of the number of "insureds", claims made or "suits" brought or persons or organizations making claims or bringing "suits", the most we will pay for the sum of all damages involving "garage operations" other than "auto" is the Aggregate Limit of Insurance – "Garage Operations" – Other Than Covered "Autos" for Liability Coverage shown in the Declarations.

Damages payable under the Aggregate Limit of Insurance – "Garage Operations" – Other Than Covered "Autos" consist of damages resulting from "garage operations", other than the ownership, maintenance or use of the "autos" indicated in Section I of this Coverage Form as covered "autos", including the following coverages, if provided by endorsement:

- a. "Personal injury" liability coverage;
- b. "Personal and advertising injury" liability coverage;
- c. Host liquor liability coverage;
- d. Fire legal liability coverage;
- e. Incidental medical malpractice liability coverage;
- f. Non-owned watercraft coverage;
- g. Broad form products coverage.

Damages payable under the Each "Accident" Limit of Insurance – "Garage Operations" – Other Than Covered "Autos" are not payable under the Each "Accident" Limit of Insurance – "Garage Operations" – Covered "Autos".

Subject to the above, the most we will pay for all damages resulting from all "bodily injury" and "property damage" resulting from any one "accident" is the Each "Accident" Limit of Insurance – "Garage Operations" – Other Than Covered "Autos" for Liability Coverage shown in the Declarations.

All "bodily injury" and "property damage" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

The Aggregate Limit of Insurance – "Garage Operations" Other Than Covered "Autos" applies separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Aggregate Limit of Insurance – "Garage Operations" – Other Than Covered "Autos".

2. Limit Of Insurance – "Garage Operations" – Covered "Autos"

For "accidents" resulting from "garage operations" involving the ownership, maintenance or use of covered "autos", the following applies:

Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for the total of all damages and "covered pollution cost or expense" combined, resulting from any one "accident" involving a covered "auto" is the Each "Accident" Limit of Insurance – "Garage Operations" – Covered "Autos" for Liability Coverage shown in the Declarations.

Damages and "covered pollution cost or expense" payable under the Each "Accident" Limit of Insurance – "Garage Operations" – Covered "Autos" are not payable under the Each "Accident" Limit of Insurance – "Garage Operations" – Other Than Covered "Autos".

All "bodily injury", "property damage" and "covered pollution cost or expense" resulting from continuous or repeated exposure to substantially the same conditions will be considered as resulting from one "accident".

No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Medical Payments Coverage endorsement, Uninsured Motorists Coverage endorsement or Underinsured Motorists Coverage endorsement attached to this Coverage Part.

D. Deductible

We will deduct \$100 from the damages in any "accident" resulting from "property damage" to an "auto" as a result of "work you performed" on that "auto".

SECTION III – GARAGEKEEPERS COVERAGE

A. Coverage

1. We will pay all sums the "insured" legally must pay as damages for "loss" to a "customer's auto" or "customer's auto" equipment left in the "insured's" care while the "insured" is attending, servicing, repairing, parking or storing it in your "garage operations" under:
 - a. **Comprehensive Coverage**

From any cause except:

- (1) The "customer's auto's" collision with another object; or
- (2) The "customer's auto's" overturn.

- b. **Specified Causes Of Loss Coverage**

Caused by:

- (1) Fire, lightning or explosion;
- (2) Theft; or
- (3) Mischief or vandalism.

- c. **Collision Coverage**

Caused by:

- (1) The "customer's auto's" collision with another object; or
- (2) The "customer's auto's" overturn.

2. We have the right and duty to defend any "insured" against a "suit" asking for these damages. However, we have no duty to defend any "insured" against a "suit" seeking damages for any loss to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends for a coverage when the Limit of Insurance for that coverage has been exhausted by payment of judgments or settlements.

3. Who Is An Insured

The following are "insureds" for "loss" to "customer's autos" and "customer's auto" equipment:

- a. You.
- b. Your partners (if you are a partnership), members (if you are a limited liability company), "employees", directors or shareholders while acting within the scope of their duties as such.

4. Coverage Extensions

The following applies as Supplementary Payments. In addition to the Limit of Insurance, we will pay for the "insured":

- a. All expenses we incur.

- b. The cost of bonds to release attachments in any "suit" against the "insured" we defend, but only for bond amounts within our Limit of Insurance.
- c. All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$250 a day because of time off from work.
- d. All costs taxed against the "insured" in any "suit" against the "insured" we defend.
- e. All interest on the full amount of any judgment that accrues after entry of the judgment in any "suit" against the "insured" we defend; but our duty to pay interest ends when we have paid, offered to pay or deposited in court the part of the judgment that is within our Limit of Insurance.

B. Exclusions

1. This insurance does not apply to any of the following:
 - a. **Contractual Obligations**
Liability resulting from any agreement by which the "insured" accepts responsibility for "loss".
 - b. **Theft**
"Loss" due to theft or conversion caused in any way by you, your "employees" or by your shareholders.
 - c. **Defective Parts**
Defective parts or materials.
 - d. **Faulty Work**
Faulty "work you performed".
2. We will not pay for "loss" to any of the following:
 - a. Tape decks or other sound reproducing equipment unless permanently installed in a "customer's auto".
 - b. Tapes, records or other sound reproducing devices designed for use with sound reproducing equipment.
 - c. Sound receiving equipment designed for use as a citizens' band radio, two-way mobile radio or telephone or scanning monitor receiver, including its antennas and other accessories, unless permanently installed in the dash or console opening normally used by the "customer's auto" manufacturer for the installation of a radio.
 - d. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measuring equipment.

C. Limit Of Insurance And Deductible

1. Regardless of the number of "customer's autos", "insureds", premiums paid, claims made or "suits" brought, the most we will pay for each "loss" at each location is the Garagekeepers Coverage Limit of Insurance shown in the Declarations for that location minus the applicable deductibles for "loss" caused by collision; and
 - a. Theft or mischief or vandalism; or
 - b. All perils.
2. The maximum deductible stated in the Declarations for Garagekeepers Coverage Comprehensive or Specified Causes of Loss Coverage is the most that will be deducted for all "loss" in any one event caused by:
 - a. Theft or mischief or vandalism; or
 - b. All perils.
3. Sometimes to settle a claim or "suit", we may pay all or any part of the deductible. If this happens you must reimburse us for the deductible or that portion of the deductible that we paid.

SECTION IV – PHYSICAL DAMAGE COVERAGE

A. Coverage

1. We will pay for "loss" to a covered "auto" or its equipment under:
 - a. **Comprehensive Coverage**
From any cause except:
 - (1) The covered "auto's" collision with another object; or
 - (2) The covered "auto's" overturn.
 - b. **Specified Causes Of Loss Coverage**
Caused by:
 - (1) Fire, lightning or explosion;
 - (2) Theft;
 - (3) Windstorm, hail or earthquake;
 - (4) Flood;
 - (5) Mischief or vandalism; or
 - (6) The sinking, burning, collision or derailment of any conveyance transporting the covered "auto".
 - c. **Collision Coverage**
Caused by:
 - (1) The covered "auto's" collision with another object; or
 - (2) The covered "auto's" overturn.

2. Towing – Non-Dealers Only

If your business is shown in the Declarations as something other than an "auto" dealership, we will pay up to the limit shown in the Declarations for towing and labor costs incurred each time a covered "auto" of the private passenger type is disabled. However, the labor must be performed at the place of disablement.

3. Glass Breakage – Hitting A Bird Or Animal – Falling Objects Or Missiles

If you carry Comprehensive Coverage for the damaged covered "auto", we will pay for the following under Comprehensive Coverage:

- a. Glass breakage;
- b. "Loss" caused by hitting a bird or animal; and
- c. "Loss" caused by falling objects or missiles.

However, you have the option of having glass breakage caused by a covered "auto's" collision or overturn considered a "loss" under Collision Coverage.

4. Coverage Extension**a. Transportation Expenses**

If your business is shown in the Declarations as something other than an "auto" dealership, we will pay up to \$20 per day to a maximum of \$600 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for temporary transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

b. Loss Of Use Expenses

For Hired Auto Physical Damage, we will pay expenses for which an "insured" becomes legally responsible to pay for loss of use of a vehicle rented or hired without a driver, under a written rental contract or agreement. We will pay for loss of use expenses if caused by:

- (1) Other than collision only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
- (2) Specified Causes Of Loss only if the Declarations indicate that Specified Causes Of Loss Coverage is provided for any covered "auto"; or

- (3) Collision only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

However, the most we will pay for any expenses for loss of use is \$20 per day, to a maximum of \$600.

B. Exclusions

1. We will not pay for "loss" caused by or resulting from any of the following. Such "loss" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the "loss".

a. Nuclear Hazard

- (1) The explosion of any weapon employing atomic fission or fusion; or
- (2) Nuclear reaction or radiation, or radioactive contamination, however caused.

b. War Or Military Action

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power or action taken by governmental authority in hindering or defending against any of these.

2. We will not pay for "loss" to any of the following:

- a. Any covered "auto" leased or rented to others unless rented to one of your customers while their "auto" is left with you for service or repair.
- b. Any covered "auto" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. We will also not pay for "loss" to any covered "auto" while that covered "auto" is being prepared for such contest or activity.
- c. Tapes, records, discs or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.
- d. Any device designed or used to detect speed measuring equipment such as radar or laser detectors and any jamming apparatus intended to elude or disrupt speed measurement equipment.

- e. Any electronic equipment, without regard to whether this equipment is permanently installed, that receives or transmits audio, visual or data signals and that is not designed solely for the reproduction of sound.
- f. Any accessories used with the electronic equipment described in Paragraph e. above.
- c. Under the Collision Coverage, "loss" to any covered "auto" while being driven or transported from the point of purchase or distribution to its destination if such points are more than 50 road miles apart.

Exclusions 2.e. and 2.f. do not apply to:

- a. Equipment designed solely for the reproduction of sound and accessories used with such equipment, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or such equipment is removable from a housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or
- b. Any other electronic equipment that is:
 - (1) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or
 - (2) An integral part of the same unit housing any sound reproducing equipment described in a. above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

3. False Pretense

We will not pay for "loss" to a covered "auto" caused by or resulting from:

- a. Someone causing you to voluntarily part with it by trick or scheme or under false pretenses; or
- b. Your acquiring an "auto" from a seller who did not have legal title.
- 4. If your business is shown in the Declarations as an "auto" dealership, we will not pay for:
 - a. Your expected profit, including loss of market value or resale value.
 - b. "Loss" to any covered "auto" displayed or stored at any location not shown in Item Three of the Declarations if the "loss" occurs more than 45 days after your use of the location begins.

- d. Under the Specified Causes of Loss Coverage, "loss" to any covered "auto" caused by or resulting from the collision or upset of any vehicle transporting it.
- 5. We will not pay for "loss" to a covered "auto" due to "diminution in value".

6. Other Exclusions

We will not pay for "loss" caused by or resulting from any of the following unless caused by other "loss" that is covered by this insurance:

- a. Wear and tear, freezing, mechanical or electrical breakdown;
- b. Blowouts, punctures or other road damage to tires.

C. Limits Of Insurance

- 1. The most we will pay for "loss" to any one covered "auto" is the lesser of:
 - a. The actual cash value of the damaged or stolen property as of the time of "loss"; or
 - b. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.
- 2. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a total "loss".
- 3. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment.
- 4. For those businesses shown in the Declarations as "auto" dealerships, the following provisions also apply:
 - a. Regardless of the number of covered "autos" involved in the "loss", the most we will pay for all "loss" at any one location is the amount shown in the Auto Dealers Supplementary Schedule for that location. Regardless of the number of covered "autos" involved in the "loss", the most we will pay for all "loss" in transit is the amount shown in the Auto Dealers Supplementary Schedule for "loss" in transit.

b. Quarterly Or Monthly Reporting Premium Basis

If, on the date of your last report, the actual value of the covered "autos" at the "loss" location exceeds what you last reported, when a "loss" occurs we will pay only a percentage of what we would otherwise be obligated to pay. We will determine this percentage by dividing your total reported value for the involved location by the value you actually had on the date of your last report.

If the first report due is delinquent on the date of "loss", the most we will pay will not exceed 75 percent of the Limit of Insurance shown in the Auto Dealers Supplementary Schedule for the applicable location.

c. Non-Reporting Premium Basis

If, when "loss" occurs, the total value of your covered "autos" exceeds the Limit of Insurance shown in the Declarations, we will pay only a percentage of what we would otherwise be obligated to pay. We will determine this percentage by dividing the limit by the total values you actually had when "loss" occurred.

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations provided that:

1. "Auto" Dealers Only Special Deductible Provisions

If your business is shown in the Declarations as an "auto" dealership:

a. The Comprehensive or Specified Causes of Loss Coverage deductible applies only to "loss" caused by:

- (1) Theft or mischief or vandalism; or
- (2) All perils.

b. Regardless of the number of covered "autos" damaged or stolen, the per "loss" deductible for Comprehensive or Specified Causes of Loss Coverage shown in the Declarations is the maximum deductible applicable for all "loss" in any one event caused by:

- (1) Theft or mischief or vandalism; or
- (2) All perils.

2. Non-Dealers Only Special Deductible Provisions

If your business is shown in the Declarations as something other than an "auto" dealership, the Comprehensive Coverage deductible does not apply to "loss" caused by fire or lightning.

SECTION V – GARAGE CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

A. Loss Conditions

1. Appraisal For Physical Damage Loss

If you and we disagree on the amount of "loss", either may demand an appraisal of the "loss". In this event, each party will select a competent appraiser. The two appraisers will select a competent and impartial umpire.

The appraisers will state separately the actual cash value and amount of "loss". If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If we submit to an appraisal, we will still retain our right to deny the claim.

2. Duties In The Event Of Accident, Claim, Suit Or Loss

We have no duty to provide coverage under this policy unless there has been full compliance with the following duties:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the accident or "loss". Include:
 - (1) How, when and where the "accident" or "loss" occurred;
 - (2) The "insured's" name and address; and
 - (3) To the extent possible, the names and addresses of any injured persons and witnesses.
- b. Additionally, you and any other involved "insured" must:
 - (1) Assume no obligation, make no payment or incur no expense without our consent, except at the "insured's" own cost.
 - (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit".
 - (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit".
 - (4) Authorize us to obtain medical records or other pertinent information.
 - (5) Submit to examination at our expense, by physicians of our choice, as often as we reasonably require.
- c. If there is "loss" to a covered "auto" or its equipment you must also do the following:
 - (1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.
 - (2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.

- (3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.
- (4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. Legal Action Against Us

No one may bring a legal action against us under this Coverage Form until:

- a. There has been full compliance with all the terms of this Coverage Form; and
- b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. Loss Payment – Physical Damage Coverages

At our option we may:

- a. Pay for, repair or replace damaged or stolen property;
- b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or
- c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. Transfer Of Rights Of Recovery Against Others To Us

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. General Conditions

1. Bankruptcy

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. Concealment, Misrepresentation Or Fraud

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

- a. This Coverage Form;
- b. The covered "auto";
- c. Your interest in the covered "auto"; or
- d. A claim under this Coverage Form.

3. Liberalization

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. No Benefit To Bailee – Physical Damage Coverages

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. Other Insurance

- a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Liability Coverage this Coverage Form provides for the "trailer" is:
 - (1) Excess while it is connected to a motor vehicle you do not own.
 - (2) Primary while it is connected to a covered "auto" you own.
- b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".
- c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Liability coverage is primary for any liability assumed under an "insured contract".
- d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. Premium Audit

- a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.
- b. If this policy is issued for more than one year, the premium for this Coverage Form will be computed annually based on our rates or premiums in effect at the beginning of each year of the policy.

7. Policy Period, Coverage Territory

Under this Coverage Form, we cover:

- a. "Bodily injury", "property damage" and "losses" occurring; and
- b. "Covered pollution cost or expense" arising out of "accidents" occurring

during the policy period shown in the Declarations and within the coverage territory.

The coverage territory is:

- a. The United States of America;
- b. The territories and possessions of the United States of America;
- c. Puerto Rico;
- d. Canada; and
- e. Anywhere in the world if:

- (1) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 30 days or less; and
- (2) The "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, the territories and possessions of the United States of America, Puerto Rico, or Canada or in a settlement we agree to.

We also cover "bodily injury", "property damage", "covered pollution cost or expense" and "losses" while a covered "auto" is being transported between any of these places.

The coverage territory is extended to anywhere in the world if the "bodily injury" or "property damage" is caused by one of your "products" which is sold for use in the United States of America, its territories or possessions, Puerto Rico or Canada. The original "suit" for damages resulting from such "bodily injury" or "property damage" must be brought in one of these places.

8. Two Or More Coverage Forms Or Policies Issued By Us

If this Coverage Form and any other Coverage Form or policy issued to you by us or any company affiliated with us apply to the same "accident", the aggregate maximum Limit of Insurance under all the Coverage Forms or policies shall not exceed the highest applicable Limit of Insurance under any one Coverage Form or policy. This condition does not apply to any Coverage Form or policy issued by us or an affiliated company specifically to apply as excess insurance over this Coverage Form.

SECTION VI – DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means a land motor vehicle, "trailer" or semitrailer.
- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.
- D. "Covered pollution cost or expense" means any cost or expense arising out of:
 1. Any request, demand, order or statutory or regulatory requirement; or
 2. Any claim or "suit" by or on behalf of a governmental authority demanding

that the "insured" or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

"Covered pollution cost or expense" does not include any cost or expense arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- a. That are, or that are contained in any property that is:
 - (1) Being transported or towed by, handled, or handled for movement into, onto or from the covered "auto";
 - (2) Otherwise in the course of transit by or on behalf of the "insured";

- (3) Being stored, disposed of, treated or processed in or upon the covered "auto"; or
- b. Before the "pollutants" or any property in which the "pollutants" are contained are moved from the place where they are accepted by the "insured" for movement into or onto the covered "auto"; or
- c. After the "pollutants" or any property in which the "pollutants" are contained are moved from the covered "auto" to the place where they are finally delivered, disposed of or abandoned by the "insured".

Paragraph a. above does not apply to fuels, lubricants, fluids, exhaust gases or other similar "pollutants" that are needed for or result from the normal electrical, hydraulic or mechanical functioning of the covered "auto" or its parts, if the "pollutants" escape, seep, migrate, or are discharged, dispersed or released directly from an "auto" part designed by its manufacturer to hold, store, receive or dispose of such "pollutants".

Paragraphs b. and c. above do not apply to "accidents" that occur away from premises owned by or rented to an "insured" with respect to "pollutants" not in or upon a covered "auto" if:

- (1) The "pollutants" or any property in which the "pollutants" are contained are upset, overturned or damaged as a result of the maintenance or use of a covered "auto"; and
 - (2) The discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused directly by such upset, overturn or damage.
- E. "Customer's auto" means a customer's land motor vehicle, "trailer" or semitrailer. It also includes any "customer's auto" while left with you for service, repair, storage or safekeeping. Customers include your "employees", and members of their households who pay for services performed.
 - F. "Diminution in value" means the actual or perceived loss in market value or resale value which results from a direct and accidental "loss".
 - G. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

- H. "Garage operations" means the ownership, maintenance or use of locations for garage business and that portion of the roads or other accesses that adjoin these locations. "Garage operations" includes the ownership, maintenance or use of the "autos" indicated in Section I of this Coverage Form as covered "autos". "Garage operations" also include all operations necessary or incidental to a garage business.

I. "Insured" means any person or organization qualifying as an insured in the Who Is an Insured provision of the applicable coverage. Except with respect to the Limit of Insurance, the coverage afforded applies separately to each insured who is seeking coverage or against whom a claim or "suit" is brought.

J. "Insured contract" means:

1. A lease of premises;
2. A sidetrack agreement;
3. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
4. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
5. That part of any other contract or agreement pertaining to your garage business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another to pay for "bodily injury" or "property damage" to a third party or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement;
6. An elevator maintenance agreement;
7. That part of any contract or agreement entered into, as part of your garage business, pertaining to the rental or lease, by you or any of your "employees", of any "auto". However, such contract or agreement shall not be considered an "insured contract" to the extent that it obligates you or any of your "employees" to pay "property damage" to any "auto" rented or leased by you or any of your "employees".

An "insured contract" does not include that part of any contract or agreement:

1. That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - a. Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
 - b. Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.
2. That indemnifies any person or organization for damage by fire to premises rented or loaned to you.
3. That pertains to the loan, lease or rental of an "auto", to you or any of your "employees" if the "auto" is loaned, leased or rented with a driver.

- 4. That holds a person or organization engaged in the business of transporting property by "auto" for hire harmless for your use of a covered "auto" over a route or territory that person or organization is authorized to serve by public authority.
- 5. That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing.
- K. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".
- L. "Loss" means direct and accidental loss or damage. But for Garagekeepers Coverage only, "loss" also includes any resulting loss of use.
- M. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.
- N. "Products" includes:
 - a. The goods or products you made or sold in a garage business; and
 - b. The providing of or failure to provide warnings or instructions.
- O. "Property damage" means damage to or loss of use of tangible property.
- P. "Suit" means a civil proceeding in which:
 - 1. Damages because of "bodily injury" or "property damage"; or
 - 2. A "covered pollution cost or expense", to which this insurance applies, are claimed."Suit" includes:
 - a. An arbitration proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the "insured" must submit or does submit with our consent; or
 - b. Any other alternative dispute resolution proceeding in which such damages or "covered pollution costs or expenses" are claimed and to which the insured submits with our consent.
- Q. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.
- R. "Trailer" includes semitrailer.
- S. "Work you performed" includes:
 - a. Work that someone performed on your behalf; and
 - b. The providing of or failure to provide warnings or instructions.

COMMERCIAL AUTO
CA 23 84 01 06

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

EXCLUSION OF TERRORISM

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
SINGLE INTEREST AUTOMOBILE PHYSICAL DAMAGE INSURANCE POLICY
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

A. The following definitions are added and apply under this endorsement wherever the term terrorism, or the phrase any injury, damage, loss or expense, are enclosed in quotation marks:

1. "Terrorism" means activities against persons, organizations or property of any nature:
 - a. That involve the following or preparation for the following:
 - (1) Use or threat of force or violence; or
 - (2) Commission or threat of a dangerous act; or
 - (3) Commission or threat of an act that interferes with or disrupts an electronic, communication, information, or mechanical system; and
 - b. When one or both of the following applies:
 - (1) The effect is to intimidate or coerce a government or the civilian population or any segment thereof, or to disrupt any segment of the economy; or
 - (2) It appears that the intent is to intimidate or coerce a government, or to further political, ideological, religious, social or economic objectives or to express (or express opposition to) a philosophy or ideology.

2. "Any injury, damage, loss or expense" means any injury, damage, loss or expense covered under any Coverage Form or Policy to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage", "personal injury", "personal and advertising injury", "loss", loss of use, rental reimbursement after "loss" or "covered pollution cost or expense", as may be defined under this Coverage Form, Policy or any applicable endorsement.

B. Except with respect to Physical Damage Coverage, Trailer Interchange Coverage, Garagekeepers Coverage, Garagekeepers Coverage – Customers' Sound Receiving Equipment or the Single Interest Automobile Physical Damage Insurance Policy, the following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for "any injury, damage, loss or expense" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". "Any injury, damage, loss or expense" is excluded regardless of any other cause or event that contributes concurrently or in any sequence to such injury, damage, loss or expense. **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or

2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions; or
6. Fifty or more persons sustain death or serious physical injury. For the purposes of this provision, serious physical injury means:
 - a. Physical injury that involves a substantial risk of death; or
 - b. Protracted and obvious physical disfigurement; or
 - c. Protracted loss of or impairment of the function of a bodily member or organ.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the thresholds in Paragraphs **B.5.** and **B.6.** are exceeded.

With respect to this Exclusion, Paragraphs **B.5.** and **B.6.** describe the thresholds used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form, Policy or any applicable endorsement.

- C. With respect to Physical Damage Coverage, Trailer Interchange Coverage, Garagekeepers Coverage, Garagekeepers Coverage – Customers' Sound Receiving Equipment or the Single Interest Automobile Physical Damage Insurance Policy, the following exclusion is added:

EXCLUSION OF TERRORISM

We will not pay for any "loss", loss of use or rental reimbursement after "loss" caused directly or indirectly by "terrorism", including action in hindering or defending against an actual or expected incident of "terrorism". **But this exclusion applies only when one or more of the following are attributed to an incident of "terrorism":**

1. The "terrorism" is carried out by means of the dispersal or application of radioactive material, or through the use of a nuclear weapon or device that involves or produces a nuclear reaction, nuclear radiation or radioactive contamination; or
2. Radioactive material is released, and it appears that one purpose of the "terrorism" was to release such material; or
3. The "terrorism" is carried out by means of the dispersal or application of pathogenic or poisonous biological or chemical materials; or
4. Pathogenic or poisonous biological or chemical materials are released, and it appears that one purpose of the "terrorism" was to release such materials; or
5. The total of insured damage to all types of property exceeds \$25,000,000. In determining whether the \$25,000,000 threshold is exceeded, we will include all insured damage sustained by property of all persons and entities affected by the "terrorism" and business interruption losses sustained by owners or occupants of the damaged property. For the purpose of this provision, insured damage means damage that is covered by any insurance plus damage that would be covered by any insurance but for the application of any terrorism exclusions.

Multiple incidents of "terrorism" which occur within a 72-hour period and appear to be carried out in concert or to have a related purpose or common leadership will be deemed to be one incident, for the purpose of determining whether the threshold in Paragraph **C.5.** is exceeded.

With respect to this Exclusion, Paragraph **C.5.** describes the threshold used to measure the magnitude of an incident of "terrorism" and the circumstances in which the threshold will apply, for the purpose of determining whether this Exclusion will apply to that incident. When the Exclusion applies to an incident of "terrorism", there is no coverage under this Coverage Form, Policy or any applicable endorsement.

D. In the event of any incident of "terrorism" that is not subject to the Exclusion in Paragraphs **B.** or **C.**, coverage does not apply to "any injury, damage, loss or expense" that is otherwise excluded under this Coverage Form, Policy or any applicable endorsement.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NUCLEAR ENERGY LIABILITY EXCLUSION ENDORSEMENT (Broad Form)

This endorsement modifies insurance provided under the following:

COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL GENERAL LIABILITY COVERAGE PART
FARM COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
OWNERS AND CONTRACTORS PROTECTIVE LIABILITY COVERAGE PART
POLLUTION LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART
PROFESSIONAL LIABILITY COVERAGE PART
RAILROAD PROTECTIVE LIABILITY COVERAGE PART

1. The insurance does not apply:
 - A. Under any Liability Coverage, to "bodily injury" or "property damage":
 - (1) With respect to which an "insured" under the policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters, Nuclear Insurance Association of Canada or any of their successors, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which (a) any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (b) the "insured" is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
 - B. Under any Medical Payments coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
 - C. Under any Liability Coverage, to "bodily injury" or "property damage" resulting from "hazardous properties" of "nuclear material", if:
 - (1) The "nuclear material" (a) is at any "nuclear facility" owned by, or operated by or on behalf of, an "insured" or (b) has been discharged or dispersed therefrom;
 - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of, by or on behalf of an "insured"; or
 - (3) The "bodily injury" or "property damage" arises out of the furnishing by an "insured" of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.

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2. As used in this endorsement:

"Hazardous properties" includes radioactive, toxic or explosive properties;

"Nuclear material" means "source material", "Special nuclear material" or "by-product material";

"Source material", "special nuclear material," and "by-product material" have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof;

"Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

"Waste" means any waste material **(a)** containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content, and **(b)** resulting from the operation by any person or organization of any "nuclear facility" included under the first two paragraphs of the definition of "nuclear facility".

"Nuclear facility" means:

(a) Any "nuclear reactor";

(b) Any equipment or device designed or used for **(1)** separating the isotopes of uranium or plutonium, **(2)** processing or utilizing "spent fuel", or **(3)** handling, processing or packaging "waste";

(c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the "insured" at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;

(d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;

"Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;

"Property damage" includes all forms of radioactive contamination of property.

COMMERCIAL AUTO
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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NEVADA CHANGES

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

I. Changes In Conditions

A. For a covered "auto" licensed in, or "Garage Operations" conducted in, Nevada, the **Other Insurance Condition** is changed by adding the following:

1. When two Coverage Forms providing liability coverage apply to an "auto" and:

a. One provides coverage to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking or storing "autos", and

b. The other provides coverage to a person not engaged in that business, and

c. At the time of an "accident" a person described in 1.b. is operating the "auto", then

that person's liability insurance is primary and the Coverage Form issued to a business described in 1.a. is excess over any insurance available to that person.

2. When two Coverage Forms providing liability coverage apply to an "auto" and:

a. One provides coverage to a named insured engaged in the business of repairing or servicing "autos", and

b. The other provides coverage to a person not engaged in that business, and

c. At the time of an "accident" a person described in 2.b. is operating an "auto" owned by the business described in 2.a. as a temporary substitute auto while that person's "auto" is being repaired or serviced by the business described in 2.a., then

that person's liability coverage is primary and the Coverage Form issued to the business described in 2.a. is excess over any insurance available to that person.

B. The Conditions Provision is amended as follows:

The **Transfer Of Rights Of Recovery Against Others To Us** Provision does not apply to Medical Payments.

II. Anti-Stacking Provisions

The contrasting type contained in this endorsement is in compliance with Nevada statutory requirements that anti-stacking provisions be prominently displayed in the policy, binder or endorsement.

Exclusions 2. and 3. in the Auto Medical Payments Coverage Endorsement are replaced by the following:

2. "BODILY INJURY" SUSTAINED BY YOU OR ANY "FAMILY MEMBER" WHILE "OCCUPYING" OR STRUCK BY ANY VEHICLE (OTHER THAN A COVERED "AUTO") OWNED BY YOU OR FURNISHED OR AVAILABLE FOR YOUR REGULAR USE.

3. "BODILY INJURY" SUSTAINED BY ANY "FAMILY MEMBER" WHILE "OCCUPYING" OR STRUCK BY ANY VEHICLE (OTHER THAN A COVERED "AUTO") OWNED BY OR FURNISHED OR AVAILABLE FOR THE REGULAR USE OF ANY "FAMILY MEMBER".

The first paragraph of the **Limit Of Insurance** Provision in **Section II – Liability Coverage** in the Business Auto Coverage Form and Truckers Coverage Form is replaced by the following:

C. LIMIT OF INSURANCE

REGARDLESS OF THE NUMBER OF COVERED "AUTOS", "INSUREDS", PREMIUMS PAID, CLAIMS MADE OR VEHICLES INVOLVED IN THE "ACCIDENT", THE MOST WE WILL PAY FOR THE TOTAL OF ALL DAMAGES AND "COVERED POLLUTION COST OR EXPENSE" COMBINED, RESULTING FROM ANY ONE "ACCIDENT" IS THE LIMIT OF INSURANCE FOR LIABILITY COVERAGE SHOWN IN THE DECLARATIONS.

The first four paragraphs of the **Aggregate Limit Of Insurance – "Garage Operations" – Other Than Covered "Autos"** Provision in **Section II – Liability Coverage** in the Garage Coverage Form are replaced by the following:

1. **AGGREGATE LIMIT OF INSURANCE – "GARAGE OPERATIONS" – OTHER THAN COVERED "AUTOS"**

FOR "GARAGE OPERATIONS" OTHER THAN THE OWNERSHIP, MAINTENANCE OR USE OF COVERED "AUTOS", THE FOLLOWING APPLIES:

REGARDLESS OF THE NUMBER OF "INSUREDS", CLAIMS MADE OR "SUITS" BROUGHT OR PERSONS OR ORGANIZATIONS MAKING CLAIMS OR BRINGING "SUITS", THE MOST WE WILL PAY FOR THE SUM OF ALL DAMAGES INVOLVING "GARAGE OPERATIONS" OTHER THAN COVERED "AUTOS" IS THE AGGREGATE LIMIT OF INSURANCE – "GARAGE OPERATIONS" – OTHER THAN COVERED "AUTOS" FOR LIABILITY COVERAGE SHOWN IN THE DECLARATIONS.

DAMAGES PAYABLE UNDER THE AGGREGATE LIMIT OF INSURANCE – "GARAGE OPERATIONS" – OTHER THAN COVERED "AUTOS" CONSIST OF DAMAGES RESULTING FROM "GARAGE OPERATIONS", OTHER THAN THE OWNERSHIP, MAINTENANCE OR USE OF THE "AUTOS" INDICATED IN SECTION I OF THIS COVERAGE FORM AS COVERED "AUTOS", INCLUDING THE FOLLOWING COVERAGES, IF PROVIDED BY ENDORSEMENT:

- a. "PERSONAL INJURY" LIABILITY COVERAGE;
- b. "PERSONAL AND ADVERTISING INJURY" LIABILITY COVERAGE;
- c. HOST LIQUOR LIABILITY COVERAGE;
- d. FIRE LEGAL LIABILITY COVERAGE;
- e. INCIDENTAL MEDICAL MALPRACTICE LIABILITY COVERAGE;
- f. NON-OWNED WATERCRAFT COVERAGE;
- g. BROAD FORM PRODUCTS COVERAGE.

DAMAGES PAYABLE UNDER THE EACH "ACCIDENT" LIMIT OF INSURANCE – "GARAGE OPERATIONS" – OTHER THAN COVERED "AUTOS" ARE NOT PAYABLE UNDER THE EACH "ACCIDENT" LIMIT OF INSURANCE – "GARAGE OPERATIONS" – COVERED "AUTOS".

SUBJECT TO THE ABOVE, THE MOST WE WILL PAY FOR ALL DAMAGES RESULTING FROM ALL "BODILY INJURY" AND "PROPERTY DAMAGE" RESULTING FROM ANY ONE "ACCIDENT" IS THE EACH "ACCIDENT" LIMIT OF INSURANCE – "GARAGE OPERATIONS" – OTHER THAN COVERED "AUTOS" FOR LIABILITY COVERAGE SHOWN IN THE DECLARATIONS.

The first two paragraphs of the **Limit Of Insurance – "Garage Operations" – Covered "Autos"** Provision in **Section II – Liability Coverage** in the Garage Coverage Form are replaced by the following:

2. LIMIT OF INSURANCE – "GARAGE OPERATIONS" – COVERED "AUTOS"

FOR "ACCIDENTS" RESULTING FROM "GARAGE OPERATIONS" INVOLVING THE OWNERSHIP, MAINTENANCE OR USE OF COVERED "AUTOS", THE FOLLOWING APPLIES:

REGARDLESS OF THE NUMBER OF COVERED "AUTOS", "INSUREDS", PREMIUMS PAID, CLAIMS MADE OR VEHICLES INVOLVED IN THE "ACCIDENT", THE MOST WE WILL PAY FOR THE TOTAL OF ALL DAMAGES AND "COVERED POLLUTION COST OR EXPENSE" COMBINED, RESULTING FROM ANY ONE "ACCIDENT" INVOLVING A COVERED "AUTO" IS THE EACH "ACCIDENT" LIMIT OF INSURANCE – "GARAGE OPERATIONS" – COVERED "AUTOS" FOR LIABILITY COVERAGE SHOWN IN THE DECLARATIONS.

DAMAGES AND "COVERED POLLUTION COST OR EXPENSE" PAYABLE UNDER THE EACH "ACCIDENT" LIMIT OF INSURANCE – "GARAGE OPERATIONS" – COVERED "AUTOS" ARE NOT PAYABLE UNDER THE EACH "ACCIDENT" LIMIT OF INSURANCE – "GARAGE OPERATIONS" – OTHER THAN COVERED "AUTOS".

The **Limit Of Insurance** Provision in the Auto Medical Payments Coverage Endorsement is replaced by the following:

D. LIMIT OF INSURANCE

REGARDLESS OF THE NUMBER OF COVERED "AUTOS", "INSUREDS", PREMIUMS PAID, CLAIMS MADE OR VEHICLES INVOLVED IN THE "ACCIDENT", THE MOST WE WILL PAY FOR "BODILY INJURY" FOR EACH "INSURED" INJURED IN ANY ONE "ACCIDENT" IS THE LIMIT OF AUTO MEDICAL PAYMENTS SHOWN IN THE DECLARATIONS.

Paragraph 1. of the **Limit Of Insurance And Deductible** Provision in the Garagekeepers Coverage Endorsement is replaced by the following:

D. LIMIT OF INSURANCE AND DEDUCTIBLE

1. REGARDLESS OF THE NUMBER OF "CUSTOMER'S AUTOS", "INSUREDS", PREMIUMS PAID, CLAIMS MADE OR "SUITS" BROUGHT, THE MOST WE WILL PAY FOR "LOSS" AT EACH LOCATION IS THE GARAGEKEEPERS COVERAGE LIMIT OF INSURANCE SHOWN IN THE SCHEDULE FOR THAT LOCATION MINUS THE APPLICABLE DEDUCTIBLES FOR "LOSS" CAUSED BY COLLISION: AND

- a. THEFT OR MISCHIEF OR VANDALISM; OR
- b. ALL PERILS.

The **Limit Of Insurance** Provision in the Farm Labor Contractors Endorsement is replaced by the following:

D. LIMIT OF INSURANCE

1. REGARDLESS OF THE NUMBER OF COVERED "AUTOS", "INSUREDS", PREMIUMS PAID, CLAIMS MADE OR VEHICLES INVOLVED IN THE "ACCIDENT", THE LIMIT OF INSURANCE IS AS FOLLOWS:

- a. THE MOST WE WILL PAY FOR ALL DAMAGES RESULTING FROM "BODILY INJURY" TO ANY ONE PERSON CAUSED BY ANY ONE "ACCIDENT" IS THE LIMIT OF "BODILY INJURY" LIABILITY SHOWN IN THE DECLARATIONS FOR "EACH PERSON".
- b. SUBJECT TO THE LIMIT FOR "EACH PERSON", THE MOST WE WILL PAY FOR ALL DAMAGES RESULTING FROM "BODILY INJURY" CAUSED BY ANY ONE "ACCIDENT" IS THE LIMIT OF "BODILY INJURY" LIABILITY SHOWN IN THE DECLARATIONS FOR "EACH ACCIDENT".
- c. THE MOST WE WILL PAY FOR ALL DAMAGES RESULTING FROM "PROPERTY DAMAGE" CAUSED BY ANY ONE "ACCIDENT" IS THE LIMIT OF "PROPERTY DAMAGE" LIABILITY SHOWN IN THE DECLARATIONS.

The **Limit Of Insurance** Provision in the Garage Locations and Operations Medical Payments Insurance Endorsement is replaced by the following:

C. LIMIT OF INSURANCE

REGARDLESS OF THE NUMBER OF PERSONS WHO SUSTAIN "BODILY INJURY", PREMIUMS PAID, OR CLAIMS MADE, THE MOST WE WILL PAY FOR "BODILY INJURY" FOR EACH PERSON INJURED IN ANY ONE "ACCIDENT" IS THE LIMIT OF MEDICAL PAYMENTS INSURANCE SHOWN IN THE DECLARATIONS.

The following is added to the **Aggregate Limit Of Insurance - "Garage Operations" - Other Than Covered "Autos"** Provision in **Section II - Liability Coverage** for the Personal Injury Liability Coverage - Garages Endorsement:

SUBJECT TO THE AGGREGATE LIMIT OF INSURANCE - "GARAGE OPERATIONS" - OTHER THAN "AUTO" AND REGARDLESS OF THE NUMBER OF "INSUREDS", CLAIMS MADE OR "SUITS" BROUGHT OR PERSONS OR ORGANIZATIONS MAKING CLAIMS OR BRINGING "SUITS", THE MOST WE WILL PAY FOR ALL DAMAGES BECAUSE OF ALL "PERSONAL INJURY" SUSTAINED BY ANY ONE PERSON OR ORGANIZATION IS THE PERSONAL INJURY LIMIT OF INSURANCE SHOWN IN THE SCHEDULE OF THE PERSONAL INJURY LIABILITY COVERAGE - GARAGES ENDORSEMENT.

Paragraph 8. of General Condition in the Business Auto Coverage Form, Truckers Coverage Form, and Garage Coverage Form is replaced by the following:

TWO OR MORE COVERAGE FORMS OR POLICIES ISSUED BY US

IF THIS COVERAGE FORM AND ANY OTHER COVERAGE FORM OR POLICY ISSUED TO YOU BY US OR ANY COMPANY AFFILIATED WITH US APPLY TO THE SAME "ACCIDENT", THE AGGREGATE MAXIMUM LIMIT OF INSURANCE UNDER ALL THE COVERAGE FORMS OR POLICIES SHALL NOT EXCEED THE HIGHEST APPLICABLE SINGLE VEHICLE LIMIT OF INSURANCE UNDER ANY ONE COVERAGE FORM OR POLICY REGARDLESS OF THE NUMBER OF COVERED "AUTOS", "INSUREDS", PREMIUMS PAID, CLAIMS MADE OR VEHICLES INVOLVED IN THE "ACCIDENT". THIS CONDITION DOES NOT APPLY TO ANY COVERAGE FORM OR POLICY ISSUED BY US OR AN AFFILIATED COMPANY SPECIFICALLY TO APPLY AS EXCESS INSURANCE OVER THIS COVERAGE FORM.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

REDUCED LIABILITY LIMITS ENDORSEMENT

This endorsement modifies insurance provided under the following:

GARAGE COVERAGE FORM

The following is added to **SECTION II – LIABILITY COVERAGE, C. Limit of Insurance, 2. Limit of Insurance – “Garage Operations” – Covered “Autos”**

The maximum limit of liability afforded by this policy for an “accident” involving an “insured” driver under the age of twenty-one (21) or anyone operating an “auto” without a proper or valid operator’s license as required by the state in which the “auto” is being operated shall not exceed the basic financial responsibility limit required by the state in which the “accident” occurs.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the “accident” which caused the “bodily injury” or “property damage” involved the ownership, maintenance, use or entrustment to others of any aircraft, “auto” or watercraft that is owned or operated by or rented or loaned to any insured.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL CONDITIONS AND EXCLUSIONS

This endorsement modifies insurance provided under the following:

GARAGE COVERAGE FORM

A. SECTION II – LIABILITY COVERAGE, B. Exclusions, 10. Racing, is deleted and replaced with the following:

10. Racing

Covered "autos" or sponsoring "autos" while used in any professional or organized racing or demolition contest or stunting activity, or while practicing for such contest or activity. This insurance also does not apply while that covered "auto" is being prepared for such a contest or activity.

B. The following are added to SECTION II – LIABILITY COVERAGE, B. Exclusions:

18. Asbestos or Lead

"Bodily injury" or "property damage" arising out of or resulting from the disposal, existence, handling, ingestion, inhalation, removal, sale, storage, transportation or use of:

- a. Asbestos or any material containing asbestos; or
- b. Lead, lead based paint, lead compounds or any material containing lead.

19. Criminal Acts

"Bodily injury" or "property damage" arising out of or resulting from a criminal act committed by or at the direction of any named insured or additional insured.

20. Dogs Or Animals

"Bodily injury" or "property damage" arising out of the ownership, use, custody or control of dogs or any other animal.

21. Towing of Autos

"Bodily injury" or "property damage" arising out of the ownership, operations, maintenance or use of any covered "auto" in your "garage operations" such as a tow truck, car hauler or other service "auto" used to move, tow, haul or carry "autos", unless such covered "auto" is shown in the Schedule of Covered "Autos" in the Supplementary Schedule and designated by Symbol 27 in the GARAGE COVERAGE FORM DECLARATIONS.

22. Punitive, Exemplary Treble Damages or Multipliers of Attorney's Fees

Claims or demands for payment of punitive, exemplary or treble damages whether arising from the acts of any insured or by anyone else for whom or which any insured or additional insured is legally liable; including any multiplier or attorney's fees statutorily awarded to the prevailing party.

23. Mold, Fungi, Virus, Bacteria, Air Quality, Contaminants, Minerals or Other Harmful Materials

- a. "Bodily injury" or "property damage" arising out of, caused by, or contributed to in any way by the existence, growth, spread, dispersal, release, or escape of any mold, fungi, lichen, virus, bacteria or other growing organism that has toxic, hazardous, noxious, pathogenic, irritating or allergen qualities or characteristics. This exclusion applies to all such claims or causes of action, including allegations that any insured caused or contributed to conditions that encouraged the growth, depositing or establishment of such colonies of mold, lichen, fungi, virus, bacteria or other living or dead organism or
- b. "Bodily injury" or "property damage" arising out of, caused by, alleging to be contributed to in any way by any toxic, hazardous, noxious, irritating, pathogenic or allergen qualities or characteristics of indoor air regardless of cause or
- c. "Bodily injury" or "property damage" arising out of, caused by, or alleging to be contributed to in any way by any insured's use, sale, installation or removal of any substance, material, or

other product that is either alleged or deemed to be hazardous, toxic, irritating, pathogenic or noxious in any way, or contributes in any way to an allergic reaction.

- d. "Bodily injury" or "property damage" arising out of, caused by, or alleging to be contributed to in any way to toxic or hazardous properties of minerals or other substances.

24. Assault and Battery

1. This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of or resulting from:
 - (a) any actual, threatened or alleged assault or battery;
 - (b) the failure of any insured or anyone else for whom any insured is or could be held legally liable to prevent or suppress any assault or battery;
 - (c) the failure of any insured or anyone else for whom any insured is or could be held legally liable to render or secure medical treatment necessitated by any assault or battery;
 - (d) the rendering of medical treatment by any insured or anyone else for whom any insured is or could be held legally liable that was necessitated by any assault or battery;
 - (e) the negligent:
 - (i) employment;
 - (ii) investigation;
 - (iii) supervision;
 - (iv) training;
 - (v) retention;
 of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by 1. (a), (b), (c) or (d) above;
 - (f) any other cause of action or claim arising out of or as a result of 1. (a), (b), (c), (d) or (e) above.
2. We shall have no duty to defend or indemnify any claim, demand, suit, action, litigation, arbitration, alternative dispute resolution or other judicial or administrative proceeding seeking damages, equitable relief, injunctive relief, or administrative relief where:
 - (a) any actual or alleged injury arises out of any combination of an assault or battery-related cause and a non-assault or battery-related cause.
 - (b) any actual or alleged injury arises out of a chain of events which includes assault or battery, regardless of whether the assault or battery is the initial precipitating event or a substantial cause of injury.
 - (c) any actual or alleged injury arises out of assault or battery as a concurrent cause of injury, regardless of whether the assault or battery is the proximate cause of injury.
3. For the purposes of this endorsement the words assault and battery are intended to include, but are not limited to, sexual assault.

25. Athletic or Sports Participants

"Bodily injury" to any person while practicing for, participating in or officiating at any sports or athletic contest or exhibition that you sponsor or in which you or your employees or guests participate.

26. Bodily Injury To Independent Contractors

It is agreed that this insurance does not apply to "bodily injury" to any independent contractor or the "employee" of any independent contractor while such independent contractor or their "employee" is working on behalf of any insured.

27. Transfer Of Ownership

"Bodily injury" or "property damage" occurring after possession of an "auto" has been surrendered to another person pursuant to sale, conditional sale, gift, abandonment, or lease.

28. Used Parts

"Bodily injury" or "property damage" arising out of allegedly defective used parts (including used tires) that you sold or installed.

29. Salvage Titled Autos

"Bodily injury" or "property damage" arising out of accidents involving "autos" you sold that have "salvage titles". For purposes of this exclusion, "salvage title" means an "auto" title that was issued after the "auto" was determined to be a total loss.

30. Refrigerated Truck and Trailer Exclusion

We will not pay your liability for loss or damage, including but not limited to food spoilage, discoloration, bruising, spotting, sourness, decay or decomposition or freezing or thawing, caused by or resulting from the breakdown or malfunction of refrigerated truck or trailer equipment including losses arising out of changes in temperature or extremes of temperature or humidity within any refrigerated trailers.

C. The following are added to SECTION III – GARAGEKEEPERS COVERAGE, B. Exclusions:**3. Lot Protection**

We will not pay for "loss" due to theft of a "customer's auto" or any portion of a "customer's auto" when the described premises are closed for business or unattended if:

- a. the lot where the "customer's autos" are located is not protected (all entrances, exits, or openings, and the entire perimeter be surrounded by fences with gates or heavy chains and locks); or
- b. the building where "customer's autos" are located is not protected with locked and secured openings.

4. Towing of Autos

We will not pay for "loss" to a "customer's auto" arising out of the ownership, operation, maintenance or use of any "auto" in your "garage operations", such as a tow truck, car hauler or other service that is used to move, tow, haul or carry any "customer's autos".

5. Auto Repossession

We will not pay for "loss" to an "auto" arising out of any repossession of "autos".

6. Key Restriction

We will not pay for "loss" due to theft or vandalism of a "customer's auto" or any portion of a "customer's auto" if the keys are left in or upon an unattended "auto".

7. Owned, consigned, or any autos held for sale.

We will not pay for "loss" to any "auto" held on consignment or held for sale by any insured.

D. The following are added to SECTION IV – PHYSICAL DAMAGE COVERAGE, B. Exclusions:**7. Theft**

We will not pay for "loss" due to theft or conversion of an "auto" or any portion of an "auto" caused in any way by you, your "employees" or by your shareholders.

8. Lot Protection

We will not pay for "loss" due to theft of an "auto" or any portion of an "auto" when the described premises are closed for business or unattended if:

- a. the lot where the "customer's autos" are located is not protected (all entrances, exits, or openings, and the entire perimeter be surrounded by fences with gates or heavy chains and locks); or
- b. the building where "customer's autos" are located is not protected with locked and secured openings.

9. Key Restriction

We will not pay for "loss" due to theft or vandalism of an "auto" or any portion of an "auto" if the keys are left in or upon an unattended "auto".

10. Earthquake, Mudslide or Flood

We will not pay for "loss" caused by an earthquake, mudslide or flood.

E. SECTION IV – PHYSICAL DAMAGE COVERAGE, D. Deductible, is deleted and replaced with the following:

D. Deductible

For each covered "auto", our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by the applicable deductible shown in the Declarations, subject to the following:

1. The deductible shown in the GARAGE COVERAGE FORM DECLARATIONS or any Supplementary Schedule for Comprehensive Coverage or Specified Causes of Loss Coverage for each covered "auto" is subject to all causes of "loss".
2. Regardless of the number of covered "autos" damaged or stolen, the maximum deductible for all such "loss" for Comprehensive Coverage or Specified Causes of Loss Coverage shown in the Declarations is the maximum deductible applicable for all "loss" in any one event.

F. SECTION V – GARAGE CONDITIONS, A. Loss Conditions 4. Loss Payment – Physical Damage Coverage, a. is deleted and replaced by the following:

- a. Pay for, repair or replace damaged or stolen property but payment of a stolen "auto" will be no sooner than 30 days from the date the "auto" was reported stolen to the authorities;

G. SECTION V – GARAGE CONDITIONS, B. General Conditions, 6. Premium Audit is deleted and replaced with the following:

6. Premium Audit

Premium shown in this Coverage Part as advance premium is a minimum and deposit premium. At the close of each audit period (or part thereof terminating with the end of the policy period) we will compute the earned premium for that period. If the earned premium is greater than the advance premium paid, an audit premium is due. Audit premiums are due and payable on notice to the first Named Insured. If the total earned premium for the policy period is less than the advance premium, such advance premium is the minimum premium for the policy period indicated and is not subject to further adjustment.

H. SECTION VI – DEFINITIONS, item G, is deleted and replaced with the following:

- G. "Employee" includes a "leased worker" and a "temporary worker" whether paid or acting as a volunteer.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

IL 01 10 07 01

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**NEVADA CHANGES – CONCEALMENT,
MISREPRESENTATION OR FRAUD**

This endorsement modifies insurance provided under the following:

BOILER AND MACHINERY COVERAGE PART
COMMERCIAL AUTOMOBILE COVERAGE PART
COMMERCIAL CRIME COVERAGE PART
COMMERCIAL INLAND MARINE COVERAGE PART
COMMERCIAL PROPERTY COVERAGE PART
FARM COVERAGE PART - FARM PROPERTY - OTHER FARM PROVISIONS FORM - ADDITIONAL
COVERAGES, CONDITIONS, DEFINITIONS
FARM COVERAGE PART - LIVESTOCK COVERAGE FORM
FARM COVERAGE PART - MOBILE AGRICULTURAL MACHINERY
AND EQUIPMENT COVERAGE FORM
STANDARD PROPERTY POLICY

The **CONCEALMENT, MISREPRESENTATION OR FRAUD** Condition is replaced by the following:

CONCEALMENT, MISREPRESENTATION OR FRAUD

We will not pay for any loss ("loss") or damage in any case of:

1. Concealment or misrepresentation of a material fact; or

2. Fraud;
committed by an insured ("insured") at any time and relating to a claim under this policy.

IL 01 10 07 01

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Page 1 of 1

CSC000190

Andrew v CSC
CF000190

R.App. 001418

Jan Taylor

From: Daniel Mayer
Sent: Wednesday, March 30, 2011 6:32 PM
To: Claims Transcription
Cc: Lisa Henderson
Subject: FW: 61367 Blue Streak Auto-disclaimer-30 days runs April 2, 2011

Approved for mailing.

Daniel L. Mayer
Managing Claims Attorney, AVP
Meadowbrook Insurance Group
Century Surety Company
ProCentury Insurance Company
Star Insurance Company

Mailing Address:
P.O. Box 163340
Columbus, OH 43216-3340

Physical Address:
23733 N. Scottsdale Rd., Ste. 100
Scottsdale, AZ 85255

602.216.6593
800.854.8138
614.895.7040 fax
dmayer@centurysurety.com

From: Lisa Henderson
Sent: Thursday, March 10, 2011 2:52 PM
To: Daniel Mayer
Subject: 61367 Blue Streak Auto-disclaimer-30 days runs April 2, 2011



61367 Disclaimer Ltr
to Ins ...

Daniel,
For your review.
Lisa

Lisa M. Henderson
Claims Attorney
Century Insurance
A Subsidiary of Meadowbrook Insurance Group
23733 N. Scottsdale Road, Ste. 100
Scottsdale, Arizona 85255
(602) 216-6589 Direct
(800) 840-0463 Toll Free
(614) 895-7040 Fax
LHenderson@centurysurety.com



March 31, 2011

VIA CERTIFIED, REGULAR MAIL and EMAIL

91 7108 2133 3938 1276 9955

via email to: mav7778@yahoo.com

Michael Vasquez
Blue Streak Auto Detailing
3675 E. Post Road, Suite B
Las Vegas, NV 89120

Michael Vasquez
Blue Streak Auto Detailing
1886 Via Ferenz
Henderson, NV 89044

RE: Ryan Pretner, et. al. v. Michael Vasquez and Blue Streak Auto Detailing, LLC

Named Insured: Blue Streak Auto Detailing
Policy No.: CCP502869 (eff. 6/27/08 to 6/27/09)
Date of Loss: January 12, 2009
Claim No.: 01-061367

Dear Mr. Vasquez:

I am the in-house claims attorney for Meadowbrook Claim Services assigned to oversee this claim on behalf of Century Surety Company ("Century"). Century is in receipt of a Complaint filed Lee Pretner and Dana Andrew as legal guardians of Ryan T. Pretner, an Adult ward, and Ryan T. Pretner, individually against Michael A Vasquez and Blue Streak Auto Detailing LLC in the District Court of Nevada, Clark County (hereinafter "the Pretner Action"). Upon careful review of the Complaint and policy we have determined that no coverage is available for this claim. As such, Century hereby declines to provide you with either a defense or indemnity in the action brought by Pretner. Please read this letter carefully for a more detailed explanation of Century's coverage position.

I. FACTUAL BACKGROUND

The following facts are based in large part upon the allegations contained in the Complaint referenced above. The allegations are reviewed here simply for the purpose of explaining Century's coverage position. Century's review of these allegations should not be construed as a comment on their truthfulness as Century does not mean to assert that any or all of those allegations are true. That said, please advise us if you believe that we have misunderstood or misconstrued the allegations.

According to the complaint, on January 12, 2009, Michael Vasquez struck Ryan Pretner with the side view mirror of his truck while Pretner was riding his bike. Pretner was thrown from the bike and sustained "catastrophic" injuries. Mr. Vasquez was driving a 2007 Ford F-150 sometimes used during the course of Blue Streak Auto's business of mobile detailing.

Lisa Henderson
Claims Attorney
LHenderson@centurysurety.com | 800-840-0463
Mailing Address: P.O. Box 163340 Columbus, Ohio 43216-3340
Physical Address: 23733 N. Scottsdale Rd., Suite 100, Scottsdale, AZ 85255
Phone: 888-651-6424 Fax: 614-895-7040 Website: www.centurysurety.com

Andrew v CSC
CF000192

CSC000192

R.App. 001420

Michael Vasquez
 Blue Streak Auto Detailing
 March 31, 2011
 Page 2 of 5

The Police report created following the accident indicates that Mr. Vasquez told the reporting officer that he had finished work for the day and was on his way to his uncle's house at the time of the accident. On April 28, 2009, he confirmed as much in a recorded statement given to Century's investigator in which he indicated that at the time of the accident he was driving to his uncle's house to pick up mail and that this activity had nothing to do with the Blue Streak Auto's business.

In a letter dated June 5, 2009, Century denied coverage for this claim. On January 7, 2011, the Complaint was filed. On March 3, 2011, Century was provided with a copy of that Complaint and again asked to provide coverage.

II. POLICY

Century issued policy number CCP502869 to Blue Streak Auto Detailing for the period spanning June 27, 2008 to June 27, 2009. The policy provides Garage Coverage with liability limits of \$1,000,000 per accident and \$2,000,000 in the aggregate subject to a \$1,000 per accident deductible. Garage operations are described as "auto detailing and wash." The policy covers the insured location of 3675 E. Post Rd., Ste. B, Las Vegas, Nevada 89120.

Pertinent portions of the policy read as follows:

SECTION I – COVERED AUTOS

Item Two of the Declarations shows the "autos" that are covered "autos" for each of your coverages. The following numerical symbols describe the "autos" that may be covered "autos". The symbols entered next to a coverage on the Declarations designate the only "autos" that are covered "autos".

A. Description Of Covered Auto Designation Symbols

29	Non-Owned "Autos" Used In Your Garage Business	Any "auto" you do not own, lease, hire, rent or borrow used in connection with your garage business described in the Declarations. This includes "autos" owned by your "employees" or partners (if you are a partnership), members (if you are a limited liability company), or members of their households while used in your garage business.
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SECTION II – LIABILITY COVERAGE

A. Coverage

1. "Garage Operations" – Other Than Covered "Autos"

- a. We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies caused by an "accident" and resulting from "garage operations" other than the ownership, maintenance or use of covered "autos".

Michael Vasquez
Blue Streak Auto Detailing
March 31, 2011
Page 3 of 5

We have the right and duty to defend any "insured" against a "suit" asking for these damages. However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the applicable Liability Coverage Limit of Insurance – "Garage Operations" – Other Than Covered "Autos" has been exhausted by payment of judgments or settlements.

- b. This insurance applies to "bodily injury" and "property damage" only if:
 - (1) The "accident" occurs in the coverage territory;
 - (2) The "bodily injury" or "property damage" occurs during the policy period; and
 - (3) Prior to the policy period, no "insured" listed under **Who Is An Insured** and no "employee" authorized by you to give or receive notice of an "accident" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed "insured" or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.
 - c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any "insured" listed under **Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "accident" or claim, includes any continuation, change or resumption of that "bodily injury" or "property damage" after the end of the policy period.
 - d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any "insured" listed under **Who Is An Insured** or any "employee" authorized by you to give or receive notice of an "accident" or claim:
 - (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
 - (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
 - (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.
2. **"Garage Operations" – Covered "Autos"**

We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" and resulting from "garage operations" involving the ownership, maintenance or use of covered "autos".

We will also pay all sums an "insured" legally must pay as a "covered pollution cost or expense" to which this insurance applies, caused by an "accident" and resulting from "garage operations" involving the ownership, maintenance or use of covered "autos". However, we will only pay for the "covered pollution cost or expense" if there is either "bodily injury" or "property damage" to which this insurance applies that is caused by the same "accident".

Michael Vasquez
Blue Streak Auto Detailing
March 31, 2011
Page 4 of 5

We have the right and duty to defend any "insured" against a "suit" asking for such damages or a "covered pollution cost or expense". However, we have no duty to defend any "insured" against a "suit" seeking damages for "bodily injury" or "property damage" or a "covered pollution cost or expense" to which this insurance does not apply. We may investigate and settle any claim or "suit" as we consider appropriate. Our duty to defend or settle ends when the Liability Coverage Limit of Insurance – "Garage Operations" – Covered "Autos" has been exhausted by payment of judgments or settlements.

SECTION VI – DEFINITIONS

- A. "Accident" includes continuous or repeated exposure to the same conditions resulting in "bodily injury" or "property damage".
- B. "Auto" means a land motor vehicle, "trailer" or semi-trailer.
- C. "Bodily injury" means bodily injury, sickness or disease sustained by a person including death resulting from any of these.
- H. "Garage operations" means the ownership, maintenance or use of locations for garage business and that portion of the roads or other accesses that adjoin these locations. "Garage operations" includes the ownership, maintenance or use of the "autos" indicated in Section I of this Coverage Form as covered "autos". "Garage operations" also include all operations necessary or incidental to a garage business.

CAG 1919 (08/07)

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

GARAGE OPERATIONS LIMITATION ENDORSEMENT

This endorsement modifies insurance provided under the following:

GARAGE COVERAGE FORM

SCHEDULE

The following work and operations are included within the definition of "Garage operations":

Auto Detailing and Wash

Coverage for classifications, operations or premises not shown above can only be covered if agreed to, in writing, by us as evidenced by endorsement to this policy.

While we have quoted specific portions here to bring them to your attention, Century reserves its right to rely on other portions of the policy's language. We encourage you to read the policy in its entirety so you are familiar with the coverage available.

III. CENTURY'S COVERAGE POSITION

Michael Vasquez
Blue Streak Auto Detailing
March 31, 2011
Page 5 of 5

The portions of the Garage Coverage Policy Form, Section I and Section II quoted above indicate that Century will pay sums that the insured becomes legally obligated to pay as damages resulting from covered "bodily injury" or "property damage" caused by an "accident" and resulting from "garage operations" other than ownership, maintenance or use of covered "autos." The term "garage operations" is defined to include your business described as "auto detailing and wash." In this case, you told both the policy and Century that you were not performing any "garage operations" at the time of the accident but had finished your work for the day and were performing a personal errand unrelated to Blue Streak Auto's business. Because the accident at issue did not result from "garage operations," it falls entirely outside of the policy's scope of coverage. For this reason, Century again declines to provide you with a defense or indemnity for this claim.

There may be other reasons why coverage does not apply. As such, this letter should not be construed as waiving any of Century's rights under the policy or applicable law to limit and/or deny coverage. Century reserves the right to rely on any additional facts, policy provisions, or other relevant information that may affect coverage to alter its position in the future. We do not waive our right to disclaim coverage for any other valid reason which may arise.

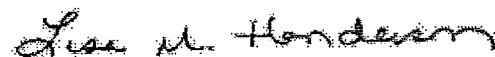
IV. CONCLUSION

Century trusts that you understand its coverage position, but if you have any questions or concerns please do not hesitate to contact us. Further, if you believe we have omitted any relevant information or if you are aware of, or become aware of, any additional information that you believe may affect Century's coverage position, please contact us immediately. Century reserves its right to consider additional information and reassess its coverage position should the circumstances so warrant.

Please do not hesitate to call if you have any questions or concerns.

Very truly yours,

CENTURY SURETY COMPANY



Lisa M. Henderson
Claims Attorney

LMH/jt

cc: The Harris Agency
5105 South Durango Dr. Ste. 100
Las Vegas, NV 89113

Heritage General Agency Insurance Services
via email to: Fsobott@heritagegeneral.com

04/13/2011 04:35 PM 4268F_7293

Please Send by Certified Mail with Return Receipt

To:

Michael Vasquez
Blue Streak Auto Detailing
3675 E. Post Road, Suite B
Las Vegas, NV 89120

Certified Mail Number: 91 7108 2133 3938 1276 9955

Department Charge Code: Claims

Sent for: Claim No. 01-061367

Sent By: Jan Taylor

Date: 03/31/11

Mailroom:

Date Sent: 4-5-11

Initials: JB

04/13/2011 04:35 PM 4268F_7293



Date Produced: 04/11/2011

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Printed Name	MARTHA CHAPMAN

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Address	
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Customer Reference Number: 6555558 3062624601 061367

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PAGE 01/06

PRINCE & KEATING
3230 S. Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
(702) 228-6800
(702) 228-0443 - FAX

FACSIMILE COVER SHEET

TO : Charles Holland **Fax No.:** (614) 895-7040

FROM: Lisa M. Lee, paralegal to
Dennis M. Prince **DATE:** 6/27/11

RE : Ryan Pretner, claim no. 01-061367

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 6

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL (702) 228-6800 AND ASK FOR LISA LEE.

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PRINCE & KEATING

ATTORNEYS AT LAW
3320 SOUTH BUFFALO DRIVE, SUITE 1000
LAS VEGAS, NEVADA 89117
TELEPHONE (702) 228-6800
FACSIMILE (702) 228-0443
WWW.PRINCEKEATING.COM

Reply To: Dennis M. Prince
Email: DPrince@PrinceKeating.com

June 27, 2011

VIA FACSIMILE (614) 895-7040

Charles C. Holland
Senior Claims Handler
Century Insurance Company
P.O. Box 163340
Columbus, Ohio 43216-3340

RE: Our Client : Ryan T. Pretner
Your Insured : Blue Streak Auto Detailing, Inc.
Claim No. : 01-061367
Date of Loss : 01/12/09

Dear Mr. Holland:

As you know, this firm represents Ryan T. Pretner in connection with the above-referenced motor vehicle accident. A copy of the complaint filed in this matter was forwarded to you on March 3, 2011. We served the Summons and Complaint on Defendant Blue Streak Auto Detailing on April 7, 2011, and on Defendant Michael A. Vasquez on April 13, 2011. To date, we have received no response. As a result, a Default has been entered against both Defendants. We have enclosed copies of the Defaults for your review.

Please contact our office to discuss this matter in greater detail. We look forward to hearing from you.

Sincerely,

PRINCE & KEATING



Dennis M. Prince

DMP:lm
enclosures

cc: Dana Andrew

Andrew v CSC
CF000200

CSC000200

R.App. 001428

06/27/2011 11:56

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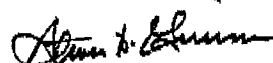
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DFLT
DENNIS M. PRINCE
Nevada Bar No. 5092
PRINCE & KEATING
3230 S. Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
(702) 228-6800
(702) 228-0443 facsimile
D.Prince@PrinceKeating.com
Attorney for Plaintiff
Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually

Electronically Filed
06/27/2011 10:26:02 AM


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

LEE PRETNER and DANA ANDREW,
AS LEGAL GUARDIANS OF RYAN T.
PRETNER, an adult ward; and RYAN T.
PRETNER, individually,

CASE NO.: A-11-632845-C
DEPT. NO.: III

Plaintiffs,

vs.

DEFAULT

MICHAEL A. VASQUEZ, individually;
BLUE STREAK AUTO DETAILING,
LLC, a Nevada Limited Liability
Company; DOES I through X, inclusive;
and ROE BUSINESS ENTITIES I through
X, inclusive,

Defendants.

IT APPEARING from the files and records in the above-entitled action that Defendant BLUE STREAK AUTO DETAILING LLC, herein, being duly served with a copy of the Summons and Complaint on the 7th day of April, 2011, that more than 20 days, exclusive of the day of service, having expired since service upon the Defendant; that no answer or other appearance having been filed and no further time having been granted, the default of the above-named Defendant for failing

PRINCE & KEATING
ATTORNEYS AT LAW
3230 South Buffalo Drive
Suite 108
LAS VEGAS, NEVADA 89117
PHONE: (702) 228-6800

06/27/2011 11:56 7022280443

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PAGE 04/06

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to answer or otherwise plead to Plaintiff's Complaint is hereby granted.

CLERK OF COURT

JUN 23 2011

BY:

DEPUTY CLERK


DATE

PATRICIA AZUCENA

AL632815

Submitted by:

PRINCE & KEATING


DENNIS M. PRINCE
Nevada Bar No. 5092
3230 South Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
Attorneys for Plaintiffs
*Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually*

PRINCE & KEATING
ATTORNEYS AT LAW
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SUITE 108
LAS VEGAS, NEVADA 89117
PHONE: (702) 228-6800

Andrew v CSC
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CSC000202

R.App. 001430

06/27/2011 11:56 7022280443

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PAGE 05/06

Electronically Filed
06/27/2011 10:27:11 AM

1 DFLT
 2 DENNIS M. PRINCE
 Nevada Bar No. 5092
 3 PRINCE & KEATING
 3230 S. Buffalo Drive
 4 Suite 108
 Las Vegas, Nevada 89117
 5 (702) 228-6800
 6 (702) 228-0443 facsimile
 DPrince@PrinceKeating.com
 7 Attorney for Plaintiff
 Lee Pretner and Dana Andrew, as
 8 Legal Guardians of Ryan T. Pretner;
 and Ryan T. Pretner, individually
 9

Anna L. Johnson
 CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

12 LEE PRETNER and DANA ANDREW,
 13 AS LEGAL GUARDIANS OF RYAN T.
 PRETNER, an adult ward; and RYAN T.
 14 PRETNER, individually,

CASE NO.: A-11-632845-C
 DEPT. NO.: III

Plaintiffs,

vs.

DEFAULT

18 MICHAEL A. VASQUEZ, individually;
 BLUE STREAK AUTO DETAILING,
 19 LLC, a Nevada Limited Liability
 Company; DOES I through X, inclusive;
 20 and ROE BUSINESS ENTITIES I through
 X, inclusive,
 21

Defendants.

23 IT APPEARING from the files and records in the above-entitled action that Defendant
 MICHAEL A. VASQUEZ, herein, being duly served with a copy of the Summons and Complaint on
 the 13th day of April, 2011, that more than 30 days, exclusive of the day of service, having expired

CLERK OF THE COURT
 JUN 23 11 56 AM '11



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otherwise plead to Plaintiff's Complaint is hereby granted.

CLERK OF COURT

BY:

DEPUTY CLERK


PATRICIA AZUCENA

DATE

JUN 23 2011
1632015

Submitted by:

PRINCE & KEATING


DENNIS M. PRINCE
Nevada Bar No. 5092
3230 South Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
Attorneys for Plaintiffs
*Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually*

PRINCE & KEATING
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PHONE: (702) 228-6800

06/27/2011 14:51 7022280443

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PAGE 01/06

PRINCE & KEATING
3230 S. Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
(702) 228-6800
(702) 228-0443 - FAX

FACSIMILE COVER SHEET

TO : Lisa Henderson **Fax No.:** (602) 371-0113
FROM: Lisa M. Lee, paralegal to
Dennis M. Prince **DATE:** 6/27/11
RE : Ryan Pretner, claim no. 01-061367

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 6

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06/27/2011 14:51 7022280443

PRINCE KEATING LLP

PAGE 02/06

PRINCE & KEATING
ATTORNEYS AT LAW
3230 SOUTH BUFFALO DRIVE, SUITE 108
LAS VEGAS, NEVADA 89117
TELEPHONE (702) 228-6800
FACSIMILE (702) 228-0443
WWW.PRINCEKEATING.COM

Reply To: Dennis M. Prince
Email: DPrince@PrinceKeating.com

June 27, 2011

VIA FACSIMILE (602) 371-0113

Lisa Henderson
Senior Claims Analyst
Century Insurance Company
P.O. Box 163340
Columbus, Ohio 43216-3340

RE: Our Client : Ryan T. Pretner
Your Insured : Blue Streak Auto Detailing, Inc.
Claim No. : 01-061367
Date of Loss : 01/12/09

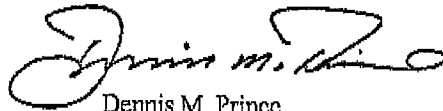
Dear Ms. Henderson:

As you know, this firm represents Ryan T. Pretner in connection with the above-referenced motor vehicle accident. A copy of the complaint filed in this matter was forwarded to you on March 3, 2011. We served the Summons and Complaint on Defendant Blue Streak Auto Detailing on April 7, 2011, and on Defendant Michael A. Vasquez on April 13, 2011. To date, we have received no response. As a result, a Default has been entered against both Defendants. We have enclosed copies of the Defaults for your review.

Please contact our office to discuss this matter in greater detail. We look forward to hearing from you.

Sincerely,

PRINCE & KEATING



Dennis M. Prince

DMP:iml
enclosures

cc: Dana Andrew

Andrew v CSC
CF000206

CSC000206

R.App. 001434

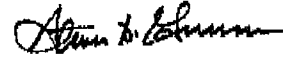
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PAGE 03/06

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CLERK OF THE COURT

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DELT
DENNIS M. PRINCE
Nevada Bar No. 5092
PRINCE & KEATING
3230 S. Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
(702) 228-6800
(702) 228-0443 facsimile
DPrince@PrinceKeating.com
Attorney for Plaintiff
*Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LEE PRETNER and DANA ANDREW,
AS LEGAL GUARDIANS OF RYAN T.
PRETNER, an adult ward; and RYAN T.
PRETNER, individually,

CASE NO.: A-11-632845-C
DEPT. NO.: III

Plaintiffs,

vs.

DEFAULT

MICHAEL A. VASQUEZ, individually;
BLUE STREAK AUTO DETAILING,
LLC, a Nevada Limited Liability
Company; DOES I through X, inclusive;
and ROE BUSINESS ENTITIES I through
X, inclusive,

Defendants.

IT APPEARING from the files and records in the above-entitled action that Defendant MICHAEL A. VASQUEZ, herein, being duly served with a copy of the Summons and Complaint on the 13th day of April, 2011, that more than 20 days, exclusive of the day of service, having expired since service upon the Defendant; that no answer or other appearance having been filed and no further time having been granted, the default of the above-named Defendant for failing to answer or

CLERK OF THE COURT

JUN 29 2011

RECEIVED

PRINCE & KEATING
ATTORNEYS AT LAW
3230 South Buffalo Drive
SUITE 108
LAS VEGAS, NEVADA 89117
PHONE: (702) 228-6800

Andrew v CSC
CF000207

CSC000207

R.App. 001435

06/27/2011 14:51 7022280443

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PAGE 04/06

1 otherwise plead to Plaintiff's Complaint is hereby granted.

2 CLERK OF COURT

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4 BY:

5 DEPUTY CLERK

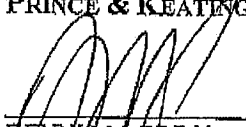
6 DATE

7 PATRICIA AZUCENA

8 JUN 23 2011
9 A633845

10 Submitted by:

11 PRINCE & KEATING

12 
13 DENNIS M. PRINCE
14 Nevada Bar No. 5092
15 3230 South Buffalo Drive
16 Suite 108
17 Las Vegas, Nevada 89117
18 Attorneys for Plaintiffs
19 Lee Pretner and Dana Andrew, as
20 Legal Guardians of Ryan T. Pretner;
21 and Ryan T. Pretner, individually
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PRINCE & KEATING
ATTORNEYS AT LAW
3230 South Buffalo Drive
Suite 108
LAS VEGAS, NEVADA 89117
PHONE: (702) 228-6800

1 **DFLT**
 2 DENNIS M. PRINCE
 Nevada Bar No. 5092
 3 **PRINCE & KEATING**
 3230 S. Buffalo Drive
 4 Suite 108
 Las Vegas, Nevada 89117
 5 (702) 228-6800
 6 (702) 228-0443 facsimile
 DPrince@PrinceKeating.com
 7 Attorney for Plaintiff
 Lee Pretner and Dana Andrew, as
 8 Legal Guardians of Ryan T. Pretner;
 and Ryan T. Pretner, individually

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 06/27/2011 10:26:02 AM


 CLERK OF THE COURT

10 **DISTRICT COURT**
 11 **CLARK COUNTY, NEVADA**

12 LEE PRETNER and DANA ANDREW,
 13 AS LEGAL GUARDIANS OF RYAN T.
 14 PRETNER, an adult ward; and RYAN T.
 PRETNER, individually,

CASE NO.: A-11-632845-C
 DEPT. NO.: III

15 Plaintiffs,

16 vs.

DEFAULT

17 MICHAEL A. VASQUEZ, individually;
 18 BLUE STREAK AUTO DETAILING,
 19 LLC, a Nevada Limited Liability
 20 Company; DOES I through X, inclusive;
 and ROE BUSINESS ENTITIES I through
 21 X, inclusive,

22 Defendants.

23 IT APPEARING from the files and records in the above-entitled action that Defendant BLUE
 24 STREAK AUTO DETAILING LLC, herein, being duly served with a copy of the Summons and
 25 Complaint on the 7th day of April, 2011, that more than 20 days, exclusive of the day of service,
 26 having expired since service upon the Defendant; that no answer or other appearance having been
 27 filed and no further time having been granted, the default of the above-named Defendant for failing
 28

PRINCE & KEATING
 ATTORNEYS AT LAW
 3230 South Buffalo Drive
 SUITE 108
 LAS VEGAS, NEVADA 89117
 PHONE: (702) 228-6800

1 to answer or otherwise plead to Plaintiff's Complaint is hereby granted.

2 CLERK OF COURT

3 JUN 23 2011

4 BY:


5 DEPUTY CLERK
6 PATRICIA AZUCENA

DATE

ALB32815

Submitted by:

7 PRINCE & KEATING

8 
9 DENNIS M. PRINCE
10 Nevada Bar No. 5092
11 3230 South Buffalo Drive
12 Suite 108
13 Las Vegas, Nevada 89117
14 Attorneys for Plaintiffs
15 *Lee Pretner and Dana Andrew, as*
16 *Legal Guardians of Ryan T. Pretner;*
17 *and Ryan T. Pretner, individually*

To: Daniel Mayer;
From: LMHENDER
Cc:
Bcc:
Subject: 01061367 BLUE STREAK AUTO DETAILING-DEFAULT NOTICE
Date/Time Sent: 06/27/2011 3:33 PM

=====BEGINNING OF MESSAGE=====

Drawer: CLM
FileNo: 01061367

Daniel,

I received the attach default in this claim today. Century does not have coverage for the insured because the driver was not on business at the time he hit the Plaintiff who was riding his bike. I was told by Progressive, the driver's auto carrier that it was defending the driver. The default states it is against Vasquez and Century's insured. Should I advise PC that we have no coverage?

Lisa

=====END OF MESSAGE=====

Attached Files:
IR110000.pdf

06/27/2011 11:56 7022280443

PRINCE KEATING LLP

PAGE 01/06

**PRINCE & KEATING
3230 S. Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
(702) 228-6800
(702) 228-0443 - FAX**

FACSIMILE COVER SHEET

TO : Charles Holland **Fax No.:** (614) 895-7040
FROM: Lisa M. Lee, paralegal to
Dennis M. Prince **DATE:** 6/27/11
RE : Ryan Pretner, claim no. 01-061367

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 6

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL (702) 228-6800 AND ASK FOR LISA LEE.

ORIGINAL WILL BE SENT VIA:

MAIL OVERNIGHT COURIER RUNNER

ORIGINAL WILL NOT BE SENT VIA MAIL

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PRINCE & KEATING

ATTORNEYS AT LAW
3230 SOUTH BUFFALO DRIVE, SUITE 108
LAS VEGAS, NEVADA 89117
TELEPHONE (702) 228-6800
FACSIMILE (702) 228-0443
WWW.PRINCEKEATING.COM

Reply To: Dennis M. Prince
Email: DPrince@PrinceKeating.com

June 27, 2011

VIA FACSIMILE (614) 895-7040

Charles C. Holland
Senior Claims Handler
Century Insurance Company
P.O. Box 163340
Columbus, Ohio 43216-3340

RE: Our Client : Ryan T. Pretner
Your Insured : Blue Streak Auto Detailing, Inc.
Claim No. : 01-061367
Date of Loss : 01/12/09

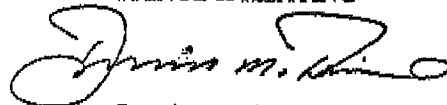
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Sincerely,

PRINCE & KEATING



Dennis M. Prince

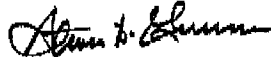
DMP:lmj
enclosures

cc: Dana Andrew

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DFLT
DENNIS M. PRINCE
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PRINCE & KEATING
3230 S. Buffalo Drive
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Las Vegas, Nevada 89117
(702) 228-6800
(702) 228-0443 facsimile
DPrince@PrinceKeating.com
Attorney for Plaintiff
Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually

Electronically Filed
08/27/2011 10:26:02 AM


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

LEE PRETNER and DANA ANDREW,
AS LEGAL GUARDIANS OF RYAN T.
PRETNER, an adult ward; and RYAN T.
PRETNER, individually,

CASE NO.: A-11-632845-C
DEPT. NO.: III

Plaintiffs,

vs.

DEFAULT

MICHAEL A. VASQUEZ, individually;
BLUE STREAK AUTO DETAILING,
LLC, a Nevada Limited Liability
Company; DOES I through X, inclusive;
and ROE BUSINESS ENTITIES I through
X, inclusive,

Defendants.

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PRINCE & KEATING
ATTORNEYS AT LAW
3230 South Buffalo Drive
SUITE 108
LAS VEGAS, NEVADA 89117
PHONE: (702) 228-6800

06/27/2011 11:56 7022280443

PRINCE KEATING LLP

PAGE 04/06

1 to answer or otherwise plead to Plaintiff's Complaint is hereby granted.

2 CLERK OF COURT

3 JUN 23 2010

4 BY:

5 DEPUTY CLERK

6 DATE

7 PATRICIA AZUCENA

ALBERTS

8 Submitted by:

9 PRINCE & KEATING

10 
DENNIS M. PRINCE

11 Nevada Bar No. 5092

12 3230 South Buffalo Drive

13 Suite 108

14 Las Vegas, Nevada 89117

15 Attorneys for Plaintiffs

16 *Lee Pretner and Dana Andrew, as*

17 *Legal Guardians of Ryan T. Pretner;*

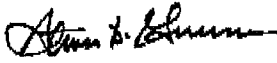
18 *and Ryan T. Pretner, individually*

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PRINCE & KEATING
ATTORNEYS AT LAW
3230 South Buffalo Drive
SUITE 108
LAS VEGAS, NEVADA 89117
PHONE: (702) 226-6800

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1 DFLT
2 DENNIS M. PRINCE
3 Nevada Bar No. 5092
4 PRINCE & KEATING
5 3230 S. Buffalo Drive
6 Suite 108
7 Las Vegas, Nevada 89117
8 (702) 228-6800
9 (702) 228-0443 facsimile
10 DPrince@PrinceKeating.com
11 Attorney for Plaintiff
12 Lee Pretner and Dana Andrew, as
13 Legal Guardians of Ryan T. Pretner;
14 and Ryan T. Pretner, individually


CLERK OF THE COURT

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 LEE PRETNER and DANA ANDREW,
13 AS LEGAL GUARDIANS OF RYAN T.
14 PRETNER, an adult ward; and RYAN T.
15 PRETNER, individually,

CASE NO.: A-11-632845-C
DEPT. NO.: III

16 Plaintiffs,

17 vs.

DEFAULT

18 MICHAEL A. VASQUEZ, individually;
19 BLUE STREAK AUTO DETAILING,
20 LLC, a Nevada Limited Liability
21 Company; DOES I through X, inclusive;
22 and ROE BUSINESS ENTITIES I through
23 X, inclusive,

Defendants.

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CLERK OF THE COURT
JUN 28 2011

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otherwise plead to Plaintiff's Complaint is hereby granted.

CLERK OF COURT

BY: Patricia Azucena JUN 23 2011
DEPUTY CLERK DATE
PATRICIA AZUCENA ALB32845

Submitted by:

PRINCE & KEATING



DENNIS M. PRINCE
Nevada Bar No. 5092
3230 South Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
Attorneys for Plaintiffs
*Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually*

To: pamelee_torres@progressive.com;
From: LMHENDER
Cc:
Bcc:
Subject: 01061367 BLUE STREAK AUTO DETAILING
Date/Time Sent: 06/27/2011 3:42 PM

=====BEGINNING OF MESSAGE=====

Drawer: CLM
FileNo: 01061367

Hi Pam,
Here is the default notice I received on this case today. Please
acknowledge receipt of this email.
Thanks,
Lisa
Lisa M. Henderson
Claims Attorney
Century Insurance
A Subsidiary of Meadowbrook Insurance Group
23733 N. Scottsdale Road, Ste. 100
Scottsdale, Arizona 85255
(602) 216-6589 Direct
(800) 840-0463 Toll Free
(614) 895-7040 Fax
LHenderson@centurysurety.com

=====END OF MESSAGE=====

Attached Files:
IR110000.pdf

06/27/2011 11:56 7022280443

PRINCE KEATING LLP

PAGE 01/06

PRINCE & KEATING
3230 S. Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
(702) 228-6800
(702) 228-0443 - FAX

FACSIMILE COVER SHEET

TO : Charles Holland **Fax No.:** (614) 895-7040

FROM: Lisa M. Lee, paralegal to
Dennis M. Prince **DATE:** 6/27/11

RE : Ryan Pretner, claim no. 01-061367

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 6

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL (702) 228-6800 AND ASK FOR LISA LEE.

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PAGE 02/06

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ATTORNEYS AT LAW
3220 SOUTH BUFFALO DRIVE, SUITE 108
LAS VEGAS, NEVADA 89117
TELEPHONE (702) 228-6800
FACSIMILE (702) 228-0443
WWW.PRINCEKEATING.COM

Reply To: Dennis M. Prince
Email: DPrince@PrinceKeating.com

June 27, 2011

VIA FACSIMILE (614) 895-7040

Charles C. Holland
Senior Claims Handler
Century Insurance Company
P.O. Box 163340
Columbus, Ohio 43216-3340

RE: Our Client : Ryan T. Pretner
Your Insured : Blue Streak Auto Detailing, Inc.
Claim No. : 01-061367
Date of Loss : 01/12/09

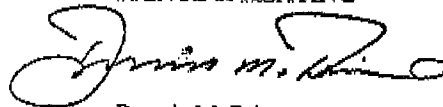
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Sincerely,

PRINCE & KEATING



Dennis M. Prince

DMP:lml
enclosures

cc: Dana Andrew

Andrew v CSC
CF000220

CSC000220

R.App. 001448

06/27/2011 11:56 7022280443

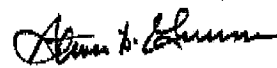
PRINCE KEATING LLP

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DENNIS M. PRINCE
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PRINCE & KEATING
3230 S. Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
(702) 228-6800
(702) 228-0443 facsimile
DPrince@PrinceKeating.com
Attorney for Plaintiff
*Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually*

Electronically Filed
06/27/2011 10:26:02 AM


CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

LEE PRETNER and DANA ANDREW,
AS LEGAL GUARDIANS OF RYAN T.
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PRETNER, individually,

CASE NO.: A-11-632845-C
DEPT. NO.: III

Plaintiffs,

vs.

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ATTORNEYS AT LAW
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PHONE: (702) 228-6800

06/27/2011 11:56 7022280443

PRINCE KEATING LLP

PAGE 04/06

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2 CLERK OF COURT

3 JUN 23 2010

4 BY:

5 DEPUTY CLERK


6 DATE

7 PATRICIA AZUCENA

8 AL32815

9 Submitted by:

10 PRINCE & KEATING

11 

12 DENNIS M. PRINCE
13 Nevada Bar No. 5092
14 3230 South Buffalo Drive
15 Suite 108
16 Las Vegas, Nevada 89117
17 Attorneys for Plaintiffs
18 Lee Pretner and Dana Andrew, as
19 Legal Guardians of Ryan T. Pretner;
20 and Ryan T. Pretner, individually
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PAGE 05/06

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(702) 228-0443 facsimile
DPrince@PrinceKeating.com
Attorney for Plaintiff
*Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually*

Alvin L. ...
CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

LEE PRETNER and DANA ANDREW,
AS LEGAL GUARDIANS OF RYAN T.
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CASE NO.: A-11-632845-C
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Plaintiffs,

vs.

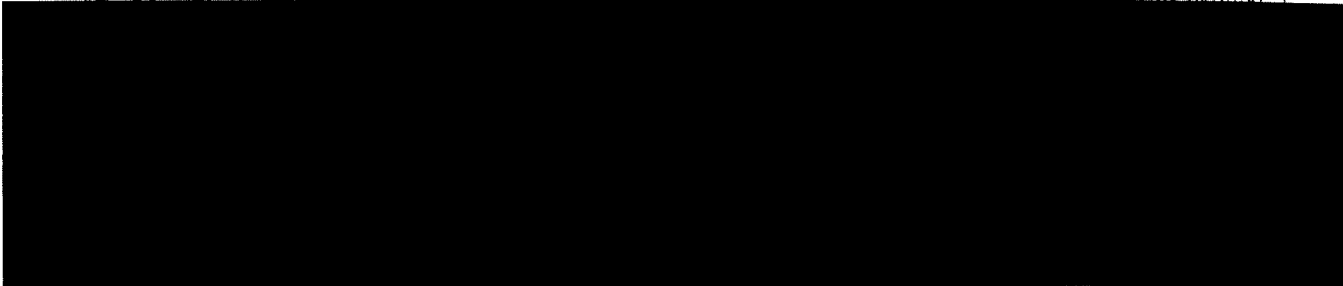
DEFAULT

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CLERK OF THE
JUN 28 2011



Andrew v CSC
CF000223

CSC000223

R.App. 001451

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otherwise plead to Plaintiff's Complaint is hereby granted.

CLERK OF COURT

BY: Patricia Azucena JUN 23 2011
DEPUTY CLERK DATE
PATRICIA AZUCENA ALB33815

Submitted by:

PRINCE & KEATING



DENNIS M. PRINCE
Nevada Bar No. 5092
3230 South Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
Attorneys for Plaintiffs
*Lee Pretner and Dana Andrew, as
Legal Guardians of Ryan T. Pretner;
and Ryan T. Pretner, individually*

PRINCE & KEATING
ATTORNEYS AT LAW
3230 South Buffalo Drive
Suite 108
LAS VEGAS, NEVADA 89117
PHONE: (702) 228-6800

To: ~~dprince@princekeating.com;~~
From: LMHENDER
Cc: pamelee_torres@progressive.com;
Bcc:
Subject: 01061367 BLUE STREAK AUTO DETAILING
Date/Time Sent: 06/27/2011 4:12 PM

=====BEGINNING OF MESSAGE=====

Drawer: CLM
FileNo: 01061367

Dear Mr. Prince,

Please be advised that Century has no coverage for this matter. It is my understanding that this matter is being handled by Progressive Insurance and I am copying the adjuster Pam Torres on this email and have forwarded the defaults you sent to Progressive.

Lisa

Lisa M. Henderson
Claims Attorney
Century Insurance
A Subsidiary of Meadowbrook Insurance Group
23733 N. Scottsdale Road, Ste. 100
Scottsdale, Arizona 85255
(602) 216-6589 Direct
(800) 840-0463 Toll Free
(614) 895-7040 Fax
LHenderson@centurysurety.com

=====END OF MESSAGE=====

Attached Files:
IR110000.pdf

06/27/2011 11:56 7022280443

PRINCE KEATING LLP

PAGE 02/06

PRINCE & KEATING
ATTORNEYS AT LAW
3230 SOUTH BUFFALO DRIVE, SUITE 108
LAS VEGAS, NEVADA 89117
TELEPHONE (702) 228-6800
FACSIMILE (702) 228-0443
WWW.PRINCEKEATING.COM

Reply To: Dennis M. Prince
Email: DPrince@PrinceKeating.com

June 27, 2011

VIA FACSIMILE (614) 895-7040

Charles C. Holland
Senior Claims Handler
Century Insurance Company
P.O. Box 163340
Columbus, Ohio 43216-3340

RE: Our Client : Ryan T. Pretner
Your Insured : Blue Streak Auto Detailing, Inc.
Claim No. : 01-061367
Date of Loss : 01/12/09

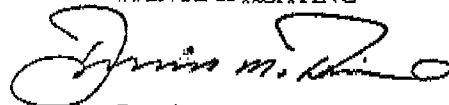
Dear Mr. Holland:

As you know, this firm represents Ryan T. Pretner in connection with the above-referenced motor vehicle accident. A copy of the complaint filed in this matter was forwarded to you on March 3, 2011. We served the Summons and Complaint on Defendant Blue Streak Auto Detailing on April 7, 2011, and on Defendant Michael A. Vasquez on April 13, 2011. To date, we have received no response. As a result, a Default has been entered against both Defendants. We have enclosed copies of the Defaults for your review.

Please contact our office to discuss this matter in greater detail. We look forward to hearing from you.

Sincerely,

PRINCE & KEATING



Dennis M. Prince

DMP:lmf
enclosures

cc: Dana Andrew

Andrew v CSC
CF000226

CSC000226

R.App. 001454

Lisa Henderson

From: Pamelee Torres [Pamelee_Torres@Progressive.com]
Sent: Monday, June 27, 2011 4:44 PM
To: Lisa Henderson
Subject: Re: 01061367 BLUE STREAK AUTO DETAILING

i received.

All correspondence (including any e-mail) we receive from you may become part of your permanent claims file. If you request a reply to this e-mail, we may respond by e-mail or by phone.

Pamelee Torres
400 N. Stephanie Street, 4th Floor
Henderson, NV 89014
Phone 702-215-7752
Fax 702-456-6185

Lisa Henderson
<LHenderson@centu
rysurety.com>

06/27/2011 03:42
PM

To
<pamelee_Torres@progressive.com>
cc
Subject
01061367 BLUE STREAK AUTO DETAILING

Drawer: CLM
FileNo: 01061367

Hi Pam,
Here is the default notice I received on this case today. Please acknowledge receipt of this email.

Thanks,
Lisa

Lisa M. Henderson
Claims Attorney
Century Insurance
A Subsidiary of Meadowbrook Insurance Group
23733 N. Scottsdale Road, Ste. 100
Scottsdale, Arizona 85255
(602) 216-6589 Direct
(800) 840-0463 Toll Free
(614) 895-7040 Fax
LHenderson@centurysurety.com

APPRAISAL

OF

Single Tenant Office Building
550 East Charleston Boulevard
West Side of Sixth Street, South of Charleston Boulevard
APN 162-03-112-042
Las Vegas, Clark County, Nevada

BY

Steven M. Randall, MAI
The Randall Company
8920 West Tropicana Avenue, Suite 105
Las Vegas, Nevada 89147

PREPARED FOR

Stephen C. Herman, Assistant Vice President
Bank of Las Vegas
6001 South Decatur Boulevard , Suite P
Las Vegas, Nevada 89118

On

May 12, 2003

WH06225

R.App. 001456

THE RANDALL COMPANY

8920 WEST TROPICANA AVENUE, SUITE 105
LAS VEGAS, NEVADA 89147
(702) 386-1886
(702) 386-0163 FAX

May 12, 2003

Stephen C. Herman, Assistant Vice President
Bank of Las Vegas
6001 South Decatur Boulevard , Suite P
Las Vegas, Nevada 89118

Subject: Single Tenant Office Building
550 East Charleston-Boulevard
West Side of Sixth Street, South of Charleston Boulevard
APN 162-03-112-042
Las Vegas, Clark County, Nevada

Dear Mr. Herman:

At your request, I have prepared an appraisal of the above-referenced property.

The date of my appraisal is May 6, 2003, the date of the property inspection. The date of the report is May 12, 2003. According to your instructions, I have provided my opinion of value for the subject property under the following scenarios:

- Market Value As Is
- Market Value As Stabilized

The function of the appraisal is for use by Bank of Las Vegas for loan underwriting.

The subject property consists of a single story structure which, according to the Clark County Assessor, contains 10,202 square feet. As of the current date, the subject is 100 percent occupied by the owner.

The office building is situated on APN 162-03-112-042 and is located on the west side of Sixth Street, one parcel south of Charleston Boulevard. According to the Clark County Assessor, the site contains 0.62 acres, or 27,007 square feet.

The Randall Company

The subject property is leased for a rate that is considered to be below market rates. Based on this, I have appraised the property as is, as of May 6, 2003 and as stabilized upon expiration of the current lease, as of July 1, 2004.

Based on the analysis presented in the following report, it is my opinion that the leased fee interest of the Market Value As Is, as of May 6, 2003 is:

ONE MILLION FIVE HUNDRED THIRTY THOUSAND DOLLARS
(\$1,530,000)

Based on the analysis presented in the following report, it is my opinion that the leased fee interest of the Market Value As Stabilized, projected to be on July 1, 2004, 2003 is:

ONE MILLION SIX HUNDRED THOUSAND DOLLARS
(\$1,600,000)

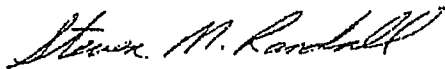
Finally, I have concluded that if the property were to be placed on the market as of the date of the Market Values, the estimated marketing time would be less than 12 months.

This appraisal has been prepared in conformity with the current requirements of the Appraisal Foundation as set forth in the Uniform Standards of Professional Appraisal Practice (USPAP) and with the requirements of the federal bank regulating agencies.

Steven M. Randall, MAI has had extensive experience in the appraisal of office properties. Therefore, the appraiser is competent to perform the assignment.

This report is a complete appraisal in a self contained format. The following report sets forth the data and analyses upon which my conclusions are based.

Sincerely,



Steven M. Randall, MAI
State of Nevada Certified General Appraiser #00980
Expires February 28, 2005

The Randall Company

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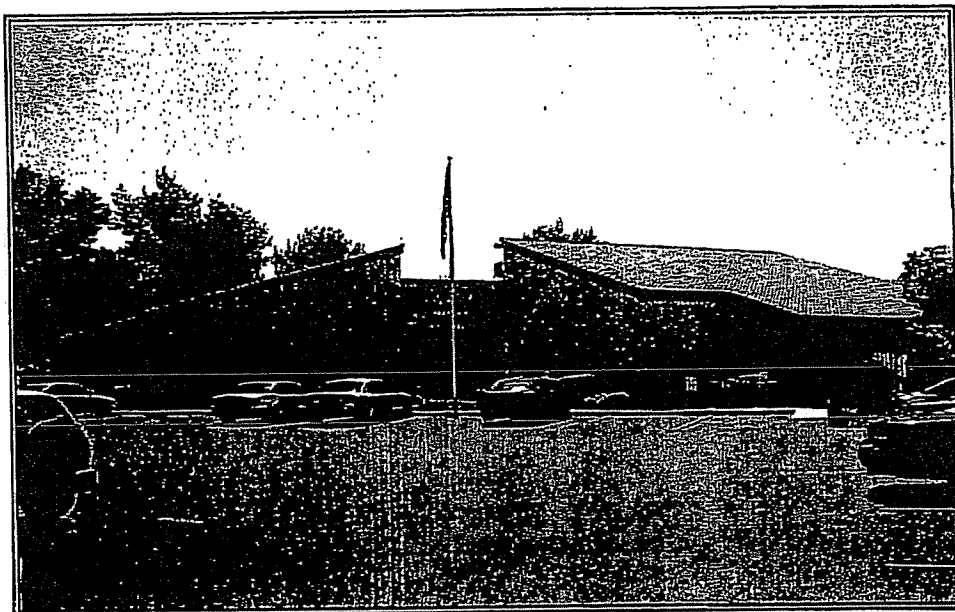
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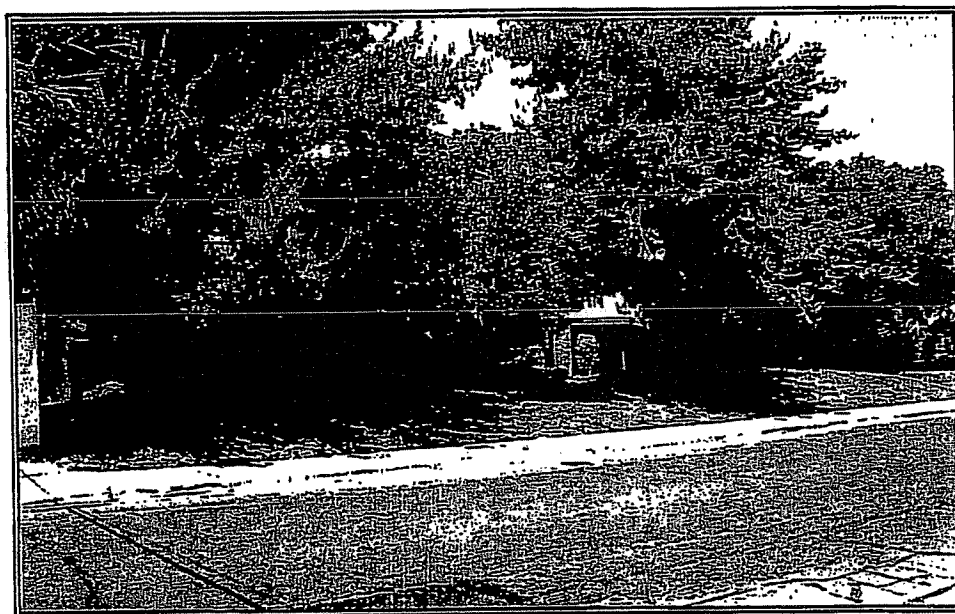
The Randall Company

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The Randall Company



Front of Subject Property Looking South



East Side of the Subject Property Looking Northwest

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DENNIS M. PRINCE
Nevada Bar No. 5092

ERIC N. TRAN
Nevada Bar No. 11876
PRINCE & KEATING
3230 South Buffalo Drive
Suite 108
Las Vegas, Nevada 89117
Telephone: (702) 228-6800
Facsimile: (702) 228-0443
E-Mail: DPrince@PrinceKeating.com
ETran@PrinceKeating.com

Attorney for Plaintiffs
Dana Andrew as Legal Guardian of
Ryan T. Pretner and Ryan T. Pretner

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DANA ANDREW, as Legal Guardian of
RYAN T. PRETNER, and RYAN T.
PRETNER, individually,

Plaintiffs,

vs.

CENTURY SURETY COMPANY, a foreign
corporation; DOES I through X, inclusive,

Defendants.

CASE NO.: 2:12-cv-00978-APG-PAL
PLAINTIFFS' APPENDIX VOLUME 3
TO PLAINTIFFS' MOTION FOR
PROTECTIVE ORDER REGARDING
ALL DISCOVERY DESIGNED TO RE-
LITIGATE THE FACTUAL FINDINGS
IN THE EIGHTH JUDICIAL DISTRICT
COURT'S DEFAULT JUDGMENT

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28	Deposition Transcript of Lisa Henderson conducted on November 8, 2012;
29	Deposition Transcript of Daniel Mayer conducted on November 13, 2012;
30	Deposition Transcript of Lee Pretner conducted on November 6, 2012;
31	Deposition Transcript of Sylvia Esparza, Esq. conducted on April 26, 2013;

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32	Plaintiffs' Designation of Expert Witness.
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EXHIBIT "28"

EXHIBIT "28"

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DANA ANDREW, as Legal Guardian of
RYAN T. PRETNER, and RYAN PRETNER,
individually,

Case No. 2:12-cv-00978

Plaintiffs,

v.

CENTURY SURETY COMPANY, a foreign
corporation; and DOES 1-10 inclusive,

Defendants.

DEPOSITION OF LISA HENDERSON

Pages 1 through 228

November 8, 2012

9:03 a.m. to 2:48 p.m.

3838 North Central Avenue, 15th Floor

Phoenix, Arizona 85012

Prepared by: Sandra Marruffo, R.P.R., AZ C.R. 50815

<p>1 The deposition of LISA HENDERSON, Noticed by 2 Dennis M. Prince, Esq., was taken on November 8, 2012, from 3 9:03 a.m. to 2:48 p.m. at the Offices of Kunz Plitt Hyland 4 Demlong, 3838 North Central Avenue, 15th Floor, Phoenix, 5 Arizona 85012, before Sandra Marruffo, Arizona certified 6 reporter No. 50815.</p>	<p>1 Phoenix, Arizona 2 November 8, 2012 3 9:03 a.m. 4</p>
<p>7 8 APPEARANCES OF COUNSEL 9 10 Representing the plaintiffs: PRINCE & KEATING BY: DENNIS M. PRINCE, ESQ. 11 3230 South Buffalo Drive Suite 108 12 Las Vegas, Nevada 89117 (702) 228-6800 13 (702) 228-0443 Facsimile dprince@princekeating.com 14 15 Representing the defendant: SEDGWICK, LLP 16 BY: MARIA LOUISE COUSINEAU, ESQ. 801 South Figueroa Street 17 Los Angeles, California 90017-5556 (213) 426-6900 18 (213) 426-6921 Facsimile maria.cousineau@sedgwicklaw.com 19 20 ALSO PRESENT: Victoria Roberts 21 22 23 24 25</p> <p style="text-align: right;">Page 2</p>	<p>5 LISA HENDERSON, 6 having been first duly sworn to tell the truth, the 7 whole truth, and nothing but the truth, was examined 8 and testified as follows: 9 10 EXAMINATION 11 Q. BY MR. PRINCE: Can you please state your name 12 for the record. 13 A. Lisa Henderson. 14 Q. Okay. Ms. Henderson, by way of reintroduction, 15 my name is Dennis Prince and I represent the plaintiffs in 16 this lawsuit against Century Surety Company. Today is the 17 date and time for taking your deposition. 18 Have you ever had your deposition taken 19 before? 20 A. No. 21 Q. I understand that you are a lawyer; is that 22 correct? 23 A. Yes, I am. 24 Q. And how long have you been a lawyer? 25 A. Since 1991.</p> <p style="text-align: right;">Page 4</p>
<p>1 INDEX OF EXAMINATION 2 3 WITNESS: Lisa Henderson 4 5 EXAMINATION PAGE 6 By Mr. Prince 4 7 8 9 INDEX TO EXHIBITS 10 NO. DESCRIPTION PAGE 11 1 Claim file as produced by Century in 10 the litigation with Bates numbers, 12 dividers a, b, c, d 13 2 Claim file from Progressive 10 14 3 CSR entries 119 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 3</p>	<p>1 Q. Okay. And in the capacity of a lawyer, have you 2 ever taken a deposition? 3 A. Yes. 4 Q. Approximately how many? 5 A. I really don't know exactly how many depositions 6 I've taken. 7 Q. More than a hundred, less than a hundred? 8 A. I'm going to say less than a hundred sounds 9 closer. 10 Q. Have you reviewed deposition transcripts? 11 A. Yes, I have. 12 Q. Are you familiar with the deposition process? 13 A. Yes, I am. 14 Q. Are you sufficiently familiar with it that we 15 can waive the admonitions typically given at the beginning 16 of a deposition given the fact that you are a lawyer, have 17 taken depositions, and have read deposition transcripts? 18 A. That's fine. 19 Q. Okay. What documents or information did you 20 review in preparation for your deposition today? 21 A. I saw the claim file as it has been produced, I 22 believe, in discovery with -- all the pages are numbered 23 and stamped. 24 Q. Okay. So the -- you looked at the Bate numbered 25 claim file that's been produced as part -- in the</p> <p style="text-align: right;">Page 5</p>

1 litigation; is that right?
 2 A. That's right.
 3 Q. Did you look at -- did you review any other
 4 documents?
 5 A. The ones that you were shown this morning, I saw
 6 those yesterday.
 7 Q. Those additional documents from the claim file
 8 which looks at edits to certain entries made in the claim
 9 log notes?
 10 A. Yes.
 11 Q. Anything other than those documents?
 12 A. I don't believe so. I don't recall anything
 13 else.
 14 Q. Have you ever reviewed the complaint filed by
 15 the plaintiffs against Century Surety Company and the
 16 allegations in there?
 17 A. No, I have not.
 18 Q. In this case there was a Motion for Summary
 19 Judgment filed by the plaintiffs against Century Surety.
 20 Have you reviewed the Motion for Summary Judgment and
 21 exhibits?
 22 A. No.
 23 Q. Were you aware that a Motion for Summary
 24 Judgment was filed by the plaintiffs?
 25 A. No.

Page 6

1 Q. Okay. And what specifically did you review out
 2 of the claims file?
 3 A. When I was preparing before the depo? Or what
 4 do you mean?
 5 Q. Well, right. We were just talking about what
 6 you did in preparation for the deposition. You said you
 7 reviewed the claims file, the Bate numbered claims file, so
 8 in preparation for the deposition, what documents in the
 9 claims file did you review?
 10 A. We went through -- several of the documents I
 11 just paged through and looked at them, but I don't -- you
 12 want me to list the ones I can recall?
 13 Q. Yes. What do you recall looking at out of the
 14 claims file? Was there specific documents in the claims
 15 file that you specifically focused your attention on?
 16 A. I looked at the activity log notes. I remember
 17 seeing the complaint filed in the -- in the litigation, in
 18 the Blue Streak litigation, and the investigator report. I
 19 believe there's a police report. There's letters, the
 20 letter that I wrote. There's some e-mails.
 21 Q. Well, what e-mails? That's kind of what I want
 22 to know. I mean -- and what letter did you write? I mean,
 23 the letter denying coverage to Mr. Vasquez and Blue Streak?
 24 A. Yes.
 25 Q. Your denial letter?

Page 7

1 A. Yes.
 2 Q. What other letters that you wrote, if you wrote
 3 any others?
 4 A. That's the only one I wrote, I believe. There
 5 may have been one -- no, actually, I think it was an
 6 e-mail. E-mail to Mr. Vasquez requesting permission to
 7 disclose the policy, and I believe an e-mail to you telling
 8 you that I needed to get Mr. Vasquez's permission to get
 9 the policy and that I would let you know when I got that
 10 permission.
 11 Q. Okay. Did you review the terms and conditions
 12 of the policy issued by Century to Blue Streak?
 13 A. Some of the policy provisions, I did review,
 14 yes.
 15 Q. What provision did you specifically review?
 16 A. I believe I reviewed the liability portion of
 17 the policy that applied to that particular claim.
 18 Q. Okay. You mean under the auto liability
 19 coverage?
 20 MS. COUSINEAU: Vague and ambiguous as
 21 phrased.
 22 Q. BY MR. PRINCE: Go ahead and answer.
 23 A. I believe it's a garage policy, so it was the
 24 liability portion of the garage policy that applied to the
 25 claim.

Page 8

1 Q. And you reviewed that?
 2 A. Yes.
 3 Q. Okay. And who did you review it with?
 4 A. My lawyer.
 5 Q. Who is your lawyer?
 6 A. Ria.
 7 Q. Was anybody else present?
 8 A. Vicki.
 9 Q. Vicki -- what's Vicki's last name?
 10 A. Vicki Roberts.
 11 Q. So when did you review these documents?
 12 A. Two days ago, I believe.
 13 Q. And Ms. Cousineau, was she present here in
 14 Scottsdale when you did it?
 15 A. Yes.
 16 Q. Anyone else present when you reviewed those
 17 documents?
 18 A. No.
 19 Q. Did you meet with anybody at the company in
 20 preparation for the deposition today?
 21 A. No.
 22 Q. Did you have any meetings other than the
 23 meetings with your counsel and Ms. Roberts in preparation
 24 for the deposition?
 25 MS. COUSINEAU: Just for a point of

Page 9

1 clarification, Ms. Roberts is also counsel for the company.
 2 She's in-house counsel.
 3 Q. BY MR. PRINCE: Well, I'm not sure what her
 4 role is so I'm just asking you if you met with anybody at
 5 the company?
 6 A. No.
 7 Q. And where are you employed presently?
 8 A. Century Surety Company in Scottsdale, Arizona.
 9 It's a subsidiary of Meadowbrook Insurance.
 10 Q. Who is your employer? Century?
 11 A. Meadowbrook is, I believe, actually the
 12 employer.
 13 Q. That's the -- technically the employer?
 14 A. I believe so.
 15 Q. How long have you been employed by Meadowbrook?
 16 A. Since September of 2006 -- I'm sorry, September
 17 of 2009.
 18 Q. Have you ever heard of an entity known as
 19 Meadowbrook Claims Services?
 20 A. Yeah, I believe I've heard of Meadowbrook.
 21 Q. Who are they?
 22 A. What we call Meadowbrook Insurance Group -- I
 23 don't recall Meadowbrook Claims Services.
 24 (Exhibit Nos. 1 and 2 were marked for
 25 identification.)

1 Q. BY MR. PRINCE: Okay. What we're going to do,
 2 then, I have in front of you Exhibits 1 -- 1 and 2.
 3 There's some subcomponents of 1. There's A, B, C, and D,
 4 so we're going to use those for the deposition today, and
 5 they're essentially the claim file as produced by Century
 6 in the litigation with the Bate numbers. That's Exhibit 1A
 7 through D. And then Exhibit 2 is the claim file from
 8 Progressive.
 9 I may or may not ask any questions about
 10 the claim file from Progressive, but I'm going to -- for
 11 the depositions today with you and Mr. Karp, I'm using
 12 these exhibits.
 13 So if you'd look at 1D -- or, excuse me,
 14 Bate number CF192.
 15 Q. BY MR. PRINCE: This is a letter dated
 16 March 31st, 2011, by you to Michael Vasquez and Michael
 17 Vasquez, Blue Streak Auto Detailing. In the first
 18 paragraph it reads, "I am the in-house claims attorney for
 19 Meadowbrook Claims Services assigned to oversee the claim
 20 on behalf of Century Surety Company."
 21 So I'm going to ask my question again.
 22 What's your relationship to Meadowbrook
 23 Claims Services?
 24 A. I'm an employee of Meadowbrook Insurance
 25 Company. I don't know what the relationship is between

1 Meadowbrook Claims Services and Meadowbrook Insurance
 2 Group.
 3 Q. Well, you're the one who used the words so I'm
 4 trying to find out what you meant by it, I guess.
 5 A. Well, those are the opening words for the
 6 letter, that it is their policy to put that at the
 7 beginning of the letter?
 8 Q. Whose policy?
 9 A. The company's policy.
 10 Q. From what company?
 11 A. Meadowbrook, I believe.
 12 Q. What's the difference between Meadowbrook and
 13 Century?
 14 A. Century Surety Company is a subsidiary of
 15 Meadowbrook.
 16 Q. And Century Surety Company, that's the
 17 underwriting entity that issued the policy to Blue Streak,
 18 correct?
 19 A. That's the company that issued the policy, yes.
 20 Q. And you're saying that that is a subsidiary of
 21 Meadowbrook Insurance Group?
 22 A. I believe that's the case. I'm not 100 percent
 23 sure.
 24 Q. Are you not familiar with their corporate
 25 hierarchy?

1 MS. COUSINEAU: Argumentative.
 2 Q. BY MR. PRINCE: Go ahead.
 3 A. It's my belief that Century is a subsidiary of
 4 Meadowbrook Insurance.
 5 Q. Well, I guess what I'm trying to find out is --
 6 I'm not trying to play games here. I'm just trying to find
 7 out, did Meadowbrook Claims Services -- are they the entity
 8 that actually handled the claim and, like, investigated and
 9 evaluated and issued the denial letter?
 10 MS. COUSINEAU: Calls for speculation.
 11 THE WITNESS: I don't know. I don't use
 12 that term. I don't know how to answer that question.
 13 Q. Because you say in your letter that "Meadowbrook
 14 Claims Services was assigned to oversee the claim on behalf
 15 of Century Surety Company." What did you mean by that?
 16 MS. COUSINEAU: Asked and answered.
 17 THE WITNESS: I'm not sure what you're
 18 asking, but I -- I meant -- the purpose of the opening
 19 paragraph is just to let the insured know that I'm the
 20 adjuster assigned to the case, to the claim.
 21 Q. BY MR. PRINCE: And I guess I'm trying to find
 22 out, did -- is there a contract between -- let me ask you
 23 this: Is there a contract between Century and Meadowbrook
 24 Claims Services where they contract out to Meadowbrook
 25 Claims Services the duty and responsibility to investigate,

1 evaluate, and adjust claims?
 2 A. I don't know.
 3 MS. COUSINEAU: Form.
 4 Q. BY MR. PRINCE: So you don't know why you use
 5 "Meadowbrook Claims Services has been assigned"?
 6 MS. COUSINEAU: Asked and answered.
 7 THE WITNESS: I don't know.
 8 Q. BY MR. PRINCE: What was your date of
 9 employment with Century again? What was your start date?
 10 A. September 2009.
 11 Q. I'm sorry. I thought you said 2006.
 12 A. I did. I misspoke.
 13 Q. Okay.
 14 A. Sorry.
 15 Q. What was your position with Century as of
 16 September 2009?
 17 A. Claims attorney in the litigated claims unit.
 18 Q. And I understand you're still employed with
 19 Century today?
 20 A. Yes.
 21 Q. What is your position now?
 22 A. It's the same position.
 23 Q. It's the same position. Okay.
 24 Who was your supervisor when you started
 25 in September 2009?

1 A. Carol Broerman. It's B-R-O-E-R-M-A-N, I
 2 believe.
 3 Q. And what's her position?
 4 A. Manager of the litigated claims unit in the
 5 western region, I believe is what they called it.
 6 Q. And March of 2011, who was your supervisor?
 7 A. Daniel Mayer.
 8 Q. M-A-Y-E-R?
 9 A. Yes.
 10 Q. What was his position?
 11 A. The same as Carol's.
 12 Q. Manager of the litigated claims unit?
 13 A. Yes.
 14 Q. Was he also a lawyer?
 15 A. Yes.
 16 Q. Is Carol a lawyer?
 17 A. Yes, she is.
 18 Q. Is this a legal -- is this considered a legal
 19 department?
 20 MS. COUSINEAU: Vague and ambiguous.
 21 THE WITNESS: It's just a department that
 22 adjusts litigated claims, the claims that have lawsuits in
 23 them.
 24 Q. BY MR. PRINCE: Okay. But I -- okay, I'll ask
 25 you some organizational questions in a minute.

1 Q. Who is your current supervisor?
 2 A. Daniel Mayer.
 3 Q. So he remains your supervisor?
 4 A. Yes.
 5 Q. In preparation for the deposition -- Strike
 6 that.
 7 Anytime since you've known your deposition
 8 was going to be taken, have you spoken to Daniel Mayer
 9 about this case?
 10 A. No.
 11 Q. Okay. When -- how soon --
 12 Well, when did you first learn that there
 13 was a bad faith lawsuit filed against Century concerning
 14 this matter?
 15 A. I'm not sure of the exact date.
 16 Q. And how did you become aware of it?
 17 MS. COUSINEAU: I want to caution you
 18 that, to the extent that these next few questions require
 19 you to divulge attorney-client communications, please don't
 20 do so.
 21 Q. BY MR. PRINCE: Well, I'm just asking how you
 22 became aware of it at this point.
 23 MS. COUSINEAU: Understood.
 24 MR. PRINCE: We'll see where it goes from
 25 there.

1 THE WITNESS: Someone told me, but I can't
 2 remember if it was Daniel or if it was Vicki. I don't know
 3 exactly how I found out.
 4 Q. BY MR. PRINCE: What's Vicki's position at the
 5 company?
 6 MS. COUSINEAU: Calls for speculation.
 7 THE WITNESS: You know what, I don't know
 8 her exact title. I'm sorry.
 9 Q. BY MR. PRINCE: So Vicki Roberts, who's
 10 present at the deposition today, you don't know -- do you
 11 know what she does for the company?
 12 A. She's a coverage counsel, I believe.
 13 Q. Okay. Does she work in the litigated claims
 14 unit?
 15 A. No.
 16 Q. What department or area does she work in, if you
 17 know?
 18 MS. COUSINEAU: Calls for speculation.
 19 THE WITNESS: Coverage. I don't know
 20 exactly what her unit is called. It's coverage attorneys.
 21 Q. BY MR. PRINCE: Okay. There's a group -- is
 22 there more than one coverage attorney at Century?
 23 A. Yes.
 24 Q. Okay. Located here in Scottsdale?
 25 A. Yes, I think there's one other coverage

1 attorney.
2 Q. So there's two coverage attorneys. What do you
3 understand their role and responsibility to be?
4 MS. COUSINEAU: Assumes facts not in
5 evidence.
6 THE WITNESS: I don't -- I don't know all
7 their job duties.
8 Q. BY MR. PRINCE: What do you understand them to
9 do?
10 A. I can -- if I have a question about coverage, I
11 can tell my manager, and then he can make a referral or ask
12 the question to the coverage unit.
13 Q. Okay. So do you interface with a coverage unit?
14 MS. COUSINEAU: Vague and ambiguous.
15 THE WITNESS: Interface, you mean do I
16 talk to them?
17 Q. BY MR. PRINCE: Right. Do you talk to them?
18 Do you ever go over there and speak to them?
19 A. Yes.
20 Q. If you have coverage questions, do you go over
21 and speak to them, without going through your manager?
22 A. They like you to go through the manager so I
23 typically go through the manager.
24 Q. So that's the chain of command? When you're
25 involved in a claim, if there's a coverage issue that you

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1 have a concern or question about, the protocol would be for
2 you to go to Mr. Mayer, and he in turn would, if he felt it
3 was appropriate, make the referral to the coverage unit?
4 A. Yes.
5 Q. And the coverage unit would consist of whom,
6 other than Vicki Roberts?
7 MS. COUSINEAU: --
8 MS. ROBERTS: At what point in time?
9 MR. PRINCE: I'm sorry, with all due
10 respect, you can't talk during the deposition.
11 MS. COUSINEAU: It's calling for
12 speculation, as well as vague as to time.
13 THE WITNESS: You mean -- I don't know
14 exactly what you mean. Do you mean names of people?
15 Q. BY MR. PRINCE: Right. How many people are in
16 the coverage unit? How many people are in there?
17 MS. COUSINEAU: Currently?
18 Q. BY MR. PRINCE: Currently is fine.
19 A. There's either four or five coverage attorneys.
20 I'm not 100 percent sure of the number.
21 Q. That's presently?
22 A. That I know of, yes.
23 Q. That are located here in the Scottsdale office?
24 A. Oh, they're not all in Scottsdale. I'm sorry.
25 Q. You're saying that, between all the claim

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1 offices nationwide, there's between four to five coverage
2 attorneys in the coverage unit?
3 A. Yes, I believe so.
4 Q. And how many coverage attorneys are there in the
5 coverage unit here in Scottsdale? Two presently?
6 A. Yes, I think there's only two that I can think
7 of that have an office in Scottsdale.
8 Q. In March of 2011, how many coverage attorneys
9 were there in the coverage unit?
10 MS. COUSINEAU: Calls for speculation.
11 THE WITNESS: Yeah, I'm not sure if there
12 was one other one there at that point in time or not.
13 Q. BY MR. PRINCE: There could have been
14 potentially three there then?
15 A. There may have been one other person.
16 Q. Who were the coverage attorneys at Century in
17 the Scottsdale office in March of 2011 that you recall?
18 MS. COUSINEAU: Objection. It's also
19 irrelevant.
20 THE WITNESS: Vicki Roberts, she's not
21 there every day. And then there's Jay Tuckerman. And I'm
22 sorry, did you ask for in March of 2011?
23 Q. Yes.
24 A. And I don't know what his name is, you know, in
25 my head anymore, but there was another male attorney. And

Page 20

1 I'm not sure if he was still there in March 2011 or not.
2 Q. Okay. Other than coverage attorneys, are there
3 any other personnel in the coverage unit located here in
4 Scottsdale?
5 MS. COUSINEAU: Calls for speculation.
6 THE WITNESS: Not that I know of. Well,
7 maybe there might be a support person. I'm not sure.
8 Q. BY MR. PRINCE: So in March of 2011, other
9 than support personnel, you think that Vicki Roberts was a
10 coverage attorney, you believe that Jay Tuckerman was a
11 coverage attorney in the coverage unit, and maybe one --
12 possibly a third person?
13 A. Yes, to the best of my memory.
14 Q. Okay. And what are your duties -- are your
15 duties and responsibilities as a claims attorney in the
16 litigated unit the same now as they were when you started
17 in September of 2009?
18 A. Yes.
19 Q. What are your duties?
20 A. I adjust litigated claims. If there's coverage,
21 I hire defense counsel licensed in the jurisdiction to
22 defend the insured, and I collaborate with that defense
23 counsel on strategy.
24 Q. When you say you adjust litigated claims, what
25 does that mean?

Page 21

1 A. Review them, determine coverage, speak with the
2 insured, determine whether there's liability defenses.
3 Q. Uh-huh.
4 A. Set reserves, decide whether we're going to
5 settle or move forward to trial based on all of the
6 information that we obtain.
7 Q. Okay. And so in -- in -- as a -- as a claims
8 attorney in the litigation unit --
9 You call it the litigation unit?
10 A. Yes.
11 Q. What do you call it? Litigation unit?
12 A. Or lit unit.
13 Q. Are all of the adjustors in the lit unit
14 lawyers?
15 A. In my unit?
16 Q. Yes.
17 MS. COUSINEAU: Calls for speculation.
18 Q. BY MR. PRINCE: Do you know anything about --
19 If you don't understand any of my
20 questions, just let me know and I'll rephrase until you do
21 understand it. You've asked me a few times for some points
22 of clarification, but --
23 A. Do you mean that they passed the bar or that
24 they just have a law degree --
25 Q. You're trying to parse my words. I'm trying to

Page 22

1 ask you. So I guess the question is, in the lit unit, are
2 they all lawyers?
3 A. Yes.
4 Q. And I guess by that, do you mean that everyone
5 is a licensed attorney somewhere?
6 A. I believe they all have licenses, yes.
7 Q. Do you ever -- in your capacity as a claims
8 attorney in the litigation unit, ever actually defend any
9 policyholders in any litigation where you're their defense
10 counsel?
11 A. I do not.
12 Q. Okay. So effectively you function as a claims
13 adjustor for litigated claims?
14 A. That's right.
15 Q. Are these claims all defense of third-party
16 liability claims or property casualty claims?
17 A. Yes.
18 Q. Do you oversee any first-party litigated claims
19 against the company?
20 A. No, I don't.
21 Q. Who would do that?
22 MS. COUSINEAU: Calls for speculation.
23 THE WITNESS: I have no idea.
24 Q. BY MR. PRINCE: Is there a claims department
25 for Century located here in Scottsdale?

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1 A. For unlitigated claims?
2 Q. Any claims. Is there a claims department?
3 A. Yes, there is.
4 Q. Is it located here in Scottsdale?
5 A. Yes.
6 Q. What's the address?
7 A. 23733 North Scottsdale Road.
8 Q. Is that where your office has been located since
9 you were employed by -- you became employed by Century?
10 A. Since I was there, yes.
11 Q. Is there a -- well, describe the organization of
12 the claim department so I have an understanding of how the
13 claim department works and functions.
14 MS. COUSINEAU: Vague and ambiguous. Also
15 may call for speculation.
16 THE WITNESS: To the best of my ability to
17 describe it, there's my unit which is claims that have gone
18 into litigation, and there's another unit which is claims
19 that are just made but there's no lawsuit yet.
20 Q. BY MR. PRINCE: Okay. So there's a presuit
21 claim department, right?
22 A. Yes.
23 Q. Or personnel that handles presuit claims,
24 correct?
25 A. Yes.

Page 24

1 Q. Which includes determining coverage,
2 investigation and evaluation of third-party claims
3 primarily?
4 MS. COUSINEAU: Calls for speculation.
5 THE WITNESS: I don't know if they do any
6 first-party claims or not.
7 Q. BY MR. PRINCE: But they do third-party claims
8 for sure, right?
9 A. Yes.
10 Q. And Charles Holland is -- are you familiar with
11 Mr. Holland?
12 A. I don't think I've ever spoken with him. He was
13 there for a very short time when I first got there, and
14 then he left fairly quickly after I got there so I don't
15 know -- I don't really know him. We didn't speak.
16 Q. When you started in September of 2009, how many
17 claims adjustors were there handling prelawsuit claims?
18 MS. COUSINEAU: Calls for speculation.
19 THE WITNESS: I don't know how many people
20 were in that unit at that time.
21 Q. Approximately.
22 MS. COUSINEAU: Calls for speculation.
23 THE WITNESS: I'm sorry, I don't know.
24 Q. BY MR. PRINCE: Were there more than ten?
25 MS. COUSINEAU: Calls for speculation.

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<p>1 Asked and answered. 2 THE WITNESS: Sorry, I don't know if there 3 were other -- if there's -- they may have property and 4 casualty. There may be more. I don't know. I just don't</p>	<p>1 MS. COUSINEAU: Assumes facts not in 2 evidence. 3 Q. BY MR. PRINCE: Just give me the range -- how 4 about a range?</p>
<p>5 know. 6 Q. BY MR. PRINCE: Was there a further breakdown 7 for the prelawsuit claims, some people handle only property 8 claims some people only handle bodily injury claims? 9 A. I'm not really sure exactly how they've broken 10 it down. 11 Q. Since you've been working at Century, have you 12 handled any prelawsuit bodily injury claims? 13 A. A couple of times where there were claims that 14 they wanted to have counsel on before a lawsuit, yes. 15 Q. Where the company made the decision to hire 16 defense counsel before a lawsuit was filed? 17 A. Correct. 18 Q. And in September of 2009, how many adjusters 19 were there in the litigation unit? 20 A. Myself -- I believe two people were out when I 21 first got there, so I don't know if it was four or five. 22 I'm not sure. 23 Q. Okay. How many are there -- how many were there 24 in March of 2011 in the litigated unit? 25 A. There was my manager and myself and two other</p> <p style="text-align: right;">Page 26</p>	<p>5 A. I'm guessing, but I believe it's around a 6 hundred. 7 Q. Why would you be guessing? 8 A. Because I don't know the exact -- I don't know 9 the number -- 10 Q. I didn't ask you for the exact. I was asking 11 about an average and so I wasn't asking for an exact. I'm 12 just trying to figure out how many claims you were 13 supervising in the March 2011 timeframe on an average, 14 which could have some variability. I'm not trying to -- 15 and so, I mean, you think it's about a hundred, plus or 16 minus? 17 A. I think so. 18 Q. Was it the company's policy and practice in 19 March of 2011 that when a lawsuit was filed against one of 20 their -- its policyholders, that it would go from the claim 21 department where Mr. Holland worked, to the litigation 22 unit? 23 A. Yes. 24 Q. So, for example, in this case with Mr. Holland 25 or his manager, would they have been involved at all in</p> <p style="text-align: right;">Page 28</p>
<p>1 people. 2 Q. Okay. So three adjusters and a manager? 3 A. Yes. 4 Q. In March of 2011, what was your pending 5 approximately? 6 MS. COUSINEAU: Vague and ambiguous. 7 THE WITNESS: I don't know. 8 Q. BY MR. PRINCE: What is it now? 9 MS. COUSINEAU: Irrelevant. 10 THE WITNESS: Today? 11 Q. BY MR. PRINCE: Right. 12 A. It's somewhere between a hundred and a hundred 13 and ten, I believe. 14 Q. Has that number changed significantly in the 15 last, I don't know, year and a half? 16 A. I can't recall how many -- 17 Q. On average since you've been in that unit, 18 what's been your pending? 19 A. I don't know what the average is. I -- I can't 20 say what it is. 21 Q. Is it above or below a hundred? 22 MS. COUSINEAU: Calls for speculation. 23 THE WITNESS: It can be either way. I'm 24 not sure. 25 Q. BY MR. PRINCE: What's your best estimate?</p> <p style="text-align: right;">Page 27</p>	<p>1 determining whether the company was going to provide a 2 defense to its insureds, Blue Streak and Mr. Vasquez? 3 MS. COUSINEAU: Calls for speculation. 4 THE WITNESS: I don't know if they would 5 be involved. 6 Q. BY MR. PRINCE: As a general rule since you've 7 been there, does Mr. Holland or someone in the presuit 8 claims department, are they involved at all in determining 9 whether the company is going to provide an insured a 10 defense -- 11 MS. COUSINEAU: Lacks foundation. Calls 12 for speculation. 13 Q. BY MR. PRINCE: -- once a suit's filed? 14 A. To the best of my knowledge, when a suit gets 15 referred to the litigated unit, the presuit claims unit 16 isn't involved in it after that. 17 Q. Okay. So it's someone -- when a lawsuit's filed 18 against an insured and it's tendered to the company, it's 19 someone in the litigation unit that makes the determination 20 of whether the company is going to provide a defense or 21 not? 22 MS. COUSINEAU: Overbroad. Incomplete 23 hypothetical. 24 Q. BY MR. PRINCE: Go ahead and answer again. 25 A. Would you say it again?</p> <p style="text-align: right;">Page 29</p>

1 MR. PRINCE: Just read the question back.
 2 (The pending question was read.)
 3 THE WITNESS: If it gets referred to our
 4 unit, yes, it would be someone in our unit who would do
 5 that.
 6 Q. BY MR. PRINCE: Okay. And in this case, when
 7 the law -- when I sent the suit papers on behalf of my
 8 clients to the company, the claim was then transferred to
 9 the litigation unit, correct?
 10 A. Yes, I believe that's correct.
 11 Q. And then it's you and/or your manager who made
 12 the decision whether or not to provide Mr. Vasquez and
 13 Blue Streak a defense or not, correct?
 14 A. In consultation with my manager, yes.
 15 Q. Mr. Holland and his manager did not participate
 16 in that discussion or decision making, correct?
 17 A. I don't recall talking to him about it.
 18 Q. As a general rule, would it be once a lawsuit's
 19 filed against a Century insured and the lawsuit's been sent
 20 to the company, is it someone in the litigation department
 21 that generally makes the decision whether the company is
 22 going to provide a defense or not?
 23 MS. COUSINEAU: Incomplete hypothetical
 24 Calls for speculation.
 25 THE WITNESS: If it's referred to our

1 unit, then we would be involved in that.
 2 Q. BY MR. PRINCE: Okay. Can you envision a
 3 situation where, I mean, a lawsuit's filed against an
 4 insured, it's sent to the company, and it's not transferred
 5 to your unit?
 6 MS. COUSINEAU: Calls for speculation.
 7 Lacks foundation. Incomplete hypothetical.
 8 THE WITNESS: I --
 9 Q. BY MR. PRINCE: Go ahead and answer.
 10 A. Can you say it again?
 11 Q. Sure. I mean, one once a lawsuit is filed, it's
 12 the company's policy and practice to then forward the suit
 13 papers to the litigation unit, correct?
 14 A. Somebody sends the suit papers to a general area
 15 in the company, and then I don't know exactly what happens
 16 after that. But if there's a suit referred to our unit,
 17 that's part of our determination.
 18 Q. Well, I'm just asking, as a general practice
 19 when a suit's filed, is then the claim transferred to the
 20 litigation unit; is that what happens?
 21 MS. COUSINEAU: Asked and answered. Calls
 22 for speculation.
 23 THE WITNESS: If there was a presuit
 24 claim, that would be transferred to the litigation unit
 25 typically, yes.

1 Q. BY MR. PRINCE: Okay. Or if a lawsuit is your
 2 first notice, then it would be in the litigation unit from
 3 the beginning, right?
 4 MS. COUSINEAU: Calls for speculation.
 5 Incomplete hypothetical.
 6 THE WITNESS: If there's a lawsuit
 7 filed --
 8 Q. BY MR. PRINCE: And that's your first notice.
 9 A. Yeah, I've received first notice lawsuits
 10 before, yes.
 11 Q. And those go to the litigation unit, right?
 12 MS. COUSINEAU: Same objections.
 13 THE WITNESS: I don't know if they all go
 14 to the litigation unit, but I've received first notices
 15 before.
 16 Q. BY MR. PRINCE: Is that the general practice,
 17 once there's a lawsuit filed against an insured, that it
 18 should go to the litigation unit? That's all I'm trying to
 19 find out.
 20 MS. COUSINEAU: Calls for speculation.
 21 THE WITNESS: That's my understanding.
 22 I'm not 100 percent sure.
 23 Q. BY MR. PRINCE: Are you familiar with -- is
 24 there any other policy or practice you're aware of about
 25 how the company handles a lawsuit once it comes to the

1 company and what should happen to it once it gets there?
 2 MS. COUSINEAU: Vague and ambiguous.
 3 Q. BY MR. PRINCE: Go ahead and answer.
 4 A. I guess it depends on the kind of lawsuit. I
 5 don't know how to answer.
 6 Q. Why don't you know how to answer? I'm just
 7 trying to find out -- at the end of the day, I'm just
 8 trying to find out, was there anybody other than someone in
 9 the litigation department that made a determination not to
 10 provide a defense to Vasquez and Blue Streak?
 11 MS. COUSINEAU: Then ask her question.
 12 MR. PRINCE: Well, frankly, your
 13 objections are inappropriate because you're, like,
 14 objecting to every question, which is -- I guess it's fine,
 15 but -- we'll deal with it later. But I can ask about
 16 policy and practice, and that's what I've been doing so --
 17 Q. BY MR. PRINCE: But in this case, was there
 18 anyone other than employees in the litigation unit that
 19 made the determination to not provide a defense to Vasquez
 20 and Blue Streak?
 21 A. I can't think of any other people.
 22 Q. Okay. Now, do you report to anyone else other
 23 than Mr. Mayer?
 24 A. There's our unit in the western region, and then
 25 there's an eastern region unit, and then there's a person

1 that's the head of that.
 2 Q. Someone like Mr. Mayer's counterpart in the
 3 eastern region?
 4 A. Yeah, there is like a manager of the eastern
 5 region, and then there's a person who is the manager of
 6 those two people.
 7 Q. What is that person's name? What was that
 8 person's name -- who was that person in March of 2011?
 9 MS. COUSINEAU: Which --
 10 THE WITNESS: I believe --
 11 MS. COUSINEAU: Vague and ambiguous.
 12 There's two people that she could be answering that
 13 question about.
 14 Q. BY MR. PRINCE: Well, actually, I'm asking
 15 about Mr. Mayer and his counterpart on the east coast. You
 16 said those two people reported to a single person. I'm
 17 talking about the name of that person.
 18 A. It's my understanding, they reported to
 19 Dave Gervers.
 20 Q. Dave who?
 21 A. Dave Gervers.
 22 Q. Dave Gervers. What is Mr. Gervers' position
 23 with the company?
 24 MS. COUSINEAU: Calls for speculation.
 25 THE WITNESS: I don't know the exact

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1 title.
 2 Q. BY MR. PRINCE: Do you know -- do you know a
 3 Timothy Woods?
 4 A. Yes.
 5 Q. Who is Timothy Woods.
 6 A. He is another manager. I think he was -- I
 7 don't know. He was above Daniel, but I don't know what his
 8 exact title is.
 9 Q. What department is he in?
 10 MS. COUSINEAU: Calls for speculation.
 11 THE WITNESS: I'm not sure what his title
 12 is.
 13 Q. BY MR. PRINCE: What's your understanding of
 14 what he does for the company?
 15 A. He's a manager of some kind, I believe for
 16 claims, but I don't know all his job duties.
 17 Q. For presuit claims?
 18 A. I don't know if he does just presuit or if he
 19 does litigated as well.
 20 Q. What's your understanding of his title?
 21 A. I'm sorry, I don't know his exact title.
 22 Q. What do you think it is?
 23 MS. COUSINEAU: Currently?
 24 MR. PRINCE: Fine, currently. I thought
 25 the question was implicit.

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1 MS. COUSINEAU: Lacks foundation.
 2 THE WITNESS: Some type of management-type
 3 position.
 4 Q. BY MR. PRINCE: Well, who does he manage and
 5 what does he manage?
 6 MS. COUSINEAU: Calls for speculation.
 7 Asked and answered.
 8 THE WITNESS: I don't know.
 9 Q. BY MR. PRINCE: Does he work in the Scottsdale
 10 office?
 11 A. He has an office in Scottsdale.
 12 Q. Do you see him in the office?
 13 A. I do.
 14 Q. Do you ever speak to him?
 15 A. Yes, I do.
 16 Q. Has he worked there since you've been employed
 17 there?
 18 A. Yes.
 19 Q. So you've had professional interaction with
 20 Mr. Woods, right?
 21 A. Yes.
 22 Q. What is your basic understanding of what he does
 23 there?
 24 MS. COUSINEAU: Asked and answered.
 25 THE WITNESS: I'm not sure how to describe

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1 his job duties. I don't know for sure.
 2 Q. BY MR. PRINCE: Does he have any supervisory
 3 roll over litigated claims?
 4 MS. COUSINEAU: May call for speculation.
 5 THE WITNESS: I don't know what his
 6 authority is over litigated claims.
 7 Q. BY MR. PRINCE: Okay. Have you ever reported
 8 to him on a litigated claim?
 9 A. Not directly. He's been in meetings, but not
 10 directly reported. I don't know.
 11 Q. What kind of meetings has he been in with you?
 12 A. Meetings to discuss claims. How to -- defense
 13 strategy.
 14 Q. Litigated claims he discusses with you?
 15 A. (Nods head in the affirmative.)
 16 Q. Is that a yes?
 17 A. Yes.
 18 Q. Who has been in those meetings, other than
 19 yourself and Mr. Woods?
 20 MS. COUSINEAU: Overbroad. Vague as to
 21 time.
 22 THE WITNESS: Depends on the meeting.
 23 Q. BY MR. PRINCE: What do you mean, it depends
 24 on the meeting? Tell me what you mean by that.
 25 A. Sometimes it's just my manager. Sometimes it's

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1 my manager and his manager. It depends on the meeting.
 2 Q. What would it depend upon?
 3 MS. COUSINEAU: I want to just caution
 4 you, that to the extent that there are sometimes in-house
 5 counsel in the meeting, not to divulge any information.
 6 MR. PRINCE: Okay. Well, I don't know.
 7 Do -- I'm concerned about you instructing her in anything
 8 because she claims to be an in-house attorney, but she's a
 9 claims adjustor, so the privilege wouldn't be applicable to
 10 her.
 11 MS. COUSINEAU: I wasn't applying it to
 12 her, Mr. Prince.
 13 MR. PRINCE: So I'm trying to find out,
 14 you know --
 15 Q. Well, when Mr. -- Mr. Woods, you're saying at
 16 times he participates in meetings where litigated claims
 17 are discussed?
 18 A. I've had meetings where he was participating on
 19 litigated claims.
 20 Q. Okay. Do you know if he's a lawyer?
 21 A. I believe that he is.
 22 Q. Okay. Does he supervise Mr. Mayer, if you know?
 23 MS. COUSINEAU: Calls for speculation.
 24 Asked and answered.
 25 THE WITNESS: I don't know. I don't think

1 A. Sometimes, yes.
 2 Q. You say you've meetings with Mr. Mayer and I
 3 guess his supervisor, Mr. Gervers. Has Mr. Gervers
 4 participated by telephone?
 5 MS. COUSINEAU: Overbroad.
 6 THE WITNESS: Yes.
 7 Q. BY MR. PRINCE: How many claims offices are
 8 there for Century? Two?
 9 A. I don't know if there's other ones.
 10 Q. Are the two main ones Scottsdale and Ohio?
 11 MS. COUSINEAU: Calls for speculation.
 12 THE WITNESS: Those are the ones I know
 13 of.
 14 Q. BY MR. PRINCE: Okay. Do you report to anyone
 15 in Ohio directly?
 16 A. No, I report to Daniel.
 17 MS. COUSINEAU: Can we take a restroom
 18 break?
 19 MR. PRINCE: We can.
 20 (A five-minute break was taken from
 21 9:43 a.m. to 9:48 a.m.)
 22 MR. PRINCE: We're back on the record.
 23 Q. BY MR. PRINCE: Do you know a Clinton Thute,
 24 T-H-U-T-E?
 25 A. No.

1 so. I don't know.
 2 Q. BY MR. PRINCE: Under what circumstances
 3 are -- has Mr. Woods participated in meetings involving
 4 your claims?
 5 MS. COUSINEAU: Vague and ambiguous as
 6 phrased.
 7 THE WITNESS: I really can't say. It's a
 8 case-by-case situation. I don't -- there's -- I don't have
 9 a specific way to articulate it.
 10 Q. BY MR. PRINCE: Okay. I'm sorry, I may have
 11 missed it or I didn't write it down accurately.
 12 Who is Mr. Mayer's supervisor?
 13 A. Dave Gervers.
 14 Q. Oh, Gervers. Okay. Gervers.
 15 Where is Mr. Gervers' office located?
 16 A. He's in the Ohio office of Century.
 17 Q. Okay. What's the dividing line, if you will,
 18 for the western region versus eastern region?
 19 A. Generally western region would have west of the
 20 Mississippi and eastern region would have east, but it --
 21 there's overlap.
 22 Q. Does Mr. Gervers maintain an office here in the
 23 Scottsdale office?
 24 A. No.
 25 Q. Is he ever present in the Scottsdale office?

1 Q. Were you ever involved in the case of Century
 2 Surety Company versus Casino West, a lawsuit in the Federal
 3 District Court in Nevada?
 4 A. No.
 5 Q. Where did you go to law school?
 6 A. Wayne State in Detroit, Michigan.
 7 Q. And what year did you graduate?
 8 A. 1991.
 9 Q. What was your -- where did you get your
 10 undergraduate degree?
 11 A. University of Michigan.
 12 Q. What area?
 13 A. Political science.
 14 Q. And describe for me your legal career from 1991,
 15 the jobs you held up until the time you went to work for
 16 Century.
 17 A. I was a law clerk at the law firm, Law Hemming
 18 Essad & Polaczyk, and they hired me after I graduated from
 19 law school.
 20 Q. What was the nature of that firm's practice?
 21 A. The had municipal clients. They had clients
 22 with employment discrimination claims, plaintiff's work,
 23 and then defense of the municipal clients.
 24 Q. Against tort actions?
 25 A. Yes.

1 Q. Okay.
2 A. I'm not sure what else they did. I mainly
3 worked -- did employment-type law.
4 Q. How long were you with that firm?
5 A. Till March of 1993, I believe.
6 Q. Okay. And where did you -- where did you go in
7 1993?
8 A. Cox, Hodgman & Giannarco in Troy, Michigan.
9 Q. What was the nature of that firm's practice?
10 A. There was all kinds of litigation. I worked
11 with a partner who had Worker's Comp claims for Hartford
12 insurance, defense of those claims. And I did appeal work.
13 There's an entity in Michigan that you appeal to, and I did
14 appeal briefs to that entity that were Worker's Comp cases.
15 Q. Like appeals on the Worker's Comp claims?
16 A. Correct.
17 Q. How long did you work for the Cox Hodgman firm?
18 A. I can't remember the exact date. I believe I
19 left in January 1995.
20 Q. Where did you go to work after that?
21 A. I was home -- I had a baby and I was home with
22 my daughter. And then I knew an attorney from the Detroit
23 Bureau for Worker's Comp who had appellate work, lived down
24 the street from my house, so I asked him if he needed
25 someone to write appeal briefs, and I did those briefs from

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1 my house.
2 Q. So you did Worker's Comp appeal briefs appeals
3 from your home for how long?
4 A. Off and on for almost 11 years.
5 Q. All from your home?
6 A. Yes.
7 Q. Obviously, that didn't involve -- was it
8 exclusive just briefing appeals?
9 A. Yes. Legal research and writing the briefs,
10 yes.
11 Q. Just research and writing?
12 A. Yes.
13 Q. Who would hire you to do this?
14 A. It was Peter Van Deran (phonetic).
15 Q. Was he a Worker's Compensation attorney?
16 A. Yes. He did all plaintiff's work. And then if
17 there was a hearing and it was appealed, then I did the
18 appeal brief.
19 Q. So you -- he would just -- you're a contract
20 attorney for him --
21 A. Yes.
22 Q. -- and then handled his briefing for appeals,
23 right, for that period of time?
24 A. Yes.
25 Q. And after that 11-year period, what did you do?

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1 A. I worked for State Farm in-house as staff
2 attorney.
3 Q. Where?
4 A. In Tempe, Arizona.
5 Q. What year did you move to Arizona?
6 A. 1997.
7 Q. So you actually were doing the work comp briefs
8 even while you lived here in Arizona?
9 A. Yes.
10 Q. What year did you start with State Farm?
11 A. That was September of 2006.
12 Q. How long were you with State Farm?
13 A. Three years.
14 Q. What did you do there?
15 A. Defense of State Farm's insureds for auto
16 negligence claims.
17 Q. Okay. Did you -- did you -- you didn't handle
18 any first-party claims there, right?
19 A. No.
20 Q. You didn't handle any bad faith claims there, as
21 well, correct?
22 A. No.
23 Q. You didn't get involved in any coverage issues
24 there, did you?
25 A. No, I did not.

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1 Q. Sounds like you did no significant coverage work
2 while you were in Michigan or during that 11-year period
3 while you were handling the work comp appeals either,
4 correct?
5 A. That's correct.
6 Q. And the State Farm policy, those were all
7 first-line auto liability policies, correct?
8 A. Correct.
9 Q. Prior to State Farm, had you had any significant
10 experience dealing with commercial liability policies of
11 any form?
12 A. No.
13 Q. When did you leave State Farm? September of
14 2009?
15 A. Yes.
16 Q. What was the reason for leaving State Farm?
17 A. The auto negligence defense is kind of
18 monotonous, and I was looking for something with more
19 variety. And I heard about the -- saw the job for Century
20 in the newspaper and applied for it.
21 Q. Had you ever worked in claims as a claims
22 adjustor before going to work for Century in September of
23 2009?
24 A. No.
25 Q. While at State Farm, did you only handle,

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1 obviously, litigated matters here in the state of Arizona?
 2 A. Yes.
 3 Q. Did you ever -- I don't know what State Farm's
 4 policies and procedures were. But did you ever get
 5 involved if there was a situation where someone was alleged
 6 to have been working in the course and scope of employment
 7 and, therefore, their employer might be vicariously liable
 8 for their actions? Would those type of claims come to you
 9 as a State Farm in-house counsel?
 10 A. I don't recall whether I ever dealt with that
 11 issue at State Farm.
 12 Q. When you went to work at Century when you first
 13 became an employee there, did you go through any sort of
 14 orientation?
 15 A. Yes.
 16 Q. What did the orientation entail?
 17 A. There was training on their computer system that
 18 was -- it's paperless and State Farm was also paperless, so
 19 they had a similar system. You could make notes in one
 20 program and the documents pertaining to each claim are
 21 scanned into another program, so they gave you a log-in and
 22 showed you how to use the computer. And then there was
 23 training with my manager on the guidelines and how to fill
 24 out the claims services report and so forth.
 25 Q. Are there guidelines applicable to the

1 Q. Are there guidelines for determining whether to
 2 accept and provide a defense to an insured when a lawsuit
 3 has been filed?
 4 A. I can't think of any one that's that specific.
 5 They're just broad.
 6 Q. Well, that's one of the coverage obligations --
 7 assuming there is coverage, that's one of the coverage
 8 obligations that Century would have, right, as to
 9 potentially is to provide a defense, right?
 10 MS. COUSINEAU: Calls for a legal
 11 conclusion.
 12 Q. BY MR. PRINCE: Go ahead and answer.
 13 A. I'm sorry, can you repeat it again?
 14 Q. Right. I mean, I'm wondering if the
 15 guidelines -- you say that there are specific timeframes as
 16 to when you need to make coverage determinations and
 17 guidelines as it relates to making coverage determinations.
 18 I want to know, is there any guidelines about whether to
 19 provide a defense or not?
 20 MS. COUSINEAU: Misstates her testimony.
 21 THE WITNESS: I can't think of a specific
 22 guideline on providing defense. There's area -- reference
 23 area for the State of what to consult, and you consult with
 24 your manager.
 25 Q. BY MR. PRINCE: But is there any provisions in

1 litigation unit at Century?
 2 A. Yes.
 3 Q. What are those called?
 4 A. There's litigation guidelines that we give to
 5 our defense attorneys about when to write reports and how
 6 to do the billing and so forth, and then there are just
 7 general broad claims handling guidelines that are available
 8 to consult.
 9 Q. Right. So there are claims handling guidelines
 10 that would be applicable to you as an adjuster in the
 11 litigation unit?
 12 A. Right, that I would consult.
 13 Q. What are the types of things that are in the
 14 claims handling guidelines that you could consult if
 15 necessary?
 16 A. There's a guideline for deadlines, you know,
 17 when you have to have letters, when you have to make a
 18 determination of coverage. There's just general guidelines
 19 for where to consult for each state and so forth, but not
 20 so specific. Just general guidelines on -- on deadlines
 21 and so forth.
 22 Q. Okay. Are -- is there guidelines for coverage
 23 determinations?
 24 A. There's guidelines, yeah, for reviewing the
 25 policy, what to look for.

1 the guidelines you're aware of relating to providing a
 2 defense to an insured in any way?
 3 A. There's general guidelines. I can't
 4 specifically recall if there's one with that title.
 5 Q. I'm not asking for a particular title. I'm
 6 saying, is there anything in the guidelines that you can
 7 recall that has anything to do with providing an insured a
 8 defense to a lawsuit?
 9 A. There may be, but I can't recall specifically.
 10 Q. What else is contained in the guidelines that
 11 you can recall, other than what you've already testified
 12 to?
 13 A. The only other thing that comes to mind is when
 14 to report to reinsurance if it's a head injury, burns, loss
 15 of a limb, some other general types of injuries that need
 16 to be reported to a special entity.
 17 Q. And -- okay. And are there any other policy or
 18 procedure manuals or guidelines that are applicable to you
 19 as an adjuster in the litigation unit, other than the
 20 general claims handling guidelines you talked about?
 21 A. I can't think of anything specific, as we sit
 22 here right now. There may be.
 23 Q. I mean like, for example, each state's --
 24 I mean, obviously, you handle claims in
 25 multiple states, correct?

1 A. Yes.
 2 Q. Each state's -- well, maybe the laws may be
 3 similar. There's going to be some subtle differences and
 4 major differences, depending upon the state where the claim
 5 arises, correct?
 6 A. That could be true, yes.
 7 Q. One of the things you're doing as an adjustor in
 8 the litigation unit, you're -- number one, I guess, when
 9 the files come to you, you again look, examine the coverage
 10 issue. You also make a determination as to whether the
 11 company is going to provide a defense to its insured,
 12 correct?
 13 A. Right, if there's coverage.
 14 Q. And each state has standards by which they
 15 determine whether an insurer should provide a defense to an
 16 insured, correct?
 17 MS. COUSINEAU: May call for a legal
 18 conclusion. May also misstate facts.
 19 Q. BY MR. PRINCE: Go ahead and answer.
 20 A. You're asking if each state has requirements for
 21 how to determine defense? I'm sorry, what was the
 22 question?
 23 Q. Right. What I want to know is -- I mean, you
 24 obviously handle claims in multiple states, correct?
 25 A. Yes.

1 Q. Each state has laws which, I mean, may be
 2 different -- subtly different and maybe major difference as
 3 it may relate to the duty of an insurer to provide a
 4 defense to an insured, right?
 5 MS. COUSINEAU: Lacks foundation. Assumes
 6 facts not in evidence.
 7 THE WITNESS: Each state has different
 8 laws. I don't know the laws of all the states.
 9 Q. BY MR. PRINCE: Okay. Is there any documents
 10 that you have available to you for determining what each
 11 state's standards are for whether the company should
 12 provide a defense to its insured?
 13 MS. COUSINEAU: Vague as to time.
 14 THE WITNESS: There's documents that tell
 15 you where to start, where you can -- there's a document
 16 that lists where you could look for information for
 17 particular states that you -- that would be sort of a
 18 starting point. You would have to look on a case-by-case
 19 basis to find out.
 20 Q. BY MR. PRINCE: Right. I understand. What's
 21 this document where you could go to each state? What's
 22 that document called?
 23 A. I don't know what the title of it is. It has --
 24 on my desk, it's just a listing. Again, the statutes for
 25 claims handling that could have the deadlines in them.

1 Q. What about certain laws in a particular state?
 2 Other than the statutes, do you know -- specifically
 3 directed at claims handling?
 4 MS. COUSINEAU: Vague and ambiguous as
 5 to --
 6 THE WITNESS: I'm sorry, are there copies
 7 of laws on my desk?
 8 Q. BY MR. PRINCE: No. Do you under --
 9 MR. PRINCE: Read back the question for
 10 me.
 11 (The pending question was read.)
 12 MR. PRINCE: Let me rephrase the question.
 13 Q. BY MR. PRINCE: In this book or document
 14 that's on your desk -- is this in a binder on your desk?
 15 A. No.
 16 Q. What is it?
 17 A. It's, like, a stapled-together documents.
 18 Q. And like, for example, what -- this stapled or
 19 compiled document, does it have, like, certain laws from
 20 various states west of the Mississippi?
 21 A. I don't know that it's state laws. I think it
 22 cites provisions you can -- like numbers of statutes that
 23 you could go to.
 24 Q. Is from any summaries of the laws in a
 25 particular state that you could -- for quick reference?

1 A. I think it's like -- my recollection right now
 2 is that it cites the numbers of the statute, and then it
 3 will say something like, "This contains deadlines. It will
 4 contain" -- there might be a sentence underneath
 5 summarizing what it might contain.
 6 Q. And, for example, does this compilation of
 7 documents, you know, for the individual states, does it
 8 have like -- let's say, like, for example, "the state of
 9 Nevada, determining whether you owe the duty to defend the
 10 insured, use the four corners test," do they have anything
 11 like that on there?
 12 A. I don't know that -- I don't recall that being
 13 on there.
 14 Q. I mean, do they have, you know, standards like
 15 for comparative negligence, modified comparative negligence
 16 states, pure comparative negligence states so you have an
 17 idea of what you're dealing with state-by-state?
 18 A. I believe it just tells you where to look
 19 state-by-state to find information where to start.
 20 Q. Are the references only to statute or is there
 21 references to case law also?
 22 A. I don't know if there's any case law references
 23 on there.
 24 Q. Is there any sheets applicable to Nevada in this
 25 compilation of documents, to your knowledge?

1 A. I think it has all the states so I believe it
2 would have Nevada.
3 Q. Have you ever looked at it as it specifically
4 relates to Nevada?
5 A. I can't recall if I've ever looked at it.
6 Q. Have you looked at any laws as it relates to the
7 state of Nevada between September of 2009 and March of
8 2011, if you can recall?
9 A. I can't recall.
10 Q. Have you handled any litigated claims in the
11 state of Nevada between September 2009 and March 2011, to
12 your recollection?
13 A. I don't know.
14 Q. Have you handled -- can you specifically recall
15 any litigated claims that you've adjusted from March 2011
16 up to the present date in the state of Nevada?
17 A. I think I've had some Nevada claims since March
18 of 2011, but I can't tell you names of claims or ...
19 Q. What defense firm do you typically use in the
20 state of Nevada?
21 MS. COUSINEAU: Objection. Irrelevant.
22 THE WITNESS: I can't remember the name of
23 the firm, but the attorney I remember is Brad Johnson.
24 Q. BY MR. PRINCE: Brad Johnson. Okay. The
25 Kravitz firm, does that sound right?

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1 A. That sounds like one of the names.
2 Q. So you believe you have one or more litigated
3 matters in the state of Nevada after March of 2011, but you
4 can't recall any before that time?
5 A. Yeah, I don't know if there were any before
6 that.
7 Q. Okay. Do you recall ever being -- you receiving
8 a lawsuit that was filed in the state of Nevada before
9 March of 2011 where you had to make a determination whether
10 to provide the insured a defense or not?
11 A. I don't recall.
12 Q. Have you ever done any research under Nevada law
13 to determine what the standards are in Nevada for whether
14 an insured is obligated to provide a defense?
15 A. I don't recall if I've ever done that research.
16 Q. As you sit here today, do you know what the
17 standard is in the state of Nevada in determining whether
18 an insurer needs to provide a defense to an insured?
19 A. I don't know what today's standard is.
20 Q. Where are most of your claims that you handle
21 located?
22 A. I have -- for me, most of mine are in
23 California.
24 Q. Do you handle a particular type of case
25 generally?

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1 MS. COUSINEAU: Vague and ambiguous.
2 THE WITNESS: There's all kinds.
3 Q. BY MR. PRINCE: Okay. Are you responsible for
4 any -- I mean, do you typically get -- let's not say
5 typically. But the majority of your cases, are they a
6 particular type of case such as a construction defect case
7 or --
8 A. Everything except for construction defect,
9 actually.
10 Q. So it's all general liability claims?
11 A. Yes.
12 Q. Including auto claims?
13 A. We don't have personal lines auto.
14 Q. Do you have commercial line auto in California?
15 A. Yes.
16 Q. Is there a particular type of business that --
17 that you typically defend out there, I mean, that you
18 commonly see?
19 A. What business? For what?
20 Q. Right. I mean, for the claims that you handle,
21 is there -- is it related to a particular type of business
22 or industry?
23 A. No. There's all kinds of businesses.
24 Q. Well, what types of policies do you write in
25 California --

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1 MS. COUSINEAU: Objection. Calls for
2 speculation.
3 Q. BY MR. PRINCE: -- to your knowledge.
4 A. I don't write any policies.
5 Q. True.
6 A. I adjust claims that are slip and falls,
7 habitability. There are types of general personal injury
8 taxicab accidents. I can't think of any other ones as I
9 sit here right now.
10 Q. Okay. So slip and falls. When you say
11 habitability, what do you mean by that?
12 A. There's a claim that could be made that tenants
13 of a specific building are living under conditions that
14 violate certain codes about habitability and habitability
15 conditions and sanitary conditions or living conditions in
16 general.
17 Q. Okay. And you also describe slip and falls,
18 habitability, and what other types of claims would you
19 handle out of California?
20 A. Taxicab accidents.
21 Q. Taxicab. Where Century provides coverage for
22 the taxicab company?
23 A. Yes.
24 Q. Any other types that you can think of, of the
25 claims that you adjust in the state of California?

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1 MS. COUSINEAU: Vague as to time.
 2 THE WITNESS: I can't think of any other
 3 types as I sit here right now. There might be some other
 4 types.
 5 Q. BY MR. PRINCE: Of the largest percentage of
 6 the cases that you handle, what would you say is the
 7 largest type of claim that you commonly adjust in the State
 8 of California?
 9 MS. COUSINEAU: Vague and ambiguous as
 10 phrased.
 11 THE WITNESS: The most number of cases
 12 I've had in California, those three types of categories,
 13 those are -- I would say I get a lot of slip and falls, I
 14 get a lot of habitability, I get a lot of taxi cabs, but I
 15 don't know what percent it is.
 16 Q. BY MR. PRINCE: Okay. What percentage of your
 17 pending is the state of California, would you estimate?
 18 A. I don't know what the percentage is, but I would
 19 say it's -- the majority is California claims.
 20 Q. Does that mean like 50, 60 percent or is it more
 21 like 80, 90 percent?
 22 A. I don't know the percent, but it's like mostly
 23 California and then there's other states.
 24 Q. What other states have you handled claims in,
 25 other than California, that you can recall?

1 A. I have a memory of being involved in the
 2 Blue Streak claim, that there was an accident claim.
 3 Q. Okay. Do you have a specific recollection of,
 4 like, the claim being assigned to you and, you know,
 5 going -- you know, investigating it and making a
 6 determination whether to provide a defense or not to
 7 Blue Streak and Vasquez?
 8 A. I don't have a specific recollection of all
 9 those events.
 10 Q. I mean, like, for example, do you recall
 11 speaking with anyone in particular about this case?
 12 A. Speaking with anyone about the Blue Streak?
 13 Q. Right.
 14 A. When I was adjusting the claim?
 15 Q. Right, during your involvement.
 16 A. Michael Vasquez.
 17 Q. Did you ever actually recall speaking to him?
 18 A. Yes, on the telephone.
 19 Q. Okay. Do you recall speaking to anyone else?
 20 A. An adjustor from Progressive Insurance.
 21 Q. Who is that?
 22 A. I think her name's Pam.
 23 Q. I know the notes reflect that you had
 24 conversation. I'm asking, do you have an independent
 25 recollection yourself of actually speaking to her on the

1 MS. COUSINEAU: From September of 2009 to
 2 the present?
 3 MR. PRINCE: Correct.
 4 THE WITNESS: California, New Mexico,
 5 Texas, Wyoming, Oklahoma, Pennsylvania, New Jersey,
 6 Michigan. I think I've had Indiana, Massachusetts, Utah,
 7 Washington, Oregon. I can't think of what other states.
 8 Those are the ones I can think of.
 9 Q. BY MR. PRINCE: With the majority since 2009
 10 being in California?
 11 A. Correct.
 12 Q. Sounds like you've had at least one in Nevada,
 13 since you know Mr. Johnson, correct?
 14 A. Yes.
 15 Q. Do you know what type of case it was that you
 16 had involving -- where Mr. Johnson was involved in the
 17 state of Nevada?
 18 MS. COUSINEAU: Misstates evidence.
 19 Mischaracterizes her testimony.
 20 THE WITNESS: What type of case did I hire
 21 Mr. Johnson to defend?
 22 Q. BY MR. PRINCE: Right.
 23 A. Slip and fall.
 24 Q. Do you have an independent recollection of being
 25 involved in the -- this -- the Ryan Pretner claim?

1 phone or Mr. Vasquez on the phone?
 2 A. Yes, I know that I spoke with him, yes.
 3 Q. Okay. Do you recall having discussions with
 4 anyone else, other than those two?
 5 A. I talked with my manager, but I don't recall the
 6 exact words we said.
 7 Q. So you spoke with Mr. Mayer?
 8 A. Yes.
 9 Q. Okay. Do you recall speaking with anyone else
 10 prior to denying coverage of this matter, other than to
 11 maybe -- potentially to Mr. Mayer at the company?
 12 A. I don't have a specific recollection, no, of
 13 other people I spoke to.
 14 MR. PRINCE: I need to take a break now to
 15 go use the restroom.
 16 (An 8-minute break was taken from
 17 10:15 a.m. to 10:23 a.m.)
 18 Q. BY MR. PRINCE: Prior to March of 2011, were
 19 you ever provided training by Century concerning the --
 20 concerning Nevada laws concerning claims handling?
 21 A. I don't recall if it was specific to Nevada, but
 22 we get claims training on different states all the time.
 23 Q. How frequently do you get that?
 24 A. At various times during the year.
 25 Q. And have you ever perceived -- prior to March of

<p>1 2011, did you ever receive any training concerning Nevada's 2 laws regarding the duties of good faith and fair dealing 3 owed to an insured? 4 A. I don't know if I had training specific to</p>	<p>1 Q. Who provides you this training? 2 A. People in the company from time to time. 3 Sometimes it's outside providers. Sometimes it's outside 4 attorneys from the state.</p>
<p>5 Nevada. I'm not sure. 6 Q. Did you ever have any training in Nevada as it 7 relates to the legal standards applicable, whether an 8 insurer has an obligation to defend a lawsuit that's been 9 filed against its insureds? 10 MS. COUSINEAU: Vague and ambiguous as 11 phrased. 12 THE WITNESS: Can you say it again? 13 Q. BY MR. PRINCE: Sure. Prior to March of 2011, 14 were you ever provided any training as to what Nevada 15 standards are for the insurer's duty to accept a tender of 16 defense on behalf of its insured? 17 A. I don't recall if I had a specific to Nevada, 18 but we've had that type of training for lots of states. 19 Q. Well, prior to March of 2011, did you ever have 20 any training in Nevada concerning Nevada's standards for an 21 insurer's obligation to indemnify an insured? 22 A. I don't know if I had training on indemnity 23 specific to Nevada. 24 Q. Have you had any training on the duty to defend 25 an insured specific to Nevada?</p> <p style="text-align: right;">Page 62</p>	<p>5 Q. And since you've been at Century, have you ever 6 been provided any training concerning the duties of good 7 faith and fair dealing generally owed to an insured? 8 A. Yes. 9 Q. As part of that training, have you received any 10 training concerning insure -- Strike that. 11 As part of your training provided by 12 Century, have you ever received any training relating to 13 the duty to defend an insured? 14 A. Yes. 15 Q. As part of your training provided by Century, 16 have you ever received training concerning the duty to 17 indemnify an insured? 18 A. Yes. 19 Q. Was there written materials provided to you as 20 part of the training? 21 A. I don't recall if we got written materials or if 22 it was just a PowerPoint. 23 Q. Well, there was some kind of -- that is a form 24 of written material. It's electronic. 25 A. They don't give it --</p> <p style="text-align: right;">Page 64</p>
<p>1 MS. COUSINEAU: Asked and answered. 2 MR. PRINCE: I'm phrasing it slightly 3 differently. 4 THE WITNESS: I don't know if I had 5 specific to Nevada, no. 6 Q. BY MR. PRINCE: How about any training after 7 March of 2011 specific to Nevada relating to the duty to 8 defend an insured? 9 A. I can't recall if I've had that training 10 specific to Nevada. 11 Q. How about any training about Nevada's -- 12 prior -- Strike that. 13 Prior to March of 2011, had you had any 14 training relating to Nevada's Unfair Claims Practices 15 Act -- 16 MS. COUSINEAU: Asked and answered. 17 Q. BY MR. PRINCE: -- and accompanying 18 regulations? 19 A. I don't know if I've had specific to Nevada. 20 I've had training on claims practices Acts, but I don't 21 know if it's specific to Nevada. 22 Q. What states do you recall where you've had 23 training specific to claims practices acts? 24 A. California specifically. We've had other 25 training for other states like Texas.</p> <p style="text-align: right;">Page 63</p>	<p>1 Q. But somebody would -- would they have a trainer 2 from within the company that would provide -- that would 3 prepare the PowerPoint? 4 MS. COUSINEAU: Overbroad. Lacks 5 foundation. 6 THE WITNESS: I don't know. 7 Q. BY MR. PRINCE: Who has trained you within the 8 company concerning the duties of good faith and fair 9 dealing, duty to defend, and/or the duty to indemnify? 10 A. I can't say specifically who's done that 11 specific training, that different -- there's been different 12 people coming in, different attorneys from different 13 states. There's been an adjustor from California that does 14 the other training you were asking me about. I can't think 15 of names offhand. 16 Q. And would you keep a record of these training 17 sessions, or does the company keep a record of the training 18 sessions? 19 A. I don't know if anyone keeps a record. 20 Q. Are you required to be licensed in any state 21 where you handle claims? 22 A. To adjust claims? 23 Q. Yes. 24 A. I believe there are requirements. There's a 25 department that takes care of making sure that people who</p> <p style="text-align: right;">Page 65</p>

<p>1 adjust claims meet the requirements. 2 Q. Okay. Are you licensed in any state to adjust 3 claims? 4 A. I took the West Virginia license adjustor's exam</p>	<p>1 at a training session, what do you do with them? Do you 2 throw them away? Do you keep them? What do you do with 3 them? 4 MS. COUSINEAU: Assumes facts not in</p>
<p>5 and then there's reciprocity. And again I don't know how 6 it exactly works, but there's a department that makes sure 7 that whatever documents need to be filed to give the 8 adjustors the authority to adjust claims in a particular 9 jurisdiction, they make sure that that's done. 10 Q. In what states are you licensed to adjust 11 claims, other than West Virginia? 12 A. I don't know all the licenses I have, but I 13 have -- I have authority to adjust claims in states that I 14 work on. 15 Q. Well, certain states have continuing education 16 requirements. Are you aware of that? 17 A. I know that California has that requirement. 18 Q. Okay. And so for your continuing education, 19 does the company supply you that continuing education? 20 A. Yes, if it's required, that department that 21 takes care of that would make sure that we had it. 22 Q. What's the department that makes sure that you 23 fulfill all of your requirements? 24 A. I don't know what it's called. 25 Q. Is it human resources or what is it?</p> <p style="text-align: right;">Page 66</p>	<p>5 evidence. Lacks foundation. 6 THE WITNESS: I might keep them. I might 7 not. I'm not sure. 8 Q. BY MR. PRINCE: Well, the question is, what do 9 you do with them if -- when you do keep them, for example, 10 do you put them at your desk, do you put them in a file, do 11 you take them home, do you keep them, do you shred them? 12 A. I could have -- I could do all those things. 13 I'm not sure. 14 Q. Do you keep any written training materials at 15 your desk? 16 MS. COUSINEAU: Vague and ambiguous. 17 Lacks foundation. 18 THE WITNESS: Just the things that we 19 talked about earlier. 20 Q. BY MR. PRINCE: What's that? 21 A. The litigation management guideline, that 22 document that's stapled together that has the states and 23 the references that you can start your research. And then 24 I can look -- consult with other things, other claims 25 guidelines.</p> <p style="text-align: right;">Page 68</p>
<p>1 A. I don't know if it's a branch of human 2 resources. 3 Q. How would we -- who would have a record of the 4 type of training you've been provided by Century since you 5 started there in September of 2009? 6 MS. COUSINEAU: Calls for speculation. 7 THE WITNESS: Somebody at Meadowbrook, but 8 I don't know who it would be. 9 Q. BY MR. PRINCE: You wouldn't even know where 10 to go find that information? 11 A. I'd have to ask my manager. 12 Q. So other than asking your manager, short of 13 that, you wouldn't know where to go to get the information? 14 A. I don't know. 15 Q. Now, when you've been -- when you've received 16 written materials at training sessions, what do you do with 17 them? 18 MS. COUSINEAU: Lacks foundation. Assumes 19 facts not in evidence. 20 THE WITNESS: Training sessions for -- 21 Q. BY MR. PRINCE: Anything. Anything. 22 A. I'd -- I'd -- I don't know. Sometimes I have 23 them. Sometimes I don't. I don't know what I have. 24 Q. Well, I guess the question -- that wasn't my 25 question. I said, when you've been given written materials</p> <p style="text-align: right;">Page 67</p>	<p>1 Q. What other claims guidelines? 2 A. There's just general broad guidelines. That's 3 something that I got initially, but I haven't really 4 consulted with it since I've gotten more experience on the 5 claims. 6 Q. Okay. What else? 7 A. What else do I keep at my desk? 8 Q. Right, for reference material. 9 A. I can't think of any other reference material, 10 as I sit here right now, that I have at my desk. 11 Q. Okay. Since you didn't have a commercial 12 insurance background before you started at Century, were 13 you ever provided any training concerning the types of 14 policies you were going to be asked to look at and 15 determine whether the company has an obligation to defend 16 and/or indemnify? 17 A. Was I trained on the specific policies? 18 Q. Do you understand my question? 19 A. I'm sorry. Could you repeat it? 20 MR. PRINCE: Repeat it. Read it back to 21 her. 22 (The pending question was read.) 23 THE WITNESS: I -- Yes, I was trained on 24 the form that -- our most common form, the general 25 liability policy, by my manager. And then there's --</p> <p style="text-align: right;">Page 69</p>

1 Q. BY MR. PRINCE: What form is that?
2 A. The -- It's an ISO form, CG triple 112-07,
3 something like that.
4 Q. Okay. So it's -- the most common form is a
5 commercial general liability form?
6 A. Yes, that I deal with.
7 Q. Is it relating to commercial auto or more just a
8 commercial liability form?
9 A. Just a general commercial liability form.
10 Q. Have you ever received any training on a
11 commercial auto liability form?
12 A. I can't recall whether I had specific training
13 on a commercial auto form. There's also a garage policy.
14 Q. Were you ever provided any specific training
15 before March of 2011 concerning the provisions of a garage
16 liability policy?
17 A. Yes, my manager went over the policy with me.
18 Q. Okay. What do you mean, your manager? Describe
19 what he did or she did.
20 A. It was Carol. And she took me through the
21 provisions of the policy.
22 Q. What provisions?
23 A. What's contained in the policy, the garage
24 policy, that there's a liability -- the most common part we
25 deal with is the third-party liability portion of the

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1 garage policy.
2 Q. Dealing -- arising out of a use of ownership,
3 maintenance use of an auto, or another provision policy?
4 A. Just the general liability part that does have
5 things about whether it's an owned or not owned or -- it's
6 third-party liability coverage.
7 Q. How much time did she spend with you on that?
8 A. As much time as I needed.
9 Q. I'm asking how much time she did spend with you.
10 A. I don't know the specific amount of time.
11 Q. Do you even have an estimate?
12 A. I don't. I just -- we went through it
13 initially. And whenever I had questions about it, I knew
14 claims where the garage policy would be the applicable
15 policy, I would go to my manager about it.
16 Q. Did you have any familiarity or experience with
17 a garage policy before coming to work for Century?
18 A. No.
19 Q. Is that -- how many garage litigated -- Strike
20 that.
21 How many garage coverage claims were you
22 involved in prior to March of 2011?
23 MS. COUSINEAU: Vague and ambiguous as
24 phrased.
25 THE WITNESS: I don't know the number.

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1 Q. BY MR. PRINCE: Was it a limited number?
2 A. You mean was it a few or --
3 Q. Yeah, was it a few, was it many, was it
4 hundreds, or a handful? What are we talking about?
5 A. It's pretty frequent.
6 Q. Before March of '11, 2011, I'm asking.
7 A. Yes, I'd had garage policy claims before that.
8 Q. What were the types of businesses involved in
9 that?
10 A. The ones I can recall, like used auto sales.
11 That's the one I recall generally.
12 Q. So the -- the only time -- prior to March of
13 2011, the type of business you can recall concerning a
14 garage policy was a used auto sales business?
15 A. There may have been a valet parking one, also.
16 That's another one I recall.
17 Q. Had you dealt with a -- the garage policy
18 dealing with a mobile detail or other mobile business
19 before March of 2011?
20 A. I don't specifically recall that.
21 Q. So prior to coming to work for Century and your
22 job at State Farm, you were never involved in making
23 coverage determinations; is that correct?
24 A. That's correct.
25 Q. Prior to coming to work for Century, you never

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1 were involved in making decisions whether an -- State Farm
2 had an obligation to defend an insured, correct?
3 A. That's correct.
4 Q. And before coming to work for Century, while
5 working at State Farm, you never had any -- you were not
6 involved in making determinations whether State Farm had an
7 obligation to indemnify an insured, correct?
8 A. Correct.
9 Q. But you did take on those functions once you
10 became an adjuster in the litigation unit at Century?
11 A. Yes, I did deal with coverage as soon as I got
12 to Century, yes.
13 Q. And the coverage meaning you made coverage
14 determinations whether the -- a particular policy covered a
15 particular loss, correct?
16 A. Correct.
17 Q. You also made determinations whether or not the
18 company was going to provide a defense, correct?
19 A. Right, in conjunction with my manager, yes.
20 Q. Right. Now, do you always have to have manager
21 approval before you make a coverage determination?
22 A. You do if you're going to deny coverage.
23 Q. Okay.
24 A. There are some circumstances where if I'm
25 picking up defense, like typical slip and fall, I can go

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1 forward and then it's reviewed by my manager. There's a
 2 diary for him to review it in the next few days after that.
 3 Q. To review your acceptance of coverage?
 4 A. My coverage determination, yes.
 5 Q. Okay. I mean, typically generally when a claim
 6 comes to you as an adjuster in the litigation unit, that's
 7 the first thing you do, is conduct a coverage
 8 investigation, right, a separate coverage investigation?
 9 A. The coverage determination is the first thing
 10 yes.
 11 Q. That's like one of the central components of any
 12 claim adjusting of the claim, right, coverage
 13 determination?
 14 MS. COUSINEAU: Vague and ambiguous as
 15 phrased.
 16 THE WITNESS: That's what I do.
 17 Q. BY MR. PRINCE: That's a basic claim function,
 18 though, isn't it?
 19 MS. COUSINEAU: Lacks foundation.
 20 THE WITNESS: For me, yes.
 21 Q. BY MR. PRINCE: And generally speaking, it's a
 22 basic claim function, is to determine coverage, right? You
 23 understand that?
 24 MS. COUSINEAU: Calls for speculation.
 25 THE WITNESS: It's what I do.

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1 Q. BY MR. PRINCE: What do you mean that's what
 2 you do? Are you unique or something?
 3 A. No, I just -- I don't understand like you're
 4 saying a claims function. It's what I do in my job as an
 5 adjuster.
 6 Q. Is that what you were trained to do?
 7 A. That's all I can speak to, is what I do.
 8 Q. Is that how you were trained by Century, is when
 9 a case comes to you, you're to determine whether coverage
 10 is applicable for that particular loss?
 11 A. Yes, that was part of my training.
 12 Q. Okay. That's a -- so it's a -- so that's not
 13 unique to you? That's how Century told you to do it,
 14 right?
 15 A. That's how my manager, yes, did.
 16 Q. Instructed you to do it?
 17 A. Yes.
 18 Q. As far as you know, that's what all of the
 19 people do in the litigation unit? When a claim comes to
 20 them, they are required to conduct a coverage investigation
 21 and/or determination?
 22 MS. COUSINEAU: Calls for speculation.
 23 Misstates her testimony.
 24 THE WITNESS: It's -- I do -- I can only
 25 speak to what I do in my job. I don't want to talk for

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1 other people.
 2 Q. BY MR. PRINCE: You think they do something
 3 different than you?
 4 MS. COUSINEAU: Irrelevant.
 5 THE WITNESS: I don't know. I don't think
 6 so. I don't know.
 7 Q. BY MR. PRINCE: Well, these are your
 8 co-workers. I mean, don't you think they do the same thing
 9 you do?
 10 A. I think they do the same thing.
 11 Q. So the first order of business when a file comes
 12 to you is you determine -- you conduct a coverage
 13 investigation; is that what you call it?
 14 A. I determine if there's coverage under the
 15 policy.
 16 Q. So you do a coverage determination. So I guess
 17 you first determine, number one, was the policy in force
 18 and effect on the date of loss, right?
 19 A. That's right.
 20 Q. Does the person involved meet the definition of
 21 an insured, right?
 22 A. Yes.
 23 Q. And is there an occurrence, right, you look for
 24 that?
 25 A. Yes.

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1 Q. And then you look for is that type of
 2 occurrence, is that something that's covered by the policy,
 3 right?
 4 A. Yes.
 5 Q. And what you mean by that is determine if it's
 6 covered by the policy whether there would be an obligation
 7 to indemnify the insured for that loss, right?
 8 A. That's part of coverage determination, yes.
 9 Q. Then once you determine -- once coverage is
 10 confirmed, then you move on to perform liability
 11 evaluation, right?
 12 A. Yes.
 13 Q. And then you do an evaluation of the claim?
 14 A. You mean value?
 15 Q. Value, yes, the value.
 16 A. Offset reserves, yes.
 17 Q. Valuation? And that's part of a valuation of a
 18 claim, correct?
 19 A. Yes.
 20 Q. So those are the three basic functions of a
 21 claim, right, of a claim process, is determine coverage;
 22 two, determine liability; three, valuation, which could
 23 include setting reserves?
 24 A. Yes, I do those things.
 25 Q. You agree that those are essential claim

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1 functions?
 2 MS. COUSINEAU: Overbroad.
 3 THE WITNESS: Those are a big part of my
 4 job, yes. That's part of what I do.

5 Q. BY MR. PRINCE: Okay. And prior to March of
 6 2011, you've had claim -- have claims come to you where a
 7 lawsuit's been filed that, before the lawsuit was filed,
 8 the company had denied coverage for the loss?
 9 A. Presuit denied coverage?
 10 Q. Yes.
 11 A. Yes.
 12 Q. Okay. Then once a lawsuit is filed, then the --
 13 the suit papers would come to you, correct, assuming -- I'm
 14 talking about only claims that come to you.
 15 A. I understand. Yes.
 16 Q. Once you receive the suit papers, do you then
 17 get the claim file from the pre-litigation department?
 18 A. Yes. Yes.
 19 Q. And then do you do a separate coverage
 20 determination?
 21 A. Yes.
 22 Q. Do you rely upon the investigation that was done
 23 before you?
 24 A. Yes, that's part of it.
 25 Q. Do you conduct any separate or additional

1 MS. COUSINEAU: Objection. Incomplete
 2 hypothetical.
 3 MR. PRINCE: It's not a hypothetical. I'm
 4 asking what she does.

5 MS. COUSINEAU: Except it depends on a lot
 6 of different things.
 7 THE WITNESS: It's a case-by-case
 8 determination. It depends if the -- if there's been no
 9 prior investigation, then there might need to be a field
 10 adjustor assigned and you do something like that. If there
 11 has been prior investigation, I would confirm it with the
 12 insured, what the -- what I'm seeing in the investigation.
 13 It just -- it just really depends on what
 14 the issues are. What the typical policy is, I can't think
 15 offhand. It's claim specific.
 16 Q. BY MR. PRINCE: Okay. So a lawsuit comes to
 17 you. And would you get the presuit file and you look, see
 18 that the presuit, the company denied coverage?
 19 A. Yes.
 20 Q. What is your general practice in those
 21 situations --
 22 MS. COUSINEAU: Assumes facts not in --
 23 Q. BY MR. PRINCE: -- to make determination?
 24 MS. COUSINEAU: Assumes facts not in
 25 evidence. Lacks foundation.

1 investigation?
 2 MS. COUSINEAU: Objection. Incomplete
 3 hypothetical.
 4 THE WITNESS: It depends on the case.
 5 Q. BY MR. PRINCE: So sometimes you do conduct a
 6 separate coverage investigation or conduct additional
 7 investigation, depending on the circumstances, correct?
 8 A. Yes.
 9 Q. What else do you do --
 10 MS. COUSINEAU: Vague and ambiguous.
 11 Incomplete hypothetical.
 12 Q. BY MR. PRINCE: -- as part of the coverage
 13 determination.
 14 A. Besides -- What do you mean, what else do I do
 15 as part of the coverage?
 16 Q. Right. For example, the suit papers come in.
 17 They're given to you.
 18 A. Right.
 19 Q. You get the presuit file. Do you order a copy
 20 of the policy?
 21 A. Yes, the policy.
 22 Q. I'm asking what other steps you take.
 23 A. Okay. Yes, I do get a copy of the policy.
 24 Q. I want you to tell me all of the steps you take
 25 to perform a coverage determination.

1 THE WITNESS: If you're just talking a
 2 file comes to me, a presuit file comes to me and it's been
 3 denied and then there's a lawsuit that I'm reviewing, I'd
 4 review the lawsuit, I'd review the policy, and then I'd
 5 look through all of the investigative reports. If there's
 6 photographs, police reports, other types of statements I
 7 would look through and see what's in the file.
 8 Q. BY MR. PRINCE: Okay. And for claims in
 9 Nevada in March of 2011, what steps would you take to
 10 determine whether the company had an obligation to defend a
 11 lawsuit that's been filed against an insured?
 12 MS. COUSINEAU: Objection. Incomplete
 13 hypothetical. Lacks foundation.
 14 THE WITNESS: I don't know that I had a
 15 specific procedure for Nevada, but it was what I just told
 16 you. I would look at -- if there was prior investigation,
 17 I would look at that prior investigation. I would look at
 18 the lawsuit and see what the allegations are. I would
 19 review the policy. And then I would consult with -- I'd
 20 come up with my sort of first pass plan of action as to
 21 whether I thought there was going to be a denial or whether
 22 I thought there was going to be a defense provided and
 23 discuss it with my manager.
 24 Q. BY MR. PRINCE: Okay. Well, what I'm trying
 25 to find out is how would -- for a lawsuit that came to you

1 in the state of Nevada or a policy issued in the state of
 2 Nevada, what would determine -- what documents and/or
 3 information would determine whether you're going to provide
 4 a defense to an insured to that lawsuit?

5 MS. COUSINEAU: Objection. Incomplete
 6 hypothetical. Lacks foundation.

7 THE WITNESS: It just depends on the case.
 8 It depends on the claim itself. It could be the policy.
 9 It could be the lawsuit itself. It could be other
 10 investigative information.

11 Q. BY MR. PRINCE: Okay. Do you agree that the
 12 duty to indemnify -- the duty to defend is broader than the
 13 duty to indemnify generally?

14 A. I believe that's true, yes.

15 Q. Do you believe that you owe an insured such as
 16 Blue Streak and Vasquez a duty of good faith and fair
 17 dealing in the state of Nevada generally?

18 A. I try to use good faith and fair dealing with
 19 all of the claims that I --

20 Q. But you understand the company owes Blue Streak
 21 and Vasquez the duty of good faith and fair dealing,
 22 correct?

23 MS. COUSINEAU: Objection. Calls for a
 24 legal conclusion.

25 THE WITNESS: I try to do my very best on

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1 all of the claims --

2 Q. BY MR. PRINCE: You're not listening to my
 3 question.

4 A. -- to meet all the standards.

5 Q. You're not listening to my question.

6 I mean, you acknowledge as an adjustor
 7 employed by Century that Century owes Blue Streak and
 8 Vasquez a duty of good faith and fair dealing.

9 A. There are duties owed. I always try to act in
 10 good faith and deal fairly with the insured.

11 Q. All I'm asking, is that a yes or a no? Does the
 12 company -- in March of 2011, did Century owe Vasquez and
 13 Blue Streak the duty of good faith and fair dealing?

14 MS. COUSINEAU: Calls for a legal
 15 conclusion.

16 THE WITNESS: I don't know what the law
 17 is, what the actual requirements are to the company in that
 18 specific -- that could be one of the requirements.

19 Q. BY MR. PRINCE: Okay. Do you believe that
 20 Century was required under Nevada law to consider the
 21 interests of Blue Streak and Vasquez at least equal to its
 22 own in deciding whether to provide a defense?

23 MS. COUSINEAU: Objection. Calls for a
 24 legal conclusion.

25 THE WITNESS: I don't know what the legal

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1 requirements are in Nevada.

2 Q. BY MR. PRINCE: Have you ever heard of equal
 3 consideration in connection with insurance claims?
 4 MS. COUSINEAU: Vague and ambiguous as
 5 phrased.

6 THE WITNESS: I think I've heard of that
 7 concept.

8 Q. BY MR. PRINCE: Do you know what the concept
 9 of equal consideration means?

10 A. I don't know how to articulate it, how to define
 11 it.

12 Q. So you don't think it -- how -- you wouldn't --
 13 you don't know how to articulate or define it? You
 14 wouldn't know how to implement it, is that right, as part
 15 of your claim process?

16 MS. COUSINEAU: Objection. Argumentative.
 17 Lacks foundation.

18 THE WITNESS: What do you mean, "implement
 19 it"?

20 Q. BY MR. PRINCE: Right. Right. If you don't
 21 know what "equal consideration" means, you can't articulate
 22 it, then you -- there's no way to know how to utilize that
 23 concept as part of the claim adjustment process, right?

24 MS. COUSINEAU: Argumentative. Lacks
 25 foundation. Assumes facts not in evidence. And misstates

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1 her testimony.

2 THE WITNESS: I just don't know. I don't
 3 know what the requirements are.

4 Q. BY MR. PRINCE: Okay. Now, don't you agree
 5 that -- you agree that the duty to defend -- Strike that.
 6 As a foundational matter, you agree the
 7 duty to defend is broader than the duty to indemnify; don't
 8 you agree with that?

9 A. I believe as a general principle, yeah.

10 Q. Right. Because you don't -- oftentimes you
 11 don't know whether there's going to be an ultimate duty to
 12 indemnify until a claim or litigation is fully adjudicated,
 13 correct?

14 MS. COUSINEAU: Objection. Incomplete
 15 hypothetical. Lacks foundation.

16 THE WITNESS: It could depend on a lot of
 17 factors, the indemnity, yes.

18 Q. BY MR. PRINCE: Right. And you agree that the
 19 duty to defend does not turn upon the ultimate adjudication
 20 of coverage under the policy? Do you agree with that?

21 MS. COUSINEAU: Objection. Vague and
 22 ambiguous. Lacks foundation.

23 THE WITNESS: I don't know if that's true
 24 or not.

25 Q. BY MR. PRINCE: And don't you agree that the

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1 duty to defend may exist even when coverage is in doubt and
 2 ultimately does not even materialize? Don't you agree with
 3 that?
 4 MS. COUSINEAU: Objection. Misstates the
 5 law. Lacks foundation. May call for a legal conclusion.
 6 Q. BY MR. PRINCE: Go ahead.
 7 A. Can you say it again, please?
 8 Q. Don't you agree that the duty to defend may
 9 exist even where coverage is in doubt and ultimately does
 10 not develop or materialize?
 11 MS. COUSINEAU: Also lacks foundation.
 12 THE WITNESS: I don't know. It depends on
 13 a lot of factors that could or could not be true.
 14 Q. BY MR. PRINCE: Well, I'm reading from the
 15 Century Surety Company case versus Polisso, P-O-L-I-S-S-O,
 16 43 Cal. Rptr.3d 468. I want to ask if you agree with this
 17 as an adjuster who makes coverage determinations. Do you
 18 agree with -- that "the existence of a duty to defend does
 19 not turn upon the ultimate adjudication of coverage under
 20 an insurance policy"?
 21 Do you agree with that?
 22 MS. COUSINEAU: Objection. It's calling
 23 for a legal conclusion.
 24 She's not here testifying --
 25 MR. PRINCE: That's not a legal

1 conclusion. That's a question of someone who makes a
 2 coverage determination about whether to provide a defense
 3 and how they do it.
 4 MS. COUSINEAU: No. You've asked her to
 5 agree or not with a statement out of a case, whether or not
 6 that is accurate or not.
 7 Q. BY MR. PRINCE: No, I'm just asking, do you
 8 agree with that concept?
 9 MS. COUSINEAU: Same objections. Calls
 10 for a legal conclusion. Lacks foundation.
 11 THE WITNESS: I need you to say it again.
 12 Q. BY MR. PRINCE: Sure. Don't you agree that
 13 the existence of a duty to defend does not turn upon the
 14 ultimate adjudication of coverage under a policy of
 15 insurance as an in-house claims attorney adjusting
 16 litigated claims?
 17 MS. COUSINEAU: Same objection. Also
 18 incomplete hypothetical.
 19 THE WITNESS: I don't know. It's a
 20 case-by-case determination.
 21 Q. BY MR. PRINCE: Okay. Don't you -- isn't it
 22 true that the determination of whether an insured owes a
 23 duty to defend under Nevada law is made by comparing the
 24 allegations of the complaint with the terms of the policy?
 25 MS. COUSINEAU: Objection. Lacks

1 foundation. Assumes facts not in evidence. Misstates law.
 2 Calls for a legal conclusion.
 3 THE WITNESS: I don't know the law in
 4 Nevada. I don't know.
 5 Q. BY MR. PRINCE: Don't you agree the law
 6 generally in most states, including the state of California
 7 where you do most of your adjusting, that to determine
 8 whether an insure -- that the company owes a duty to defend
 9 is made by comparing the allegations of the complaint to
 10 the terms of the policy?
 11 MS. COUSINEAU: Misstates the law. Calls
 12 for a legal conclusion.
 13 THE WITNESS: It depends on the
 14 circumstances. It depends on the jurisdiction. I just --
 15 I can't say it as a general rule.
 16 Q. BY MR. PRINCE: So, as you sit here today, you
 17 don't know what the rule is in the state of Nevada for an
 18 insurer, whether they're required to compare the
 19 allegations to the complaint to the policy to determine
 20 whether to provide a defense; is that correct?
 21 MS. COUSINEAU: Objection. Incomplete
 22 hypothetical. Object to the form of the question.
 23 Q. BY MR. PRINCE: Go ahead and answer.
 24 A. You mean currently what the law is right now in
 25 Nevada?

1 Q. No, I'm going to -- No. Just so we're clear.
 2 In March of 2011, you were not aware of Nevada's legal
 3 standards for an insurer determining whether they have an
 4 obligation to defend an insured against allegations in a
 5 complaint is done by comparing the allegations in the
 6 complaint to the policy at issue?
 7 MS. COUSINEAU: Lacks foundation. Assumes
 8 facts not in evidence. Incomplete hypothetical.
 9 THE WITNESS: In the beginning did you say
 10 "I didn't know" or "I did know"?
 11 Q. BY MR. PRINCE: You did not know.
 12 A. Did not know. From the way the claim was
 13 adjusted, I believe at the time all of the things that were
 14 allowed to be considered were considered in the coverage
 15 determination. I don't know that there -- we couldn't
 16 consider everything that we -- that was considered in the
 17 coverage determination.
 18 Q. Okay. Well -- I'm not asking that. I'm asking
 19 when you got -- I sent the company a copy of the complaint,
 20 correct, against Blue Streak and Vasquez?
 21 A. Okay.
 22 Q. Is that true?
 23 A. Okay.
 24 Q. That's true, isn't it?
 25 A. Yes, the company got a copy of the complaint,

1 yes.
 2 Q. Not only the company got a copy of the
 3 complaint; you got it?
 4 A. Yes.
 5 Q. And you reviewed it, right?
 6 A. Yes.
 7 Q. And the company made a determination to deny
 8 coverage, correct?
 9 A. Yes.
 10 Q. And -- after you got a copy of the complaint,
 11 correct?
 12 A. And other considerations, yes.
 13 Q. And the com -- no, the company made a
 14 determination to deny coverage, correct, after you got the
 15 complaint?
 16 A. Ultimately there was a determination to deny
 17 coverage, yes.
 18 Q. Right. And also the company made the
 19 determination to not provide the defense to Blue Streak or
 20 Vasquez once you -- after you received the complaint,
 21 correct?
 22 A. It was determined no defense was provided.
 23 Q. Right. And when you got the complaint, did you
 24 compare the allegations contained in the complaint to the
 25 policy provisions?

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1 A. I looked at the complaint and I looked at the
 2 policy, yes.
 3 Q. Okay. And did you -- when you looked at the
 4 complaint and compared that to the policy, that -- that
 5 would have triggered coverage under the policy if those
 6 allegations are accepted as true, correct?
 7 MS. COUSINEAU: Incomplete hypothetical,
 8 lacks foundation.
 9 THE WITNESS: I don't know that to be true
 10 as I sit here right this second. I'd have to look at
 11 everything.
 12 Q. BY MR. PRINCE: Well, I'm only talking about
 13 comparing the language -- the allegations of the complaint
 14 to the policy, okay? That's the only thing I'm talking
 15 about and -- well, we can look at it.
 16 Let's look at it. We can look at
 17 Exhibit 1C, Bate number 97 -- starting 97.
 18 And do you have that?
 19 A. Yes, I have that, 97.
 20 Q. Right. This is a letter that was faxed to the
 21 company on March 3rd, 2011. It's a two-page letter which
 22 enclosed a copy of the complaint, which is at 99 through
 23 107. Okay? Is that correct?
 24 A. Okay. Yes.
 25 Q. Your involvement with this claim started after

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1 the company received my correspondence of March 3rd, 2011,
 2 and a copy of the complaint, correct?
 3 A. Yes, it was assigned to me, yes.
 4 Q. Tell me what's in these shadow boxes here.
 5 A. I'm sorry. Which boxes?
 6 Q. The shadow -- whatever here. It says, "Please
 7 send a complete copy of the policy to Attorney Dennis
 8 Prince at Prince Keating." How are you able to, like,
 9 alter the document like that?
 10 A. With Adobe, it has a little icon you can click
 11 on and put a Post-it® and you can type the word.
 12 Q. Okay. So this is electronically imaged into
 13 your claim system, and then you put -- that's a Post-it® by
 14 you?
 15 A. Yes.
 16 Q. And then it says, "Completed JM Bussar,"
 17 B-U-S-S-A-R, and gives a date stamp. Who is that?
 18 A. Somebody in the support unit.
 19 Q. Okay. Does that mean that they sent a copy of
 20 this policy to me?
 21 A. Yes, they're saying they completed the task.
 22 Q. Okay. In looking at the complaint --
 23 And you agree that at the time of this
 24 accident involving Mr. Pretner, there was? There was a
 25 policy in effect issued to Blue Streak Auto Detailing, LLC,

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1 correct?
 2 A. Is the policy in here?
 3 Q. What --
 4 A. To see that it was -- that that was the name of
 5 the insured.
 6 Q. Right. I think it is.
 7 You can look at Exhibit D. It's 1D. Let
 8 me give you the --
 9 A. Yeah, the name of the insured is Blue Streak
 10 Auto Detailing, yes.
 11 Q. Okay. And so you -- through your own review of
 12 the file materials that you have when this file was
 13 referred to you, you were able to confirm that on the
 14 date -- at the time of the accident, there was a policy of
 15 insurance in effect?
 16 A. Yes.
 17 Q. For Blue Streak Auto Detailing?
 18 A. Yes.
 19 Q. Okay. And you know that Mr. Vasquez, based upon
 20 your review of the file materials, he was a principal
 21 member and/or employee of Blue Streak Auto Detailing,
 22 right?
 23 A. Yes, it's his company, yes.
 24 Q. His company. And when you got this complaint,
 25 you would have looked at paragraph five, correct?

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<p>1 A. Yes.</p> <p>2 Q. And where it says, "At all times relevant</p> <p>3 herein, Defendant Blue Streak Auto Detailing, LLC, was a</p> <p>4 limited liability company organized and existing under the</p> <p>5 laws of the state of Nevada, with its principal place of</p> <p>6 business in Clark County, State of Nevada. At all times</p> <p>7 relevant to these proceedings, Vasquez was a principal,</p> <p>8 officer, director, manager, employee, and/or agent of</p> <p>9 Blue Streak and was in the course and scope of his</p> <p>10 employment or agency at the time of the events described</p> <p>11 herein."</p> <p>12 Do you see that?</p> <p>13 A. That's what it says, yes.</p> <p>14 Q. And so when you -- when you received this</p> <p>15 complaint, did you accept that allegation as true, that at</p> <p>16 the time of the accident Vasquez was engaged in the course</p> <p>17 or scope of his employment or agency?</p> <p>18 MS. COUSINEAU: Lacks foundation.</p> <p>19 THE WITNESS: Did I know that that was</p> <p>20 true?</p> <p>21 Q. BY MR. PRINCE: No. I'm asking, did you</p> <p>22 accept that as true, the allegation?</p> <p>23 A. No, there was another -- there was an</p> <p>24 investigation done that showed that that wasn't true.</p> <p>25 Q. Okay. Would you -- Okay.</p> <p style="text-align: right;">Page 94</p>	<p>1 can't speak to that.</p> <p>2 Q. BY MR. PRINCE: I'm asking that accepting that</p> <p>3 statement is true, that at the time of the accident</p> <p>4 involving my client, Ryan Pretner, that Mr. Vasquez was in</p> <p>5 the course and scope of his employment in business with</p> <p>6 Blue Streak, that would trigger coverage under the Century</p> <p>7 policy, correct?</p> <p>8 MS. COUSINEAU: Asked and answered.</p> <p>9 Argumentative.</p> <p>10 THE WITNESS: It might but there may be</p> <p>11 other factors.</p> <p>12 Q. BY MR. PRINCE: But those allegations relate</p> <p>13 to him doing something in the course of his business at the</p> <p>14 time of the loss, correct?</p> <p>15 MS. COUSINEAU: Vague and ambiguous.</p> <p>16 Calls for speculation.</p> <p>17 THE WITNESS: It says that he was in the</p> <p>18 course and scope of his business.</p> <p>19 Q. BY MR. PRINCE: Right. And you understand</p> <p>20 that to mean that he was doing something business related</p> <p>21 at the time of the accident, correct?</p> <p>22 MS. COUSINEAU: Calls for speculation.</p> <p>23 THE WITNESS: Paragraph eight says that.</p> <p>24 Q. BY MR. PRINCE: And accept -- if that was</p> <p>25 proven to be true in the litigation, that would trigger</p> <p style="text-align: right;">Page 96</p>
<p>1 And starting at paragraph seven, it says,</p> <p>2 "Vasquez and/or Blue Streak are the owners of a 2007 Ford</p> <p>3 F150 operated by Vasquez at the time of the events which</p> <p>4 are the subject matter of this complaint. Vasquez and</p> <p>5 Blue Streak used the 2007 F150 vehicle as an integral part</p> <p>6 of their business."</p> <p>7 Paragraph eight. "On or about January 12,</p> <p>8 2009, Vasquez, while in the course and scope of his</p> <p>9 business with Blue Streak, was driving the 2007 Ford F150</p> <p>10 eastbound on Saint Rose Parkway, Henderson, Clark County,</p> <p>11 Nevada. At all times relevant to these proceedings, Blue</p> <p>12 Streak and Vasquez operated a mobile detailing business and</p> <p>13 traveled upon the streets of Clark County, Nevada."</p> <p>14 You see that?</p> <p>15 A. Yes.</p> <p>16 Q. Now, you, I know, just accepting as reading the</p> <p>17 allegation, that's all I'm asking you to do right now, that</p> <p>18 if it was proven to be true that Vasquez was in the course</p> <p>19 and scope of his business with Blue Streak at the time of</p> <p>20 the January 12, 2009, accident, there would be coverage</p> <p>21 under the Century policy, correct?</p> <p>22 MS. COUSINEAU: Lacks foundation.</p> <p>23 Incomplete hypothetical.</p> <p>24 THE WITNESS: I don't know. There could</p> <p>25 be other factors to consider. I can't -- I don't know. I</p> <p style="text-align: right;">Page 95</p>	<p>1 coverage under the policy, correct?</p> <p>2 MS. COUSINEAU: Calls for speculation.</p> <p>3 Incomplete hypothetical.</p> <p>4 THE WITNESS: It's one factor to consider.</p> <p>5 There might be some other reason why there isn't coverage.</p> <p>6 I don't know.</p> <p>7 Q. BY MR. PRINCE: Well, you didn't -- there was</p> <p>8 no denial on any other reason, other than the fact that he</p> <p>9 wasn't engaged in company business at the time of the loss,</p> <p>10 right?</p> <p>11 A. I don't know all of the reasons. I know one of</p> <p>12 the reasons was -- for the denial was that it was a</p> <p>13 personal errand.</p> <p>14 Q. Right. And that was really the only reason for</p> <p>15 the denial, wasn't it?</p> <p>16 MS. COUSINEAU: Argumentative.</p> <p>17 THE WITNESS: I don't know if there was</p> <p>18 other issues that were considered.</p> <p>19 Q. BY MR. PRINCE: That's the only basis upon</p> <p>20 which you denied the claim and didn't provide a defense or</p> <p>21 indemnification to Blue Streak and Vasquez, correct, that</p> <p>22 basis?</p> <p>23 MS. COUSINEAU: The document speaks for</p> <p>24 itself.</p> <p>25 THE WITNESS: There is -- That was one of</p> <p style="text-align: right;">Page 97</p>

1 the reasons.
2 Q. BY MR. PRINCE: Was there any other reason you
3 cited other than that?
4 MS. COUSINEAU: The document speaks for
5 itself.
6 THE WITNESS: There's other provisions in
7 the policy which could have been applicable, but that was
8 the one that was cited.
9 Q. BY MR. PRINCE: Okay. You didn't cite any
10 other potential -- any other provision of the policy for a
11 basis to disclaim coverage, other than the fact that he was
12 not doing something business related at the time of the
13 accident, correct?
14 MS. COUSINEAU: Document speaks for
15 itself.
16 THE WITNESS: I would have to look at the
17 letter to see what was cited, but that would -- the
18 personal errand was one of the things that was cited.
19 Q. BY MR. PRINCE: In fact, that's the only thing
20 cited, isn't it?
21 MS. COUSINEAU: Lacks foundation.
22 Document speaks for itself.
23 THE WITNESS: Can I look at the letter?
24 Q. BY MR. PRINCE: You can. It is still in --
25 it's in -- part of C, 1C, starting at 192. And you may

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1 want to look at page five of your letter, 196, Bate number
2 196.
3 A. Yeah, it cites that reason about "the accident,
4 at issue did not result from garage operations." It says,
5 "There may be other reasons why coverage does not apply."
6 Q. Okay.
7 A. But they didn't cite them.
8 Q. So the only -- the only thing you cited as a
9 basis for denial is that he was not engaged in garage
10 operations or something related to auto detailing and
11 washing, right?
12 A. That's a specific thing that is cited. But then
13 it says there could be other reasons.
14 Q. But my point is, you didn't cite any other
15 reasons in your denial letter of March 31st other than that
16 reason, correct?
17 MS. COUSINEAU: Vague and ambiguous as
18 phrased.
19 THE WITNESS: It doesn't specifically cite
20 anything other than what's in these paragraphs.
21 Q. BY MR. PRINCE: So you didn't deny -- you did
22 not deny the claim -- the company did not deny the claim on
23 any other reason, then, correct?
24 MS. COUSINEAU: Vague and ambiguous as
25 phrased.

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1 THE WITNESS: I don't know if there were
2 any other reasons. That was the main reason to deny the
3 claim.
4 Q. BY MR. PRINCE: But no other reasons were
5 cited, correct?
6 A. Not specifically. It just said in general there
7 could be other reasons.
8 Q. That's standard language that you would put in
9 any denial letter, correct? Don't you agree with that --
10 MS. COUSINEAU: Lacks foundation. Vague
11 and ambiguous.
12 Q. BY MR. PRINCE: -- that there may be other
13 reasons why coverage does not apply?
14 A. It could be in the letter. It might not be in
15 the letter.
16 Q. But that's a standard provision that you would
17 commonly put in a denial letter of this type, correct?
18 MS. COUSINEAU: Vague and ambiguous as
19 phrased.
20 Q. BY MR. PRINCE: Go ahead and answer.
21 A. I've put it in other letters. I don't -- I
22 don't know if that is a standard, like, requirement or
23 something.
24 Q. But lang -- But that paragraph or something
25 substantially similar is in virtually all of your denial

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1 letters, wouldn't you agree with that?
2 MS. COUSINEAU: Asked and answered.
3 THE WITNESS: I don't know.
4 Q. BY MR. PRINCE: But you're saying you do
5 acknowledge that it's been in other denial letters?
6 A. It has been in other letters, yes.
7 Q. Let's go back to the complaint which we were at
8 100 -- we were looking at paragraph five, seven, and eight.
9 MS. COUSINEAU: What page, again?
10 MR. PRINCE: I'm sorry. That's 100 and
11 101 of 1C.
12 Q. BY MR. PRINCE: You agree that -- accepting
13 those allegations in the complaint as true, that Vasquez
14 was in course and scope of his business at the time of the
15 accident -- that would trigger coverage under the Century
16 policy, assuming no other exclusion may apply, correct?
17 MS. COUSINEAU: Lacks foundation. Assumes
18 facts not in evidence. Incomplete hypothetical.
19 THE WITNESS: There could be other
20 reasons. That's just one consideration. That's one factor
21 that could determine coverage.
22 Q. BY MR. PRINCE: Right. But, I mean, when you
23 read this and you looked at the complaint and you compared
24 it to the policy, it was your belief that that did not
25 create a duty to defend either Vasquez or Blue Streak?

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<p>1 MS. COUSINEAU: Vague and ambiguous as 2 phrased. 3 THE WITNESS: I don't know that I had a 4 belief just based on that. I don't think I had a belief</p>	<p>1 Q. BY MR. PRINCE: Okay. Do you agree that 2 accepting the allegations in five, seven, and eight as 3 true, that that would trigger coverage under the policy, 4 assuming there was no other reason to deny coverage?</p>
<p>5 just based on one allegation. It was the totality of all 6 considerations. 7 Q. BY MR. PRINCE: So are you saying that in 8 deciding to not provide a defense, you looked to facts and 9 information outside the allegations in the complaint? 10 A. Yes, the investigative report and I talked to 11 the insured. 12 Q. Okay. Why didn't you base your determination to 13 provide a defense solely on the allegations contained in 14 the complaint which, if accepted as true and proven true, 15 would create coverage under the policy? 16 MS. COUSINEAU: Lacks foundation. 17 Misstates law. Misstates testimony. 18 THE WITNESS: I don't know if that's true 19 if it -- if that determines coverage. There's other 20 considerations, other provisions that might apply. I don't 21 know. 22 Q. BY MR. PRINCE: We're talking about coverage 23 generally. And I don't want to -- I'm not trying to 24 confuse the concept of indemnify something. I'm only 25 talking about the duty to defend and insured under the</p> <p style="text-align: right;">Page 102</p>	<p>5 MS. COUSINEAU: Asked and answered. Lacks 6 foundation. 7 Q. BY MR. PRINCE: Go ahead and answer. 8 A. I don't know that there's -- that I wasn't 9 allowed to look at anything outside just the complaint and 10 the policy at the time the claim was adjusted. I'm looking 11 at the way it's adjusted, so I believe I was allowed to 12 look at other stuff, other information such as what the 13 insured tells and what was in the file. 14 Q. And were you looking at from whether there was 15 an ultimate duty to indemnify -- 16 MS. COUSINEAU: Vague and ambiguous. 17 Q. BY MR. PRINCE: -- based upon the facts and 18 information that you had available, which includes the 19 allegations in the complaint? 20 A. I was looking at all of the information in the 21 complaint and the totality of the claim. 22 Q. When you say "the totality of the claim," what 23 does that include? The presuit investigation? 24 A. It did in this case. And also talking to the 25 insured.</p> <p style="text-align: right;">Page 104</p>
<p>1 policy. And you agree that if there's a claim alleged in 2 the complaint which is a covered claim, that the company 3 should provide a defense, right? 4 A. If there's coverage under the policy, then 5 whatever the considerations are, there might be a 6 reservation but you might still provide a defense, I don't 7 know. It just depends on the case. 8 Q. Okay. And so why did you consider matters 9 outside of the complaint when you denied coverage and 10 refused to provide a defense for Vasquez and Blue Streak? 11 MS. COUSINEAU: Objection. Argumentative. 12 Asked and answered. 13 THE WITNESS: Looking at the way it was 14 adjusted, I don't know that I wasn't allowed to look at 15 other stuff outside, so I believe that I was allowed to 16 look at other stuff just looking at this claim. But I 17 don't know what the law is as we sit here right this 18 second. 19 Q. BY MR. PRINCE: Did you believe, as of 20 March 31st, 2011, that the allegations in the complaint by 21 themself, those were sufficient to trigger a duty to at 22 least defend the complaint on behalf of Blue Streak and 23 Vasquez? 24 MS. COUSINEAU: Lacks foundation. 25 THE WITNESS: I don't know.</p> <p style="text-align: right;">Page 103</p>	<p>1 Q. Okay. And you looked at -- let's look at the 2 fourth claim for relief entitled "Respondeat Superior," 3 which is set forth on pages 105 and 106 of the complaint. 4 You understand what a respondeat superior claim is, don't 5 you? 6 A. It's Latin and I don't know the direct 7 translation, but it's about employers or something like 8 that. 9 Q. Right. That an employer or a principal can be 10 held liable for the acts of its employee and/or agent, 11 correct? 12 MS. COUSINEAU: Calls for a legal 13 conclusion. 14 Q. BY MR. PRINCE: Right? 15 A. It has something -- I believe it has something 16 to do with that, but I don't know specifically. 17 Q. And the -- you don't have to -- is it your 18 knowledge or understanding that you don't even need to 19 prove fault on behalf of the employer so long as you prove 20 negligence on the part of the employee and the employee was 21 acting in the course and scope and business of the employer 22 at the time of the accident? 23 MS. COUSINEAU: Calls for a legal 24 conclusion. Lacks foundation. Misstates the law. 25 THE WITNESS: I don't know what the</p> <p style="text-align: right;">Page 105</p>

<p>1 requirement -- what the law is in this jurisdiction on 2 respondeat superior. 3 Q. BY MR. PRINCE: Did you undertake any legal 4 research and determine what the law is as it relates to</p>	<p>1 assuming no other provision of the policy applied, that 2 there would be an obligation to defend the insured against 3 those allegations? 4 MS. COUSINEAU: Asked and answered.</p>
<p>5 respondeat superior? 6 A. I don't recall whether I did or not. 7 Q. And you're not familiar with that doctrine 8 generally? 9 A. I've heard of the doctrine generally, but I 10 can't recite to you the requirements, as we sit here right 11 now. 12 Q. Okay. And do you see in paragraph 34 through 13 36 -- or 34 says, "Blue Streak entrusted said vehicle -- 14 meaning the Ford -- to Vasquez in order to generate income 15 and profits for Blue Streak." Paragraph 35, "At all times 16 relevant, Vasquez was an employer agent of Blue Streak and 17 under the supervision and control of Blue Streak." 18 Paragraph 36, "At all times relevant herein, Vasquez was 19 acting in the course and scope of his employment and/or 20 agency with Blue Streak." 21 Do you see that? 22 A. Yes. 23 Q. Accepting those allegations as true, along with 24 paragraphs five, seven, and eight that you looked at 25 earlier, that would trigger coverage under the policy,</p> <p style="text-align: right;">Page 106</p>	<p>5 THE WITNESS: I don't know if that's true. 6 Q. BY MR. PRINCE: Also, assuming those -- if 7 those allegations were proven in the litigation, meaning 8 paragraphs 5, 7, and 8, 34 through 37, that that would 9 create an obligation to indemnify the insured for any 10 damages which were awarded against them? 11 MS. COUSINEAU: Incomplete hypothetical. 12 Lacks foundation. Calls for a legal conclusion. 13 THE WITNESS: I don't know if that's all 14 that's required. I don't know. 15 Q. BY MR. PRINCE: Okay. Well, what do you know 16 that's required under Nevada law to determine whether you 17 have an obligation to provide a defense? 18 MS. COUSINEAU: Argumentative. Vague and 19 ambiguous. 20 THE WITNESS: I don't know what Nevada law 21 is, as we sit here today, based on how this was adjusted, 22 considered information that was beyond the policy and the 23 complaint, and I don't know that we weren't allowed to do 24 that or -- 25 Q. BY MR. PRINCE: Okay. And do you know what</p> <p style="text-align: right;">Page 108</p>
<p>1 correct, assuming no other provisions applied, correct? 2 MS. COUSINEAU: Calls for speculation. 3 Lacks foundation. 4 THE WITNESS: I don't know for sure it 5 would. 6 Q. BY MR. PRINCE: Well, I want you to just 7 assume that that's all the information you had, was just 8 those allegations, right? That's all -- the only 9 allegations you had when a suit came in, that the 10 employee -- the policy is in force and effect, that 11 their -- the employ -- it's alleged in the complaint that 12 an employee was driving in the course and scope and 13 employment and business of the insured, and there was an 14 accident for which he was at fault. That would trigger 15 coverage under the garage policy, correct? 16 MS. COUSINEAU: Lacks foundation. 17 Incomplete hypothetical. 18 THE WITNESS: I don't know. It could 19 depend on other factors, other laws for the jurisdiction, 20 and I just don't know, as we sit here today, if that's 21 true. 22 Q. BY MR. PRINCE: Don't you agree that, for the 23 purpose of providing a defense to an insured, accepting 24 these allegations as -- in the complaint as true, 25 paragraphs 5, 7, and 8, as well as 34, 35, 36, and 37,</p> <p style="text-align: right;">Page 107</p>	<p>1 the law in the state of Nevada was in March of 2011 as to 2 what the insurer's obligation was to determine whether to 3 provide a defense to an insured once a lawsuit came in? 4 MS. COUSINEAU: Objection, vague and 5 ambiguous as phrased. Calls for a legal conclusion. 6 Q. BY MR. PRINCE: Go ahead and answer. 7 A. Based on how this was adjusted, I don't know 8 that we weren't allowed to consider all the information 9 that was considered in the coverage determination. 10 Q. I'm asking do you know -- as of March 2011, do 11 you know Nevada law required of you and the company to 12 determine whether or not you were obligated to provide a 13 defense to Blue Streak and Vasquez against these 14 allegations in the complaint, and specifically 5, 7, and 8, 15 and 34 through 37? 16 MS. COUSINEAU: It's overbroad as phrased. 17 Vague and ambiguous. Lacks foundation. 18 Q. BY MR. PRINCE: Go ahead and answer. 19 A. I don't know how to answer. I don't have a 20 different answer. I just don't know. I don't know the law 21 right now, as we sit here today. 22 Q. BY MR. PRINCE: Did you know it in March of 23 2011? 24 A. Based on the way this was adjusted, I don't know 25 that there was anything in the law that prevented</p> <p style="text-align: right;">Page 109</p>

1 consideration of the insured's statement.
 2 Q. Did you research Nevada law or ask somebody to
 3 research Nevada law as to what an insured's obligation was
 4 to determine whether it owed a duty to a defendant to
 5 insure it against certain allegations in the complaint?
 6 MS. COUSINEAU: Vague and ambiguous as
 7 phrased.
 8 THE WITNESS: I don't know if I did
 9 specific research or if it was my manager. I know that the
 10 denial of coverage was done in consultation with my
 11 manager. I make recommendations. I don't have authority
 12 to just deny coverage without consultation.
 13 Q. BY MR. PRINCE: Well, we'll look at it, but
 14 you did make the recommendation to deny coverage here,
 15 right?
 16 A. Based on what I saw in the file and in
 17 consultation with my manager.
 18 Q. Right. And so -- Right. But, I mean, you made
 19 the recommendation to your manager to deny coverage, and
 20 then you met him, and ultimately the decision was the
 21 company's going to deny coverage and not provide a defense,
 22 correct?
 23 A. Yeah, I made -- I looked at the claim, I made a
 24 first pass through, talked to the insured, and made the
 25 recommendation that it looked like there wasn't coverage,

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1 but I would need to consult with my manager to confirm that
 2 that was true.
 3 Q. Okay. Prior to March of 2011, have you ever
 4 been in a situation where you've received a complaint and
 5 there was a question about whether there was an obligation
 6 to provide a defense to an insured, so you issued a
 7 reservation of rights letter and provided a defense under a
 8 reservation of rights?
 9 A. Yes, I've provided a defense under reservation
 10 of rights and continued to investigate before, yes.
 11 Q. And so in March of 2011, that was an option, was
 12 to provide a defense under reservation of rights,
 13 correct --
 14 MS. COUSINEAU: Vague, ambiguous as
 15 phrased.
 16 Q. BY MR. PRINCE: -- for Vasquez and Blue
 17 Streak?
 18 A. I don't know whether it was an option or not.
 19 Q. Did you explore with your manager or anyone else
 20 whether it was an option to provide a defense to Blue
 21 Streak and Vasquez against the allegations in the
 22 complaint?
 23 A. I don't specifically recall.
 24 MS. COUSINEAU: Good time for a quick
 25 break?

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1 MR. PRINCE: Sure.
 2 (A 17-minute break was taken from
 3 11:19 a.m. to 11:35 a.m.)
 4 MR. PRINCE: Back on the record.
 5 Q. BY MR. PRINCE: When you -- after you reviewed
 6 the allegations contained in the complaint, did you
 7 believe, based on those allegations, that there was a
 8 potential for coverage under the policy for which you would
 9 owe a defense?
 10 MS. COUSINEAU: Vague and ambiguous as
 11 phrased.
 12 THE WITNESS: I didn't know, based on the
 13 date of loss, there was a policy in effect, but there were
 14 other things that needed to be reviewed.
 15 Q. BY MR. PRINCE: Okay. No, the only thing I'm
 16 asking is -- listen to my question carefully -- based upon
 17 the allegations contained in the complaint only, did you
 18 believe that there was a potential for coverage under the
 19 policy if those allegations were proven true?
 20 MS. COUSINEAU: Lacks foundation. Assumes
 21 facts not in evidence.
 22 THE WITNESS: I don't know as we sit here
 23 today.
 24 Q. BY MR. PRINCE: No, I'm not asking as you sit
 25 here today. I'm asking as of March of 2011, when you

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1 reviewed the allegations contained in the complaint,
 2 specifically 5, 7, and 8, and 34 through 37, did you
 3 believe that there was at least a potential for coverage
 4 under the Century policy?
 5 MS. COUSINEAU: Asked and answered. Vague
 6 and ambiguous. Lacks foundation.
 7 THE WITNESS: I don't know what I was
 8 thinking in March of 2011.
 9 Q. BY MR. PRINCE: Did you think that there was
 10 no possibility of cover -- Strike that.
 11 After you reviewed the allegations
 12 contained in the complaint, did you believe that there was
 13 no possibility for coverage under the Century policy?
 14 MS. COUSINEAU: Calls for speculation
 15 based on her last testimony.
 16 Q. BY MR. PRINCE: Go ahead and answer.
 17 A. I don't know what I was thinking or believed
 18 back in March of 2011.
 19 Q. Do you agree that if the allegations were proven
 20 true at a trial, that Vasquez was driving the Ford truck in
 21 the course of Blue Streak's business and employment, that
 22 that would create a potential for coverage under the
 23 policy?
 24 A. I don't know.
 25 Q. Why don't you know?

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<p>1 MS. COUSINEAU: Argumentative, incomplete 2 hypothetical. 3 THE WITNESS: I don't know what the law 4 requires. I don't know if that's the only consideration.</p>	<p>1 information as it relates to a claim? Where are all the 2 places electronically you would input information for a 3 claim? 4 A. You can make activity log notes.</p>
<p>5 Q. BY MR. PRINCE: Well, I'm only asking about 6 the policy. I'm not asking about -- assuming that it was 7 determined -- that a jury determined that Vasquez was an 8 employee of Blue Streak and was operating the truck in the 9 course and scope of his employment with Blue Streak as part 10 of its business, would you believe that would create at 11 least a potential for coverage under the policy -- 12 MS. COUSINEAU: Objection. Calls for 13 legal conclusion. 14 Q. BY MR. PRINCE: -- as of March 2011? 15 MS. COUSINEAU: Incomplete hypothetical. 16 THE WITNESS: I don't know. 17 Q. BY MR. PRINCE: When a file comes to you in 18 the litigation unit -- let's just do this for a second. Go 19 to 1B, number 3. Okay. 20 Well, first off, let's just go to Bate 21 number 1 of 1B. Tell me what this is. 22 A. It's the comments for the Blue Streak Auto 23 Detailing claim. 24 Q. Okay. Are these considered claim notes? 25 MS. COUSINEAU: Asked and answered.</p> <p style="text-align: right;">Page 114</p>	<p>5 Q. Okay. 6 A. Fill out the CSR and update it from time to 7 time. 8 Q. Okay. What else? 9 A. Documents pertaining to the claim are scanned 10 into the ImageRight part of the claim. 11 Q. Okay. 12 A. That's all I can think of. 13 Q. Okay. So there's -- for any claim in the 14 Century system, there will be three areas where you have 15 electronically stored information. It would be activity 16 log notes, CSR, and then ImageRight, where you actually 17 scan documents into the claim system -- 18 MS. COUSINEAU: Misstates her testimony. 19 Q. BY MR. PRINCE: -- is that right? 20 A. Those are areas that I use. I don't know if 21 there are other programs that other people use or not. 22 Q. Okay. For your purposes as an adjustor in the 23 litigation unit, are those the three areas where you input 24 information? 25 A. Yes.</p> <p style="text-align: right;">Page 116</p>
<p>1 Q. BY MR. PRINCE: What are they? 2 A. There's activity logs and the entries in the 3 claims -- the CSR. 4 Q. What's CSR? 5 A. Sort of a snapshot of what the claim is. 6 Q. Okay. I'm trying to find out, do you call these 7 log notes? What do you call what I'm reading here? 8 MS. COUSINEAU: Asked and answered. 9 THE WITNESS: The comments, it's log notes 10 and the CSR. 11 Q. BY MR. PRINCE: Are log notes and CSR 12 something different? 13 A. Log notes can't be changed, like, once you save 14 them. The CSR can be updated. 15 Q. Oh, so part of this is log notes and part of it 16 is CSR? 17 A. Yes. 18 Q. Are they two different screens, like on your 19 computer system? 20 MS. COUSINEAU: Vague and ambiguous as 21 phrased. 22 THE WITNESS: I don't know about screens. 23 There's tabs you can click for just log notes, and there's 24 a tab you click for the CSR. 25 Q. BY MR. PRINCE: Okay. Where do you input</p> <p style="text-align: right;">Page 115</p>	<p>1 Q. What about people in the presuit claim 2 department? 3 A. I don't know exactly their -- what is available 4 to them to input. 5 Q. Would it be something different? 6 MS. COUSINEAU: Calls for speculation. 7 THE WITNESS: They could have more 8 programs. I don't know. 9 Q. BY MR. PRINCE: How far away do these people 10 work from you? 11 A. They're in the same building. 12 Q. Like on the same floor? 13 A. Yes. 14 Q. I mean, like how long would it take you to walk 15 to one of their desks from your desk? 16 A. They're in the same building. It wouldn't take 17 long. 18 Q. Would it take like seconds? 19 A. Yeah. 20 Q. Do you ever interact with these people? 21 A. Yes, I see them. 22 Q. Okay. I mean, do they ever talk about inputting 23 information in the areas other than attorney log notes, 24 CSR, and through ImageRight? 25 A. I can't recall if I've had discussions about</p> <p style="text-align: right;">Page 117</p>

1 them putting information anywhere else. I don't know.
2 Q. When you received training by the company
3 concerning their electronic information system, do they
4 train you like litigation department separate and apart
5 from the non-litigation claims?
6 MS. COUSINEAU: Vague and ambiguous as
7 phrased.
8 THE WITNESS: I only know the training I
9 was given. I don't know how everybody else is trained. I
10 can only speak for myself.
11 Q. BY MR. PRINCE: So you don't know if they
12 input into a different area of the computer system or have
13 other access?
14 A. I have no idea.
15 Q. Okay. What's CSR stand for?
16 A. Claims services report.
17 Q. What's contained in the claims services report?
18 A. It's divided into sections. The first section
19 is coverage. There's a verification of coding. That it's,
20 you know, bodily injury or property damage, something like
21 that. There's a facts section and liability section,
22 injury and damages section. Whether there's any recovery
23 or contributions, there's a section for that. Section for
24 reserves. And a section for whether or not it meets the
25 requirements of being reported to reinsurance.

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1 Q. And you're saying that the CSR can be changed or
2 modified and/or updated, right?
3 A. Yes.
4 MR. PRINCE: Is that what you gave me
5 earlier, Ria, is that the CSR entries?
6 MS. COUSINEAU: Yes. Yes.
7 MR. PRINCE: We're going to mark this as
8 Exhibit 3 today.
9 (Exhibit No. 3 was marked for
10 identification.)
11 Q. BY MR. PRINCE: But these documents that your
12 counsel was showing me earlier before the deposition
13 started, is this part of the CSR?
14 A. Yes.
15 Q. Would this be the totality of the CSR for this
16 claim?
17 MS. COUSINEAU: Just those documents?
18 MR. PRINCE: Yes.
19 THE WITNESS: I don't know if that has all
20 the activity -- the CSR part? I don't know. I don't
21 normally see that kind of document.
22 Q. BY MR. PRINCE: What do you mean, "I don't
23 normally see this kind of document"?
24 A. I don't know how to get into that screen. I
25 don't know where that --

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1 Q. What is this? What am I looking at?
2 MS. COUSINEAU: Calls for speculation.
3 THE WITNESS: I don't know.
4 Q. BY MR. PRINCE: I'm handing you Exhibit 3, so
5 it was supplied today by your counsel, Ms. Cousineau.
6 A. It says, "Comment History."
7 Q. Do you know what these screens are?
8 A. I've never gone into these screens.
9 Q. So when you look at a -- like what's behind it?
10 Like it talks about, you know, comments for Blue Streak.
11 It says, "Activity log, coverage issue file." It gives
12 number and other activity log date. I mean --
13 A. Underneath? This underneath part?
14 Q. Yeah, underneath.
15 A. That's what I see, the CSR part. I don't see
16 that.
17 Q. So you don't see the comment history?
18 A. Right.
19 Q. I guess you could go to, like, one entry. Like
20 injury, damage, and evaluation, you could click on it and
21 see all the entries that may precede that, couldn't you, if
22 you wanted to?
23 MS. COUSINEAU: Calls for speculation.
24 THE WITNESS: I believe you can do that.
25 I don't know how to do that.

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1 Q. BY MR. PRINCE: Okay. We'll get to this in a
2 minute.
3 But, anyway, let's look at -- go back to
4 Exhibit 1B. We're going to look at the claim notes. So
5 what do you call this? Claim notes? What do you call
6 this?
7 A. Comments.
8 Q. Claim comments?
9 A. Yeah.
10 Q. And in part it has activity log notes, which you
11 say cannot be modified?
12 A. Right.
13 Q. And we -- like, for example, just looking down
14 the page, "management" on 3/30 by Daniel Mayer," who is
15 your supervisor, is that part of CSR?
16 A. No, that's a management comment, activity log
17 notebook.
18 Q. Okay. Is that separate and apart from CSR?
19 A. Yes, it's like my activity log. If it's just
20 me, it says "activity log" with my name. If it's Daniel,
21 it says "management" instead of "activity log."
22 Q. We go down to "Injury" at the bottom of Bate
23 number 1. It says, "Injury damage and evaluation on
24 3/7/2011." Do you see that?
25 A. Yes.

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<p>1 Q. That would be an entry made by you, correct? 2 A. Yes, part of it. 3 Q. Part of it, anyway. You go on to the next page? 4 A. Yes.</p>	<p>1 A. If it's a CSR one, yes. If it's an activity 2 log, no, I can't delete. 3 Q. So you can have new entries for injuries, 4 damage, and evaluation or you can go back and modify or</p>
<p>5 Q. That would be a CSR entry; is that right? 6 A. Yes. 7 Q. That's what can be modified or updated or 8 whatever you want to -- 9 A. Yes. 10 Q. Did you actually go back and actually change 11 this entry or could you just add more to it later? 12 A. I can delete or add. 13 Q. Oh, so this is -- 14 A. But it's always saved. Whatever is there is 15 always saved, and that must be what that is. 16 Q. So any prior entries would always be saved? 17 A. Right. 18 Q. But you couldn't go back and say, "Okay, I'm 19 going to completely delete this entry," and it's deleted 20 from all records? 21 A. No, it will still be there. 22 Q. It will still be there. Right. Okay. 23 How is that different? Like an activity 24 log note, I mean, can you -- you can't add to that? 25 A. You can't do anything to it once you save it.</p> <p style="text-align: right;">Page 122</p>	<p>5 change an existing one? 6 A. Yeah, if you modify this, it's going to put the 7 new date on it. 8 Q. Oh, okay. So anytime you modify it, it will 9 have a new date? 10 A. Yes. 11 Q. It wouldn't go back to the old date? 12 A. No. 13 Q. It would -- anytime you would change -- if you 14 were specifically changing one, it would be -- it would 15 reflect a new date, not the old date? 16 A. In the CSR, yes. 17 Q. Okay. Got it. 18 Anyway, going to Bate number 3, your first 19 entry is -- it looks like it's on May -- excuse me 20 March 7th, 2011, correct? 21 A. Yes. 22 Q. Okay. Just below that, there's an entry -- 23 management entry by James Karp. It says, "Received suit 24 papers, sent note to Daniel recommending transfer to the 25 litigation unit."</p> <p style="text-align: right;">Page 124</p>
<p>1 Q. I guess what can you do with the content of a 2 CSR entry? 3 A. Well, if -- you can update. If you don't have 4 any information on damages or the amount of medicals, as 5 the case goes through and you get medical records and 6 medical billing, you can update and put the amount of 7 medical bills or whatever. 8 Q. Can you go back and -- can you go to the exact 9 one and add to it, I mean, like so that you'd actually be 10 changing the content of it? 11 A. Go to the injury and damages or whatever 12 section? 13 Q. Yeah. Let's say -- for example, let's say you 14 got medical records and -- let's say on May 7th, 2011, and 15 you wanted to go back into this injury damage and 16 evaluation. Let's say you got \$100,000 in medical expenses 17 then. Could you actually go back in and actually add to 18 this specific one that you entered on March the 7th, 2011, 19 or would you just create one starting on May 7th, 2011? 20 A. I could do either one. 21 Q. Oh, so you could go back in and edit like where 22 it says "past medicals in excess of two and a half million 23 are claimed," you could go back in, let's say, on June 7th, 24 2011, you could actually delete that sentence in its 25 entirety?</p> <p style="text-align: right;">Page 123</p>	<p>1 Do you see that? 2 A. Yes. 3 Q. Would that typically be how that would happen, 4 suit papers are -- assuming there was a claim before a 5 lawsuit was filed, the suit papers would be received by 6 someone in Mr. Karp's unit, and then in turn they would be 7 forwarded to the litigation unit? 8 A. Yeah, that's how it happened. 9 Q. Okay. Then, obviously, the claim was assigned 10 to you? 11 A. Yes. 12 Q. Okay. So walk me through -- so the first -- is 13 this the first entry you made, is Medicare? 14 A. I don't know if that's the first one. There's 15 several that say the 7th, but I'm not sure prior to the 16 Medicare -- I mean, I would typically go -- I don't know 17 which one I made first on the 7th. 18 Q. Oh, okay. 19 A. I don't know if I started -- I don't -- I don't 20 typically start with Medicare, but I don't know if I 21 started there or not. 22 Q. I mean, because you're -- you have one, two, 23 three, four, six, seven, eight, nine, ten -- you have 24 eleven entries for March the 7th, 2011. 25 A. Okay.</p> <p style="text-align: right;">Page 125</p>

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<p>1 Q. Where would you have started? 2 MS. COUSINEAU: Asked and answered. 3 Q. BY MR. PRINCE: Do you know? 4 A. I can't specifically recall which one I</p>	<p>1 using for business purposes for Blue Streak business mobile 2 detailing." 3 Do you see that? 4 A. Yes.</p>
<p>5 started -- 6 Q. What was your general process? 7 A. A lot of time you start with the litigation and 8 status part. 9 Q. Okay. What is the litigation status in CSR? 10 What does that mean? 11 A. Whether there's a suit filed. And if there is, 12 you put it in there. 13 Q. Okay. And so that's your acknowledgment, as an 14 in-house claims attorney adjusting litigated claims, that 15 suit papers were received by the company against the 16 insureds, correct? 17 A. Yeah, I'm just documenting what the caption 18 says, who the parties are, what the jurisdiction is. 19 Q. Okay. And under "Facts of Loss Description," it 20 says, "Insured was running personal errand and shopping at 21 5:22 p.m. Sunset was 4:47 p.m. Mirror on the right side 22 collided with the helmet of the bicycle rider." 23 You see that? 24 A. Yes. 25 Q. You must have gotten that from other information</p> <p style="text-align: right;">Page 126</p>	<p>5 Q. That was your summary of the allegations in the 6 complaint, correct? 7 A. Yes. 8 Q. Did the paragraphs we talked about, based upon 9 it was your impression that the allegations were -- were 10 that the truck was being used for business purposes for 11 Blue Streak, right? 12 A. Yeah, I'm summarizing the allegation there. 13 Q. Okay. And you understand that, if the truck was 14 being used for business purposes on that date for 15 Blue Streak by Vasquez, that there would be coverage under 16 the Century policy, correct? 17 MS. COUSINEAU: Asked and answered. 18 THE WITNESS: I don't know if that's the 19 only consideration. I don't know if that's true. 20 Q. BY MR. PRINCE: Well, if that's proven true, 21 there's coverage under the policy, correct? 22 MS. COUSINEAU: Asked and answered. Calls 23 for a legal conclusion. 24 THE WITNESS: I don't know if that's the 25 only thing that would determine coverage.</p> <p style="text-align: right;">Page 128</p>
<p>1 contained in the claim file, other than the complaint, 2 correct? 3 A. I didn't write that. 4 Q. Who did write that? 5 A. The -- somebody else. The prior adjustor. 6 Somebody else. I wrote what's underneath. 7 MS. COUSINEAU: It's under "Comments." 8 Q. BY MR. PRINCE: So the first par -- on Bate 9 number 3, that wasn't your comment? 10 A. The insured running -- 11 Q. Yes. 12 A. That's not mine, no. 13 Q. The first paragraph is not yours? 14 A. I don't believe that's mine. No. 15 Q. Okay. Then second paragraph says, "According to 16 the complaint." Do you see that? 17 A. Yes. 18 Q. That is your language? 19 A. Yes. 20 Q. And so it says, "According to the complaint, on 21 January 12, 2009, the insured, Michael Vasquez, struck Ryan 22 Pretner with the side view mirror of his truck while 23 Pretner was riding his bike. Pretner was thrown from the 24 bike and sustained catastrophic injuries. Insured was 25 driving 2007 Ford F150, which complaint alleges insured was</p> <p style="text-align: right;">Page 127</p>	<p>1 Q. BY MR. PRINCE: Do you know of anything else 2 that would determine coverage, other than that? 3 A. There could be other factors. I can't -- I 4 can't list them all. I don't know. 5 Q. Are you aware of any other factors, as you sit 6 here today, other than using of the vehicle for business 7 purposes that would trigger coverage under the policy -- 8 MS. COUSINEAU: Lacks foundation as 9 phrased. 10 Q. BY MR. PRINCE: -- if it arises out of a motor 11 vehicle accident? 12 A. I don't remember. I don't know. 13 Q. What would be the next thing you would have 14 done? 15 A. After the facts? 16 Q. Yes. 17 A. Probably would have done coverage analysis or 18 gone to look at the policy part of it to verify what's -- 19 what the policy is. 20 Q. Okay. Look at the "Liability Issues and 21 Analysis." Let's look at the first paragraph. It says, 22 "Unknown but investigation revealed there was no coverage." 23 Is your entry? 24 A. I don't know if I wrote those ones or not. 25 Q. It says, "Insured was cited for failure to yield</p> <p style="text-align: right;">Page 129</p>

1 right of way." The second paragraph, was that your entry?
 2 A. I don't remember if that's mine or not.
 3 Q. It says, "Pretner was found" -- third paragraph,
 4 "Pretner was found with his bike on top of him, unconscious
 5 and breathing, pool of blood coming from his head."
 6 Is that your entry?
 7 A. I'm not sure if I wrote that part.
 8 Q. It says, fourth paragraph, "Mr. Pretner said
 9 that our insured was working. According to a friend, he
 10 said he was just leaving a car just before this happened.
 11 I pressed Mr. Pretner for the name of this person so we
 12 could include him in our investigation."
 13 Did you write this? Are these your words?
 14 A. I don't think I wrote this. I don't recall
 15 talking to Pretner.
 16 Q. You never discussed with Pretner, right?
 17 A. I don't recall having any conversations with
 18 Pretner.
 19 Q. Going on to page three, and it says, "Also spoke
 20 to Vince Johnson, Progressive, who have tendered their
 21 \$100,000 limits."
 22 Is that your entry?
 23 A. I don't think that's mine.
 24 Q. Because you don't recall ever speaking to Vince
 25 Johnson, correct?

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1 A. I did briefly, and then I got his number where
 2 it was in the file, and then he said, "I'm not on the file
 3 anymore," and he referred me to Pam.
 4 Q. Other than that brief conversation, you don't
 5 recall having any substantive conversation with Mr. Johnson
 6 about the claim?
 7 A. I don't recall if I had anything other than that
 8 one.
 9 Q. Okay. And then it says here, "PC states can't
 10 accept the tender of Progressive until they find out
 11 coverage on our insured's policy, but Century PC believes
 12 there's coverage and asking for reconsideration. Filed the
 13 complaint because near SOL."
 14 Is that your statement?
 15 A. I don't recall writing that. I don't know if I
 16 wrote that.
 17 Q. Does it look like -- I've looked at other
 18 entries you've made. It doesn't look like it even appeared
 19 to be your writing style. Do you agree? I mean, does that
 20 seem accurate in your mind?
 21 MS. COUSINEAU: Calls for speculation.
 22 Lacks foundation.
 23 THE WITNESS: I don't know if I wrote
 24 that.
 25 Q. BY MR. PRINCE: So you can't tell one way or

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1 the other?
 2 A. Not from this, no, I can't.
 3 Q. Would you be able to tell it from any other
 4 source?
 5 A. I think that's what this is.
 6 Q. Oh, go ahead and look at Exhibit 3 and tell me
 7 if you -- if that's yours.
 8 A. It's the liability one?
 9 MS. COUSINEAU: Do you mind if I help her
 10 get to the place?
 11 MR. PRINCE: No. Go ahead.
 12 THE WITNESS: I need the liability.
 13 So what page? It starts on 245.
 14 Q. BY MR. PRINCE: Okay.
 15 A. And, like, this blue part says "Liability," so
 16 that's the part that's being updated.
 17 Q. Okay.
 18 A. The first part says, "No coverage." And that
 19 says, "Charles Holland."
 20 Q. Holland. And under Bate number 246 of
 21 Exhibit 3?
 22 A. 246, "No coverage," that says, "Created by
 23 Charles Holland." That's April 8th.
 24 So, yeah, he -- that's Charles again. He
 25 did that April 8th.

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1 Q. On page 247, did you -- is that your -- the last
 2 paragraph, "PC states can't accept tender," was that -- it
 3 looks like it --
 4 THE WITNESS: I think mine starts --
 5 MS. COUSINEAU: See, you have to compare
 6 this one to the one you're looking at.
 7 MR. PRINCE: Oh, I got it.
 8 THE WITNESS: It looks like I did,
 9 "Appears adverse, but investigation revealed there was no
 10 coverage."
 11 Q. BY MR. PRINCE: Which one do you think you
 12 did?
 13 A. That sentence.
 14 Q. Which sentence?
 15 A. "Appears adverse, but investigation revealed" --
 16 MS. COUSINEAU: On 247.
 17 THE WITNESS: -- "there was no coverage."
 18 You have to look at what's there and whether it was in the
 19 previous one.
 20 MS. COUSINEAU: What you're reading,
 21 Dennis, is what is reflected in the last one, which is on
 22 page 249, what's called a current -- let's see.
 23 Q. BY MR. PRINCE: Okay. Who wrote, "Appears
 24 adverse, but" invest -- that's you?
 25 A. That's me.

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1 Q. Did you speak to Mr. Pretner, the father?
 2 A. No.
 3 Q. Oh, so you just added the language, "Appears
 4 adverse, but investigation revealed there's no coverage,"
 5 just that one sentence?
 6 A. Right -- No, but I think I summarized what
 7 Charles had written about Mr. Pretner. "Mr. Pretner said
 8 that our insured was working" -- or was that in there? Was
 9 that the exact way he said it?
 10 I'm sorry. It says, "He wrote,
 11 'Mr. Pretner said that our insured was working, according
 12 to a friend who said he was leaving a car just before this
 13 happened.'" He wrote that part.
 14 Q. It says, "I pressed Mr. Pretner for the name of
 15 this person." Is this still a part of what Mr. Holland
 16 wrote?
 17 A. Yes, that's in Mr. Holland's comment, yes.
 18 Q. Is that a summary of his comment or that his
 19 actual comment?
 20 A. His comment says, "I pressed Mr. Pretner for the
 21 name of the person." It has the --
 22 MS. COUSINEAU: And just so -- his comment
 23 is on page 246.
 24 That's when Lisa made a change to this, on
 25 March --

1 247, you would have made?
 2 A. From 247 to 248?
 3 Q. Yes.
 4 A. Yes.
 5 Q. And then any change from 248 to 249, also on the
 6 same date, you would have made?
 7 A. Yes.
 8 Q. Okay.
 9 MS. COUSINEAU: And then the content of
 10 249 is what's called the current one, and that's what's on
 11 Bates 2.
 12 Q. BY MR. PRINCE: So what's on Bate number 2 of
 13 Exhibit 1B, that is the compilation of your comments as
 14 well as some comments of Mr. Holland's, right?
 15 A. Yes.
 16 Q. So it's a combined entry?
 17 A. Yes.
 18 Q. I'm on number 2 still. What's UPC? I'm on Bate
 19 number 2 of Exhibit 1B.
 20 A. Ultimate probable cost.
 21 Q. What was that? Just the \$514, was that just
 22 paid for what, like, the investigator?
 23 A. I'm not sure, but I think that's what it was
 24 paid for.
 25 Q. Okay. And so you have -- at that point it's

1 Does that say 17?
 2 THE WITNESS: 7.
 3 MS. COUSINEAU: -- 7. By comparing 246 to
 4 247, you can see what Lisa added to it.
 5 Q. BY MR. PRINCE: Okay. So you added the
 6 paragraph, "PC states can't accept the tender." That would
 7 have been, looks like, yours?
 8 A. Yeah, it looks like it's mine.
 9 Q. Then you added, "Appears adverse, but
 10 investigation revealed there's no coverage," that's your
 11 sentence?
 12 A. Yeah, it's not there from the -- from what I can
 13 tell in Charles' comment --
 14 Q. I see. Okay.
 15 (The reporter requested clarification.)
 16 MS. COUSINEAU: "It had to be" is what she
 17 said.
 18 THE WITNESS: I said, "It's not in
 19 Charles' comment so I believe it has to be something I
 20 wrote."
 21 MS. COUSINEAU: And then you can tell from
 22 the next two pages, she modified it twice more that same
 23 day.
 24 Q. BY MR. PRINCE: Okay. I see what you're
 25 saying. So looking at 248, any change from Bate number

1 reserved as zero?
 2 A. Yes.
 3 Q. And the reason why is because you were denying
 4 coverage, right?
 5 MS. COUSINEAU: Objection.
 6 THE WITNESS: I don't know if it zeroed
 7 out if the file was closed between when Charles last had it
 8 and when I got it or it -- I don't know why that's in
 9 there.
 10 Q. BY MR. PRINCE: Since you denied coverage, you
 11 ended up not -- there was no reserve placed on the file,
 12 then, right?
 13 MS. COUSINEAU: Objection. Irrelevant.
 14 THE WITNESS: I don't know. At the time I
 15 put that in there, there was no reserve.
 16 Q. BY MR. PRINCE: Right. My point is, when you
 17 denied coverage, you're not going to establish a reserve or
 18 claim that you're denying and closing, right?
 19 A. I don't know. It depends on the circumstances.
 20 Q. Did you put a reserve on this claim?
 21 MS. COUSINEAU: Objection, irrelevant.
 22 THE WITNESS: I don't know. I don't
 23 believe so.
 24 Q. BY MR. PRINCE: Do you have any recollection
 25 of doing so?

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1 A. I don't have a specific recollection of doing
 2 that.
 3 Q. So here's your action plan; do you see that?
 4 A. Yes.
 5 Q. Resolution action plan?
 6 A. Yes.
 7 Q. It says, "This claim was initially investigated
 8 under and ROR?"
 9 A. Should be "an," but it says ...
 10 Q. "ROR" means reservation of rights?
 11 A. Yes.
 12 Q. "After which, this claim was sent, as the
 13 insured was using the vehicle for personal" youth -- youth
 14 "use" -- sorry -- "both police report of insured
 15 statements to officers and insured's statements to IA" --
 16 "IA" means independent adjustor?
 17 A. Yes.
 18 Q. -- "confirm personal use at the time of
 19 accident, reissuing disclaimer."
 20 Do you see that?
 21 A. Yes.
 22 Q. Did you read a transcribed recorded statements
 23 of Mr. -- of Mr. Vasquez?
 24 A. No, I read the IA's report and I talked to
 25 Mr. Vasquez.

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1 personally on March 8th, 2011, right?
 2 A. Yes.
 3 Q. "And said he had not been served with a suit, he
 4 got your e-mail, discussed providing me a copy of the
 5 policy."
 6 You see that?
 7 A. Right. Yeah, that was another thing we
 8 discussed, to get his permission to get the policy.
 9 Q. And so then you kind of summarize: Contacting
 10 Vince Johnson and then Pam Torres, right?
 11 A. Yes.
 12 Q. Okay. Looks like you actually spoke to Vince on
 13 that day. He informed you the claim had been transferred
 14 to Pam. You have her number and you called her that same
 15 day?
 16 A. Yes.
 17 Q. Okay. She said she called him regarding
 18 defense, right?
 19 A. Yes.
 20 Q. Said she would call him.
 21 Now, you don't document you discussed
 22 whether they would also -- progressive would also defend
 23 Blue Streak, right?
 24 A. I don't know if that was ever discussed.
 25 Q. You don't know if the Progressive policy would

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1 Q. Do you recall the content of your conversation
 2 with Mr. Vasquez?
 3 A. To the best of my recollection, I called, told
 4 him who I was, that the file had been transferred to me,
 5 asked him about what was in the investigator's report, that
 6 the investigative report said he was on a personal errand,
 7 asked him if that was true. He said yes. And then from
 8 the note, somehow we got on the topic of Progressive. I
 9 believe he asked me to call Progressive.
 10 Q. What note are you referring to? Are we talking
 11 about the -- okay.
 12 So, anyway, let's just start here.
 13 A. Okay.
 14 Q. So you indicate on March the 7th, before even
 15 speaking to Michael Vasquez, that you're going to reissue
 16 the disclaimer, right, which is the denial? That's what
 17 you say?
 18 A. It's my initial pass through the file, but I
 19 need to confirm with him and talk to my manager.
 20 Q. So your plan at that point, without speaking to
 21 the insured further, was to reissue the denial, right?
 22 A. That's the initial plan if it's all consistent
 23 with what's in the file.
 24 Q. Right. And then you -- then according to
 25 activity log, Bate number 1, you spoke to Mr. Vasquez

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1 even provide coverage to Blue Streak, right?
 2 A. I've never seen a Progressive policy.
 3 Q. You never asked for the Progressive policy
 4 either, did you?
 5 A. I don't recall specifically --
 6 Q. And you never asked in writing, either in a
 7 letter format or an e-mail format, whether Progressive was
 8 going to defend Blue Streak, correct?
 9 A. I don't see that in the file.
 10 Q. So the point is, you never asked if Progressive
 11 was prepared to defend Blue Streak, correct?
 12 MS. COUSINEAU: Asked and answered.
 13 THE WITNESS: I don't recall, but I don't
 14 see it in the file that I did.
 15 Q. BY MR. PRINCE: And you have no recollection of
 16 ever sending any communication to Progressive or speaking
 17 to Pam Torres about whether Progressive was prepared to
 18 defend Blue Streak, correct?
 19 A. I don't have a recollection of that.
 20 Q. And you agree -- we'll go through it a little
 21 bit, probably after lunch, but the garage policy, that's a
 22 primary liability policy, correct?
 23 MS. COUSINEAU: Vague and ambiguous as
 24 phrased. Lacks foundation.
 25 THE WITNESS: Primary as to what?

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1 Q. BY MR. PRINCE: It's a form of a primary
 2 liability insurance policy as opposed to an excess policy?
 3 MS. COUSINEAU: Vague and ambiguous as
 4 phrased. Lacks foundation.

5 THE WITNESS: It's a policy for Blue
 6 Streak Auto Detailing, yes. I don't know if they have
 7 other policies.

8 Q. BY MR. PRINCE: Right. But it's a primary
 9 liability form of insurance, correct?
 10 MS. COUSINEAU: Vague and ambiguous as
 11 phrased. Lacks foundation.

12 THE WITNESS: I don't know how to answer
 13 because I don't know if -- primary could depend on other
 14 factors so I don't know.

15 Q. BY MR. PRINCE: Well, the policy says it's a
 16 primary liability policy, right? Are you aware of that?
 17 MS. COUSINEAU: Assumes facts not in
 18 evidence. Lacks foundation.

19 THE WITNESS: I don't know if the primary
 20 designation is affected by other factors.

21 Q. BY MR. PRINCE: Did you undertake any analysis
 22 to determine number -- Well, I think I know the answer. I
 23 just want you to answer my question.
 24 Did you undertake any steps to determine
 25 whether the Progressive policy would provide coverage for

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1 on a personal errand because this is what is in the report,
 2 but I don't see that in here.

3 Q. Other than asking him was he on a personal
 4 errand at the time of the accident, what other questions
 5 did you ask him?
 6 A. I don't specifically recall what other questions
 7 I asked him, other than --
 8 Q. Did you ask him where he keeps his vehicle, the
 9 truck, at night?
 10 A. I don't recall if I asked him that.
 11 Q. Do you recall asking him whether he used the
 12 Ford F150 as part of his business?
 13 A. I don't recall if I asked him that.
 14 Q. Did you ask him if there was any marketing signs
 15 for his detail company on the truck?
 16 A. I don't remember asking him that.
 17 Q. Do you recall asking him did he have a fixed
 18 location or a garage location where he performed his
 19 business?
 20 A. I don't know if we discussed that.
 21 Q. Do you recall asking him whether -- you know,
 22 how he markets his business?
 23 A. I don't recall discussing that.
 24 Q. Did you ever ask him does he maintain -- does he
 25 have a cell phone with him for business purposes while he's

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1 Blue Streak?
 2 A. I don't believe I did. I don't have any
 3 recollection of that.

4 Q. Did you undertake any steps or did you try to
 5 determine whether -- who will be primary between
 6 Progressive and Blue Streak, assuming coverage applied?
 7 A. I don't have any recollection of that.

8 MS. COUSINEAU: If you wanted to break at
 9 noon, you're past your deadline.

10 MR. PRINCE: Let me just finish my
 11 comments here.

12 MS. COUSINEAU: Sure.

13 Q. BY MR. PRINCE: When you spoke to Mr. Vasquez,
 14 did you record the subject of your conversation anywhere?
 15 Did you make any notes? Did you --
 16 A. You mean like tape record it?
 17 Q. That or did you create a log note, an activity
 18 log note, or any kind of an entry which summarized your
 19 conversation with Mr. Vasquez?
 20 A. Just this log note. I don't have any recording
 21 or notes.

22 Q. Okay. And is this the sum and substance of what
 23 you spoke to him about?
 24 A. I have a recollection of going over the
 25 investigative report and asking him to confirm that he was

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1 driving?
 2 A. I don't recall asking him that.

3 Q. Did you ask him any questions about whether he
 4 received telephone calls while driving related to the
 5 mobile detail business, in any way related to it?
 6 A. I don't recall discussing that.

7 Q. Why didn't you ask him any of those questions?
 8 MS. COUSINEAU: Lacks foundation.
 9 Argumentative.

10 Q. BY MR. PRINCE: Go ahead and answer.
 11 A. I confirmed the investigation, which was that it
 12 was on a personal errand, and after that --
 13 Q. So you felt that once you confirmed that the
 14 accident was on a personal errand at the time, that that
 15 would end the inquiry?
 16 A. He never challenged it, never denied it. He
 17 agreed that it had nothing to do with the business.

18 Q. Did you take any steps to research under Nevada
 19 law what it means for an employee to be in the course and
 20 scope of his employment?
 21 A. I don't recall doing that.

22 Q. So you're not familiar with the Evans versus
 23 Southwest Gas Corporation case, 108 Nev. 1002? It's a 1992
 24 decision.
 25 A. No, I'm not.

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1 Q. Are you familiar with the National Convenience
2 Stores, Inc., versus Fantauzzi, F-A-N-T-A-U-Z-Z-I,
3 94 Nev. 655, a 1978 decision?
4 A. No.
5 Q. You wouldn't be familiar with the Prett Hotel
6 Corporation versus Antonacci, A-N-T-O-N-A-C-C-I? It's
7 469 P.2d 399, a 1970 decision.
8 A. No, I'm not familiar with that.
9 Q. So why didn't you undertake any steps to
10 determine what the legal standards were for whether
11 someone's considered under the course or scope of their
12 employment under Nevada laws since it's a Nevada claim?
13 A. I discussed it with my manager as to what the
14 evidence was in the file, what my conversation was with the
15 insured, and he just -- he -- I gave him my recommendation,
16 and he decided it was correct.
17 Q. Okay. Do you know if your manager conducted any
18 research?
19 A. I don't know.
20 Q. Sounds like what you did, you confirmed the
21 statements that Mr. Vasquez made to the independent
22 adjustor; is that correct?
23 A. Yes.
24 Q. Did you con -- okay. Did you learn any -- okay.
25 MR. PRINCE: I think I'm at a good

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1 breaking spot.
2 MS. COUSINEAU: Okay.
3 MR. PRINCE: Want to come back at about
4 1:00, so about 45 minutes?
5 MS. COUSINEAU: Sure.
6 (A 52-minute break was taken from
7 12:14 p.m. to 1:06 p.m.)
8 MR. PRINCE: We're back on the record.
9 Q. BY MR. PRINCE: Ms. Henderson, we left off, I
10 think, about, in part, of your discussion you may have had
11 with Representative Pam Torres or some other representative
12 of Progressive.
13 A. Okay.
14 Q. Did you make any attempt to clarify whether
15 Progressive was going to defend Vasquez, Blue Streak, or
16 both in the lawsuit?
17 A. I don't recall.
18 Q. Did you ask Ms. Torres or anyone else at
19 Progressive whether they would have any obligation to
20 defend Blue Streak under the terms of their policy?
21 A. I don't recall.
22 Q. Since it was your position that there was no
23 coverage under -- there's no duty to indemnify for the fact
24 that there was no coverage, there was no duty to defend
25 either Vasquez or Blue Streak; is that correct?

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1 MS. ROBERTS: Could you read that back,
2 please?
3 (The last answer was read.)
4 MR. PRINCE: Let me restate the question.
5 I don't think that was very clear.
6 Q. BY MR. PRINCE: Since it was your position
7 that there was no coverage for this accident, therefore,
8 Century is not going to defend either Blue Streak or
9 Vasquez, correct?
10 MS. COUSINEAU: Foundation.
11 THE WITNESS: I don't understand.
12 Q. BY MR. PRINCE: Since it was your
13 determination that the truck wasn't being used for business
14 purposes, Century was not going to defend either
15 Blue Streak or Vasquez in the lawsuit, correct?
16 A. I made the determination that the coverage
17 determination appeared to be that there was no coverage.
18 Q. And, therefore, you aren't going to provide a
19 defense to either Blue Streak or Vasquez in the lawsuit,
20 correct?
21 A. Right, no defense was provided.
22 Q. So at that point, once the determination is made
23 that there's not going to be -- no defense provided, then I
24 guess from Century's standpoint it no longer had any
25 interest in the outcome of the litigation at that time,

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1 correct?
2 MS. COUSINEAU: Vague and ambiguous as
3 phrased. Lacks foundation.
4 Q. BY MR. PRINCE: Go ahead and answer.
5 A. I don't know.
6 Q. I mean, for example, did you hire counsel in
7 Nevada to monitor the litigation?
8 A. No, I didn't do that.
9 Q. Did you take any steps to monitor the litigation
10 yourself?
11 A. No.
12 Q. And, in fact, as I -- by May 16th, 2011, you
13 actually closed the file?
14 A. I don't know the exact date it was closed.
15 Q. According to your activity log, it says, "The
16 insured understands no coverage and has defense provided by
17 auto carrier, Progressive, closing claim."
18 Do you see that?
19 A. Yes.
20 Q. How do you know that they had any -- who had a
21 defense provided by auto carrier?
22 A. I'm not sure. I believe Mr. Vasquez. I'm not
23 sure.
24 Q. So you're not sure whether Vasquez or
25 Blue Streak had a defense or both by Progressive, correct?

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Lisa Henderson

1 A. Yes, I'm not sure.
 2 Q. Did you make any -- as of -- okay.
 3 But as of May 16th, 2011, you closed your
 4 file, correct?

5 A. If that's the last date, then, yeah, that
 6 would -- it would be the date I closed it.
 7 Q. Okay. It says, "Closing Claim." What does that
 8 mean?
 9 A. That's usually how I would -- what I would do
 10 before I close a claim, make a note and then close it.
 11 Q. Okay. So it was your belief as of that date,
 12 May 16th, 2011, since you were closing the claim, that
 13 Century had no interest in the outcome of the Blue Streak
 14 litigation at that point, correct?
 15 MS. COUSINEAU: Lacks foundation. Assumes
 16 facts not in evidence.
 17 THE WITNESS: I don't know. The insured
 18 had been informed of the coverage determination, and there
 19 was nothing more that I could do in the case.
 20 Q. BY MR. PRINCE: No, no. That wasn't my
 21 question.
 22 By the fact that you're closing the claim,
 23 then at that point it was your position that Century had no
 24 interest in the outcome of the litigation since it was not
 25 going to provide coverage in any event, correct?

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1 Q. Okay. You recall getting those defaults,
 2 correct?
 3 A. I don't have a specific recollection, but I
 4 don't doubt that, from this note, that's what happened.

5 Q. Okay. Let's look at Exhibit 1C, Bate
 6 number 206.
 7 MS. COUSINEAU: 1C?
 8 MR. PRINCE: 1C, Bate number 206.
 9 MS. COUSINEAU: Okay.
 10 Q. BY MR. PRINCE: Now, obviously, you received a
 11 copy of this letter, correct?
 12 A. Yes.
 13 Q. And this letter is a letter dated June 27, 2011,
 14 directed to you, correct?
 15 A. Yes.
 16 Q. And it informs you that, you know, the summons
 17 and complaint were served on both Vasquez and Blue Streak
 18 and defaults were entered against both of them, correct?
 19 MS. COUSINEAU: Document speaks for
 20 itself.
 21 THE WITNESS: That's what the letter says,
 22 yes.
 23 Q. BY MR. PRINCE: And attached were defaults
 24 entered against both Blue Streak and Vasquez, correct?
 25 A. Yes, there are two defaults, yes.

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1 MS. COUSINEAU: Vague and ambiguous as
 2 phrased.
 3 THE WITNESS: I don't know about having an
 4 interest in the litigation. I just know I was closing the
 5 claim. I wasn't going to be doing any more activity.
 6 Q. BY MR. PRINCE: Were you going to be
 7 monitoring the litigation --
 8 MS. COUSINEAU: Asked and answered.
 9 Q. BY MR. PRINCE: -- as of May 16, 2011?
 10 A. No.
 11 Q. Did you have any plans to intervene in the case?
 12 MS. COUSINEAU: Vague and ambiguous.
 13 THE WITNESS: I don't recall any.
 14 Q. BY MR. PRINCE: And you didn't record -- you
 15 didn't note any, correct?
 16 A. I don't see any in the file.
 17 Q. Neither -- your manager, Mr. Mayer, never told
 18 you to hire defense counsel to monitor the litigation,
 19 correct?
 20 A. I don't recall that, no.
 21 Q. Then on June 27th, 2011, you recall -- I guess
 22 we could go to the full letters. My firm sent to you
 23 copies of the defaults which were entered against both Blue
 24 Streak and Vasquez, correct?
 25 A. Yes, that's what it says.

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1 Q. One against each, correct?
 2 A. Yes.
 3 Q. And now, in the last paragraph, it says, "Please
 4 contact our office to discuss in greater detail."
 5 You never made any attempt to contact me
 6 personally, correct?
 7 A. I don't recall ever speaking to you.
 8 Q. And your notes don't reflect any calls that you
 9 made to my office, correct?
 10 A. I didn't call your office. I believe I e-mailed
 11 you.
 12 Q. Right. Listen to my question carefully. Your
 13 notes don't reflect any attempt to call me to discuss in
 14 response to my letter, correct?
 15 A. No, I don't see that I recorded any call with
 16 you.
 17 Q. And also it's your recollection you made no call
 18 to me?
 19 A. I don't recall ever calling you.
 20 Q. In fact, we never had any discussion before
 21 today about this case, right?
 22 A. You and I?
 23 No.
 24 Q. Yes, you and I.
 25 I'm correct, aren't I?

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1 A. Yes.
 2 Q. And once you got these letters, you did not
 3 contact defense counsel to set aside the default either as
 4 to Blue Streak, Vasquez, or both, correct?
 5 A. That's correct.
 6 Q. And you knew at that point that if nothing
 7 further was done, that likely default judgments would be
 8 entered against both Blue Streak and Vasquez, correct?
 9 MS. COUSINEAU: Lacks foundation. Assumes
 10 facts not in evidence.
 11 THE WITNESS: I didn't know what was going
 12 to happen. I just knew there were defaults.
 13 Q. BY MR. PRINCE: Well, no. You're a lawyer,
 14 correct? You're a licensed lawyer?
 15 A. I am a lawyer.
 16 Q. And you've handled litigated matters, right?
 17 A. Yes.
 18 Q. And you know what a default judgment is,
 19 correct?
 20 A. Yes.
 21 Q. And you know that's -- if a default is not set
 22 aside, the likelihood is the next thing that's going to
 23 happen is there's going to be a default judgment, correct?
 24 MS. COUSINEAU: Calls for speculation.
 25 Lacks foundation.

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1 THE WITNESS: I don't know that for sure.
 2 Q. BY MR. PRINCE: I'm not saying that you know
 3 that for sure. I'm saying: They are at risk of that?
 4 MS. COUSINEAU: Same objections.
 5 THE WITNESS: I don't know.
 6 Q. BY MR. PRINCE: You don't know that?
 7 A. I don't know.
 8 Q. I mean, you saw in my letter -- the first letter
 9 I sent to the company in March of 2011 where I informed the
 10 company that Mr. Pretner's medical expenses exceeded
 11 \$2 million, right?
 12 MS. COUSINEAU: Argumentative.
 13 Q. BY MR. PRINCE: You saw that.
 14 A. Their -- the first letter with the complaint?
 15 Q. Yes.
 16 A. I believe it does state the amount of medicals,
 17 yes.
 18 Q. Assuming what I was said was true, then,
 19 obviously, there is -- as of June 27, 2011, you were aware
 20 that the insureds were at risk for a default judgment being
 21 entered against them for some amount of money in excess of
 22 the policy limits, correct?
 23 MS. COUSINEAU: Lacks foundation.
 24 THE WITNESS: I don't know whether a
 25 judgment can be entered for that -- for an amount in

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1 THE WITNESS: I don't know that that's
 2 going to happen. That's a possibility.
 3 Q. BY MR. PRINCE: Well, the likelihood is
 4 that -- Strike that.
 5 You understand that in connection with a
 6 default proceeding, you first take a default, and then
 7 after that, someone makes an application for default
 8 judgment, right? Generally speaking, you know that?
 9 A. That can be the procedure, yes.
 10 Q. So you knew once you received these letters, if
 11 these defaults were not set aside, that there was a strong
 12 likelihood that a default judgment may be entered against
 13 the insureds?
 14 MS. COUSINEAU: Calls for speculation.
 15 Lacks foundation.
 16 THE WITNESS: I have no idea. The Court
 17 would have to consider all the factors. I don't know
 18 whether it would happen or not.
 19 Q. BY MR. PRINCE: You're aware that, as of
 20 June 27, 2011, unless the defaults were set aside, there
 21 was a significant risk that the insured would have a
 22 default judgment entered against them for an amount in
 23 excess of the available coverage through Century, correct?
 24 MS. COUSINEAU: Lacks foundation. Assumes
 25 facts not in evidence. Calls for speculation.

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1 excess. I don't know. It would depend on what evidence
 2 was presented.
 3 Q. BY MR. PRINCE: Have you ever had a situation
 4 as a employee -- Well, strike that.
 5 As a lawyer, have you ever had to
 6 undertake steps to set aside a default or default judgment?
 7 A. I filed a motion to set aside a default when I
 8 was a lawyer -- when I was actually practicing actively,
 9 yes.
 10 Q. Default or default judgment?
 11 A. A default.
 12 Q. Which is the precursor to a default judgment,
 13 right?
 14 A. Right.
 15 Q. And you knew that once a default's entered,
 16 there's a risk that a default judgment will be entered,
 17 right?
 18 MS. COUSINEAU: Asked and answered. Lacks
 19 foundation.
 20 THE WITNESS: I don't know. I guess it's
 21 a possibility. I just don't know.
 22 Q. BY MR. PRINCE: What are you unsure about?
 23 MS. COUSINEAU: Vague and ambiguous.
 24 THE WITNESS: Whether a judgment is --
 25 it's not an automatic. It's my understanding it's not an

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1 automatic thing that the judgment is entered.
 2 Q. BY MR. PRINCE: Right.
 3 A. A Court would have to consider other factors, so
 4 I don't know.

5 Q. Fair point. All I'm asking is, do you believe
 6 that as of June 27, 2011, that with defaults being entered
 7 against both insureds, that the insureds were at risk of
 8 having a default judgment entered against them, just at
 9 risk for it?
 10 A. I guess it's a possibility. I don't know.
 11 Q. Why do you keep saying you don't know? What
 12 don't you know?
 13 MS. COUSINEAU: Argumentative.
 14 THE WITNESS: All I know is that there are
 15 defaults. I don't know if there's going to be a default
 16 judgment.
 17 Q. BY MR. PRINCE: I'm not asking if you know
 18 there's going to be a default judgment.
 19 All I'm asking is, you would agree that
 20 they are at risk of a default judgment as of June 27th,
 21 2011?
 22 MS. COUSINEAU: Lacks foundation.
 23 THE WITNESS: I don't know. It's a
 24 possibility. I don't know.
 25 Q. BY MR. PRINCE: So you agree that it's a

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1 possible risk that they're going to be subject to a default
 2 judgment unless their defaults are set aside, right?
 3 MS. COUSINEAU: Misstates her testimony.
 4 THE WITNESS: I just don't know.
 5 Q. BY MR. PRINCE: What -- What --
 6 A. It's possible. I don't know.
 7 Q. I'm trying to understand. What do you mean by
 8 "I don't know"? You don't know about the procedure? You
 9 don't know if it would happen or if it could happen? I'm
 10 trying to understand what you mean by that.
 11 A. I don't know if there's going to be a default
 12 judgment or not.
 13 Q. No, I'm saying -- all I'd asked you was, not if
 14 there's going to be one, they're at risk of one if the
 15 defaults are not set aside? That's all I've asked you.
 16 MS. COUSINEAU: Lacks foundation.
 17 THE WITNESS: I don't know. They could
 18 be. I don't know.
 19 Q. BY MR. PRINCE: Okay. And when you -- when
 20 you were a practicing lawyer, when you heard that there was
 21 a default or default judgment being entered against an
 22 insured, I mean, that generally speaking there needs to be
 23 some swift action so there wouldn't be adverse action taken
 24 against the client, right, or an insured?
 25 MS. COUSINEAU: Misstates her testimony

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1 and lacks foundation.
 2 Q. BY MR. PRINCE: Go ahead and answer.
 3 A. Could you say it again?
 4 Q. Sure. When you were a practicing lawyer, when
 5 you learned and/or heard of a default being entered against
 6 an insured, or default judgment, generally swift action
 7 needed to be taken to set that aside, right?
 8 MS. COUSINEAU: Incomplete hypothetical.
 9 Misstates her testimony.
 10 THE WITNESS: Generally I don't
 11 understand.
 12 Q. BY MR. PRINCE: Don't you agree that it
 13 creates some level of urgency within an insurance company
 14 if they're going to provide -- that unless you go in and
 15 set the default aside, that there's going to be a default
 16 judgment, you generally want to act with some level of
 17 urgency to address that?
 18 MS. COUSINEAU: Objection to the form.
 19 THE WITNESS: I don't know. You're
 20 talking in general terms. I don't know. It could depend
 21 on a lot of circumstances.
 22 Q. BY MR. PRINCE: What circumstances?
 23 A. If I'm -- if an insured is being defended and
 24 somehow there's a default, then there would be action. I
 25 would wonder what's going on with the defense counsel,

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1 but -- and there would be action taken. But if we're not
 2 involved in the defense, if there's no defense being
 3 provided, I -- I just don't know.
 4 Q. Don't know what? What don't you know?
 5 A. Can you repeat the question?
 6 Q. You keep saying "I don't know" to everything so
 7 I'm trying to figure out and understand what you don't know
 8 or are unsure of. That's -- I'm trying to evaluate your
 9 answer.
 10 MS. COUSINEAU: Objection. Argumentative.
 11 There no question pending.
 12 THE WITNESS: I can't remember the
 13 question.
 14 MR. PRINCE: Read that back.
 15 (The following question was read:
 16 "Q. Don't you agree that it creates some
 17 level of urgency within an insurance company if they're
 18 going to provide -- that unless you go in and set the
 19 default aside, that there's going to be a default judgment,
 20 you generally want to act with some level of urgency to
 21 address that?")
 22 MS. COUSINEAU: Lacks foundation. Assumes
 23 facts not in evidence.
 24 THE WITNESS: There's a lot of different
 25 circumstances. Your -- I don't know under what

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1 circumstances. Under some circumstances there might be.
 2 Under some circumstances there might not be. I just don't
 3 know.
 4 Q. BY MR. PRINCE: Okay. Now, at this point,
 5 June 27, 2011, when you see that defaults have been entered
 6 against both insureds, you don't know who's being provided
 7 with a defense by Progressive, correct?
 8 A. I'm not sure. I don't know.
 9 Q. And after you see the defaults, you forwarded
 10 the defaults to Progressive, correct?
 11 A. Yes.
 12 Q. You don't ask for clarification as to who
 13 Progressive is defending, either Vasquez, Blue Streak, or
 14 both, correct?
 15 A. I don't recall asking for that, no.
 16 Q. What I'd like you to do is turn to Bate
 17 number -- it's under 1A, number 211. Okay?
 18 A. Yes.
 19 Q. It says, "To Daniel Mayer from LM Hender." Is
 20 that -- is that you, LM Hender?
 21 A. Yes.
 22 Q. So you sent this to him on the same day that you
 23 get the defaults on June 27, 2011, about 3:33 p.m.,
 24 correct?
 25 A. Yes.

1 Century's insured, correct?
 2 MS. COUSINEAU: Document speaks for
 3 itself.
 4 THE WITNESS: The e-mail doesn't say that.
 5 Q. BY MR. PRINCE: You don't address that at all,
 6 do you?
 7 MS. COUSINEAU: Document speaks for
 8 itself.
 9 Q. BY MR. PRINCE: Correct?
 10 A. It doesn't say anything about that.
 11 Q. And Mr. Mayer, as your supervisor, never asked
 12 you to seek information from Progressive to determine
 13 whether they're going to defend Blue Streak, did he?
 14 A. I don't recall him asking that.
 15 Q. So for all you knew as of June 27, 2011, no
 16 one's providing a defense for Blue Streak, correct?
 17 MS. COUSINEAU: Calls for speculation.
 18 Lacks foundation.
 19 THE WITNESS: I don't know.
 20 Q. BY MR. PRINCE: Right?
 21 A. I don't know. I don't know that anyone -- I
 22 don't know what I knew about the defense of Blue Streak at
 23 that point.
 24 Q. I mean -- well, you knew that Century's not
 25 going to provide a defense to Blue Streak, correct? You

1 Q. It says, "Daniel, I received the attached
 2 default on this claim today. Century does not have
 3 coverage for the insured because the driver was not on
 4 business at the time he hit the plaintiff, who was riding
 5 his bike. I was told by Progressive, the driver's auto
 6 carrier, that it was defending the driver. The default
 7 states that it is against Vasquez and Century's insured.
 8 Should I advise PC we have no coverage?"
 9 Did I read that accurately?
 10 A. Yes.
 11 Q. And so did you -- did Mr. Mayer respond to this
 12 e-mail?
 13 A. Yes, he talked o me.
 14 Q. He spoke to you.
 15 A. He came and talked to me.
 16 Q. What did he tell you?
 17 A. He said it was okay to tell you that there was
 18 no coverage.
 19 Q. To tell me that there was no coverage?
 20 A. Yes.
 21 Q. And you told him that Progressive was defending
 22 the driver. That would mean Mr. Vasquez, correct?
 23 A. That's what it sounds like, yes.
 24 Q. There's no -- you make no mention that
 25 Progressive was going to be defending Blue Streak, which is

1 knew that?
 2 A. Yes.
 3 Q. And you never asked whether Progressive was
 4 going to provide a defense, correct?
 5 A. I don't recall ever asking Progressive that.
 6 Q. Did it matter to you one way or the other that
 7 Century was not going to provide a defense?
 8 MS. COUSINEAU: Argumentative.
 9 THE WITNESS: There was nothing I could do
 10 about the defense. The insured had been informed that
 11 Century's policy wasn't covered.
 12 Q. BY MR. PRINCE: Why didn't you make any
 13 attempt to determine whether Blue Streak's interests were
 14 being protected in litigation by a defense being provided
 15 by either Century or Progressive --
 16 (The reporter requested clarification.)
 17 Q. BY MR. PRINCE: Why didn't you make any
 18 attempt to make sure that Blue Streak was being protected
 19 either by Century or Progressive to avoid a default or
 20 default judgment being entered against it?
 21 MS. COUSINEAU: Argumentative. Lacks
 22 foundation.
 23 THE WITNESS: The coverage determination
 24 had been made and the insured had been informed that
 25 Century's policy couldn't provide any coverage so there was

1 nothing further I could do.
 2 Q. BY MR. PRINCE: Well, you could defend under
 3 reservation of rights, couldn't you?
 4 A. I don't know. At that point we weren't doing
 5 that.
 6 Q. You could also -- you could defend under
 7 reservation of rights as well as initiate a declaratory
 8 relief action, correct --
 9 MS. COUSINEAU: Lacks foundation. Assumes
 10 facts not in evidence.
 11 Q. BY MR. PRINCE: -- to determine whether
 12 there's any coverage obligation based upon the allegations
 13 in the complaint, correct?
 14 A. The coverage determination had been made, and
 15 there wasn't anything further that could be done.
 16 Q. Well, in your e-mail it says, "Century does not
 17 have coverage for the insured because the driver was not on
 18 business at the time he hit the plaintiff." Well, the
 19 allegations in the complaint, the way you summarized them,
 20 indicates that he was on business at the time of the
 21 accident, correct? Haven't we looked at your summary of
 22 the allegations earlier?
 23 A. Yes, that was my summary of the complaint, yes.
 24 Q. So how did you resolve that conflict, that the
 25 allegations in the complaint say that he's on business at

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1 Q. BY MR. PRINCE: Go ahead.
 2 MS. COUSINEAU: Assumes facts not in
 3 evidence.
 4 THE WITNESS: I don't know if that's the
 5 only factor for coverage.
 6 Q. BY MR. PRINCE: Were there any other factors
 7 for coverage that you're aware of as of June 2011?
 8 MS. COUSINEAU: Asked and answered.
 9 THE WITNESS: I can't recall what I was
 10 aware of in June 2011.
 11 Q. BY MR. PRINCE: Isn't it true that an insurer
 12 must resolve all questions concerning the duty to defend in
 13 favor of the insured by providing a defense?
 14 MS. COUSINEAU: Objection. Misstates the
 15 law. Lacks foundation. Assumes facts not in evidence.
 16 Calls for a legal conclusion.
 17 Q. BY MR. PRINCE: Go ahead and answer.
 18 A. I don't know. I don't know if that's true.
 19 There could be many factors to consider.
 20 Q. What other factors?
 21 A. I don't know.
 22 MS. COUSINEAU: Incomplete hypothetical.
 23 Q. BY MR. PRINCE: Do you agree or -- that all
 24 questions concerning whether to provide a defense should be
 25 resolved in favor of the insured? Are you aware -- has

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1 the time of the accident, but you believe that the insured
 2 is telling you he's not on business? How did you resolve
 3 that in terms of providing Blue Streak and Vasquez with a
 4 defense?
 5 A. It was determined that there was no coverage
 6 under Century's policy because I spoke with Mr. Vasquez and
 7 confirmed the prior investigation, that he was on a
 8 personal errand.
 9 Q. Right. But the allegations in the complaint
 10 were contrary to that. Did you call and ask me if I had
 11 any additional information?
 12 A. I don't believe I did, no.
 13 Q. And so do you believe there's a conflict between
 14 the allegations in the complaint and what the insured told
 15 you about whether he was on business or not on business at
 16 the time of the accident?
 17 A. The insured told me he was not on business.
 18 Q. Right, but the complaint said otherwise, right?
 19 A. Yes.
 20 Q. Alleged otherwise?
 21 A. Yes.
 22 Q. And, if a complaint's allegations were proven
 23 true, then there would be coverage, right?
 24 MS. COUSINEAU: Asked and answered about
 25 18 million times. Lacks foundation.

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1 anyone ever told you that before?
 2 MS. COUSINEAU: Objection. Vague and
 3 ambiguous. Lacks foundation. Misstates the law. Calls
 4 for speculation.
 5 THE WITNESS: Can you repeat the question
 6 or have it read back?
 7 MR. PRINCE: Yeah. Sure.
 8 Q. BY MR. PRINCE: Do you agree that any doubt as
 9 to whether the facts established the duty -- existence of a
 10 duty to defend must be resolved in favor of the insured?
 11 MS. COUSINEAU: Same objections.
 12 THE WITNESS: I don't know. It could be
 13 different in every jurisdiction. I don't know.
 14 Q. BY MR. PRINCE: Well, we have conflict between
 15 what the allegations of the complaint are versus what the
 16 statements made by the insured to the independent adjustor,
 17 so we have a conflict there. How do you resolve that
 18 conflict in terms of providing a defense to at least
 19 Blue Streak?
 20 MS. COUSINEAU: Asked and answered.
 21 THE WITNESS: I confirmed it with the
 22 insured. And I don't -- I'm not sure what you're asking.
 23 Q. BY MR. PRINCE: Do you think there's a
 24 conflict whether you need to provide defense because the
 25 allegations in the complaint say -- are contrary to what

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<p>1 the insured's statements are so now we have conflict? I'm 2 trying to ask you, how do you resolve that conflict in 3 terms of providing a defense to at least Blue Streak? 4 MS. COUSINEAU: Objection. Asked and</p>	<p>1 A. That's correct. 2 Q. And he must have told you to tell me there's no 3 coverage and you're not going to provide any defense, 4 right?</p>
<p>5 answered. 6 THE WITNESS: If the determination is that 7 the investigation shows it's a -- the insured says it's a 8 personal errand and the insured confirms that, that's the 9 coverage determination. 10 Q. BY MR. PRINCE: Did you request at this point 11 in time, given the potential exposure, that the matter be 12 sent to the coverage unit so they could separately assess 13 whether there is a potential for -- whether there's a duty 14 to defend or a potential to indemnify the insured under the 15 facts of the case? 16 MS. COUSINEAU: Lacks foundation. 17 THE WITNESS: I don't know. 18 Q. BY MR. PRINCE: Did you make a recommendation 19 referring it to the coverage unit? 20 A. I don't see that in the file. 21 Q. Did Mr. Mayer make a recommendation to refer it 22 to the coverage unit? 23 MS. COUSINEAU: Calls for speculation. 24 THE WITNESS: I don't know. I didn't see 25 it in the file.</p> <p style="text-align: right;">Page 170</p>	<p>5 MS. COUSINEAU: Lacks foundation. 6 THE WITNESS: I don't know if that's the 7 exact words, but that's the general gist of it. 8 Q. BY MR. PRINCE: You told me, "Please advise 9 that Century has no coverage for this matter. It's my 10 understanding that this matter is being handled by 11 Progressive Insurance. I am copying the adjustor, 12 Pam Torres, on this e-mail and have forwarded the defaults 13 you sent to Progressive." Correct? 14 A. Yes, that's what it says. 15 Q. So, at that point, Century made the 16 determination it was not going to undertake any action to 17 set aside the defaults on behalf of the insureds, correct? 18 A. I didn't do anything further. 19 Q. So am I correct? 20 A. Yeah, we didn't take any further action that I 21 know of, that I'm aware of. 22 Q. So my point is, Century made the determination 23 that it was not going to take any action to set aside the 24 defaults against the insureds, correct? 25 MS. COUSINEAU: Objection. Lacks</p> <p style="text-align: right;">Page 172</p>
<p>1 Q. BY MR. PRINCE: Since you handle most of 2 the -- most of your claims in California, are you familiar 3 with the standards which are applicable to determine 4 whether an insurer has a duty to defend an insured in 5 California? 6 MS. COUSINEAU: Vague and ambiguous as 7 asked -- as phrased. 8 THE WITNESS: In general -- I mean, it 9 depends on the policy. It depends on the facts. It 10 depends on the circumstances. It depends on the 11 allegations. It's all a case-by-case situation. 12 Q. BY MR. PRINCE: It's not limited by the facts 13 -- the allegations in the complaint? 14 A. I can't comment on that. I don't know exactly. 15 Q. Okay. I'm trying to get back where I was. And 16 then on -- go to the next -- 17 On Exhibit 1A, Bate number 225, this is an 18 e-mail that you sent to me on June 27, 2011, right? 19 A. Yes. 20 Q. Okay. So your e-mail to Mr. Mayer was at 3:30 21 and -- basically 3:30 in the afternoon. You're responding 22 to me within about 45 minutes? 23 A. Yes. 24 Q. So you must have talked to him within that 25 45-minute span, right?</p> <p style="text-align: right;">Page 171</p>	<p>1 foundation. Argumentative. 2 THE WITNESS: We didn't do anything 3 further. That's correct. 4 Q. BY MR. PRINCE: Because that was the decision 5 the company made, not to do anything further, correct? 6 MS. COUSINEAU: Vague and ambiguous as 7 phrased. Object to the form. 8 THE WITNESS: Nothing further was done. 9 Q. BY MR. PRINCE: For example, did you make any 10 attempt to contact my office to ask if I would set the 11 defaults aside? 12 MS. COUSINEAU: Asked and answered. 13 THE WITNESS: I don't believe I contacted 14 you, no. 15 Q. BY MR. PRINCE: And then going on to Bate 227, 16 also of Exhibit 1A. It says, "Hi, Pam. Here is the 17 default notice I received on this case today. Please 18 acknowledge receipt of this e-mail." Do you see that? 19 A. Yes. 20 Q. And then at the top up there, it says, "I 21 received"? 22 A. Yes. 23 Q. Okay. You made no attempt -- you made no 24 inquiry of Ms. Torres as to who Progressive was going to be 25 defending, correct?</p> <p style="text-align: right;">Page 173</p>

1 A. It doesn't say that, no.
2 Q. And you didn't ask her if Progressive was going
3 to take any steps to have the defaults set aside, correct?
4 A. She wanted the defaults and she -- the only
5 thing I recall is her saying she thought she had an
6 extension of time.
7 Q. Okay. And -- But, again, did you ask her what
8 steps, if any, Progressive was going to take to have the
9 default set aside?
10 A. No, we didn't specifically discuss steps that I
11 recall.
12 Q. And specific to Blue Streak, did you ask her,
13 "Has Progressive made a coverage determination whether
14 they're going to provide any defense to Blue Streak as
15 opposed to Mr. Vasquez individually?"
16 THE WITNESS: I don't know. I don't
17 recall.
18 Q. BY MR. PRINCE: Because you understood that
19 Progressive was Mr. Vasquez's personal insurer, right?
20 MS. COUSINEAU: Lacks foundation.
21 THE WITNESS: I know it's an auto policy.
22 I don't know -- I've never reviewed it, though, as far as I
23 know.
24 Q. BY MR. PRINCE: Was it your understanding,
25 although you never reviewed the policy, that this was his

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1 personal auto policy, Mr. Vasquez's?
2 A. I'm not 100 percent sure because I've never seen
3 it.
4 Q. I'm not asking if you're a hundred percent sure.
5 Was it your general impression that it was his personal
6 auto policy?
7 MS. COUSINEAU: Vague and ambiguous.
8 THE WITNESS: I don't know.
9 Q. BY MR. PRINCE: Oh, so you don't know who the
10 policy applied to? Would that be a fair statement?
11 A. I didn't read the policy of Progressive.
12 Q. BY MR. PRINCE: You don't know who the name of
13 the insured is under the Progressive policy, right?
14 A. I don't know.
15 Q. I thought we'd looked at some -- go to your log
16 notice, 1B, Bate number 1, your 6/27 entry. And it says,
17 "Received defaults from Plaintiff's counsel. I had been
18 told by Progressive Vasquez auto care, they had picked up
19 defense. Called Jess with Progressive and advised her of
20 this default. Said to her I had no coverage and cannot
21 defend insured against the same."
22 So what did you mean that Century had no
23 coverage and cannot defend insured against same?
24 A. Just what it says.
25 Q. And why can't -- why can't Century defend the

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1 insured against the same?
2 A. The coverage determination was that there would
3 be no defense provided.
4 Q. So then you got Pam Torres's e-mail and
5 forwarded the defaults to her, correct?
6 A. Yes.
7 Q. And after that, you have no further entries,
8 correct --
9 A. I don't.
10 Q. -- on the claim notes?
11 A. I don't believe that there was any other notes.
12 Q. There's a September 2011 entry by David Howard.
13 Who's David Howard?
14 A. Someone in support. I've never met him. No, I
15 don't know him.
16 Q. What's he doing there?
17 MS. COUSINEAU: Calls for speculation.
18 Q. BY MR. PRINCE: If you know.
19 A. I don't understand that note at all.
20 Q. Okay. After June 27th, 2011, did you ever
21 follow up with Progressive whether they are providing any
22 type of defense to the insureds?
23 A. I don't see any other notes after that.
24 Q. If you had contacted Progressive to find out if
25 they are providing any defense to the insureds, would you

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1 have entered some sort of activity log note?
2 A. I might have.
3 Q. Were you instructed by anyone at Century to
4 follow up with Progressive to find out if they're defending
5 either Vasquez, Blue Streak, or both?
6 A. Not that I recall.
7 Q. Okay. Did you make any attempt to go onto the
8 court docket, you know in Clark County, Nevada, to monitor
9 the status of the litigation?
10 A. You mean go on the Internet?
11 Q. Yeah, go online and find out -- look up the
12 case -- look the case up and find out the status.
13 MS. COUSINEAU: Lacks foundation. Assumes
14 facts not in evidence.
15 THE WITNESS: Not that I recall.
16 Q. BY MR. PRINCE: Have you ever done that
17 before, in your capacity as a claim adjuster, gone online
18 to check the case status in any jurisdiction?
19 A. Yes.
20 Q. So you know at this day and age in most major
21 metropolitan areas you can go online and check the status
22 of a case on the Court's docket case-by-case?
23 MS. COUSINEAU: Lacks foundation. Assumes
24 facts --
25 THE WITNESS: Some allow you. Some do

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1 not. In my experience.
 2 MS. COUSINEAU: You have to let me finish
 3 my objection before you start.
 4 THE WITNESS: Sorry.
 5 MS. COUSINEAU: Sorry, court reporter.
 6 Q. BY MR. PRINCE: So what was your answer?
 7 A. In my experience some jurisdictions allow you to
 8 look at their Court dockets online and some do not.
 9 Q. Do you know what -- in Clark County what they
 10 do?
 11 A. I do not.
 12 Q. And as of -- once you forwarded the defaults to
 13 Progressive, then I guess you -- the file remained closed,
 14 correct?
 15 A. Yes.
 16 Q. And at that point, once you forward the defaults
 17 to Progressive, you're not monitoring the litigation either
 18 by yourself or hiring counsel to do it? It's fair to say
 19 that Century no longer had any interest in the outcome of
 20 the Blue Streak litigation?
 21 MS. COUSINEAU: Vague and ambiguous.
 22 Lacks foundation.
 23 THE WITNESS: There was no --
 24 MS. COUSINEAU: Argumentative. Sorry.
 25 THE WITNESS: There was no further

1 and follow up with either me, Progressive, or search online
 2 as to the status of the case?
 3 A. Not that I recall.
 4 Q. Did he give you any instruction to do anything
 5 after the defaults were forwarded to Progressive on
 6 June 27th, 2011?
 7 A. Not that I recall.
 8 Q. Who was there to protect -- after -- who -- as
 9 of June 27th, 2011, and beyond that, who was going to
 10 protect the interests of Blue Streak?
 11 MS. COUSINEAU: Vague and ambiguous.
 12 Lacks foundation. Assumes facts not in evidence. Calls
 13 for speculation.
 14 THE WITNESS: I can't answer. I don't
 15 know.
 16 Q. BY MR. PRINCE: You weren't relying on
 17 Progressive to provide a defense to either Blue Streak or
 18 Vasquez, were you?
 19 MS. COUSINEAU: Vague and ambiguous.
 20 THE WITNESS: I'm just forwarding the
 21 defaults to them.
 22 Q. BY MR. PRINCE: So you're not relying --
 23 you -- you, as the in-house claim and in-house attorney
 24 handling this case, you weren't relying on Progressive to
 25 do anything, correct?

1 activity after that, no.
 2 Q. BY MR. PRINCE: There's no further activity
 3 because it was your company's belief that since there's no
 4 coverage and no duty to defend, they had no interest in the
 5 outcome of the litigation, right?
 6 MS. COUSINEAU: Lacks foundation. Calls
 7 for speculation. Argumentative.
 8 THE WITNESS: I can't comment on what the
 9 company is thinking. All I know is there's no other
 10 activity.
 11 Q. BY MR. PRINCE: Do you believe the company had
 12 any interest in the outcome of the litigation as of
 13 June 27, 2011.
 14 MS. COUSINEAU: Vague and ambiguous.
 15 Lacks foundation.
 16 THE WITNESS: I don't know.
 17 Q. BY MR. PRINCE: Well, what interest did the
 18 company have in the outcome of the litigation as of
 19 June 27th, 2011 when you forwarded the defaults to
 20 Progressive and the file remained closed?
 21 MS. COUSINEAU: Lacks foundation. Assumes
 22 facts not in evidence. Calls for speculation.
 23 Q. BY MR. PRINCE: Go ahead and answer.
 24 A. I can't answer. I don't know.
 25 Q. Did Mr. Mayer ever tell you to diary the matter

1 MS. COUSINEAU: Misstates testimony.
 2 Lacks foundation. Argumentative.
 3 THE WITNESS: "Relying on them," what do
 4 you mean?
 5 Q. BY MR. PRINCE: To do anything. To defend,
 6 indemnify, anything. You weren't relying on them to do
 7 anything? Since you determined that coverage was going to
 8 apply but no defense was going to be provided, you weren't
 9 relying on Progressive to do anything, correct?
 10 MS. COUSINEAU: Same objections. It's
 11 also vague and ambiguous.
 12 THE WITNESS: I'm just giving them notice
 13 of the defaults. I'm not giving them any instruction on
 14 what to do or not do.
 15 Q. BY MR. PRINCE: For example, you're not
 16 looking to -- for Progressive to protect the interests of
 17 Century, for example, are you, as it relates to the
 18 Blue Streak litigation?
 19 MS. COUSINEAU: Vague and ambiguous.
 20 THE WITNESS: I don't understand the
 21 question.
 22 Q. BY MR. PRINCE: Right. Was there any
 23 interest -- do you believe that Progressive had any
 24 obligation to protect Century's interest in the outcome of
 25 the Blue Streak litigation?

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1 MS. COUSINEAU: May call for legal
 2 conclusion.
 3 THE WITNESS: I don't know what
 4 Progressive's obligation was again.

5 MR. PRINCE: Okay. I'm going to use the
 6 restroom. There's a couple points I want to cover about
 7 the policy, and then I think we'll be done.
 8 MS. COUSINEAU: Great.
 9 (A 4-minute break was taken from 1:44 p.m.
 10 to 1:48 p.m.)
 11 Q. BY MR. PRINCE: If we can look at Exhibit 1C,
 12 starting at Bate number 192. Now, this is your denial
 13 letter to Vasquez, not only of coverage, but also refusing
 14 to provide them defense, as well, correct?
 15 MS. COUSINEAU: Could you read that back,
 16 please.
 17 (The pending question was read.)
 18 MS. COUSINEAU: Document speaks for
 19 itself.
 20 THE WITNESS: It says, "Century declines
 21 to provide you a defense or indemnity."
 22 Q. BY MR. PRINCE: Okay. And when you said
 23 "you," you meant not only Vasquez, but also Blue Streak
 24 Auto Detailing, LLC, correct?
 25 A. Correct. The named insured.

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1 Q. I know. But for the purpose of determining
 2 whether you owed a duty to defend, did you consider their
 3 interests separately?
 4 A. I believe that considering those interests is a
 5 part of the coverage determination, yes.
 6 Q. Now, you agree that Blue Streak, under the facts
 7 as you know them, as well -- Strike that.
 8 Based upon information you had available
 9 in your claim file and the allegations in the complaint,
 10 don't you agree that there was a -- that the interests of
 11 Vasquez and Blue Streak were at least potentially adverse
 12 to one another?
 13 MS. COUSINEAU: Objection. Vague and
 14 ambiguous. Calls for a legal conclusion. Incomplete
 15 hypothetical.
 16 THE WITNESS: I don't know.
 17 Q. BY MR. PRINCE: Did you ever consider that?
 18 A. I don't know.
 19 Q. For example, wouldn't Blue Streak, wouldn't they
 20 have an interest in saying, "Yes, you were not acting in
 21 the course and scope of your employment and, therefore,
 22 we're not legally liable for any damages that you may have
 23 caused?" Wouldn't have they have an interest in that
 24 position?
 25 MS. COUSINEAU: Objection. Calls for

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1 Q. As well as Mr. Vasquez because he was qualified
 2 for a -- being an insured, right?
 3 A. Yes.
 4 Q. So it's a denial of coverage to both Vasquez and
 5 Blue Streak, but it's also Century's informing them that
 6 they're declining to provide either with a defense,
 7 correct?
 8 A. Yes.
 9 Q. Okay. Did you consider their interests
 10 separately when deciding to not provide a defense?
 11 MS. COUSINEAU: Objection. Vague and
 12 ambiguous.
 13 THE WITNESS: Consider Mr. Vasquez and
 14 Blue Streak separately?
 15 Q. BY MR. PRINCE: Interests separately.
 16 A. We consider the totality of the facts for each
 17 insured.
 18 Q. What I mean by that is, did you look to see, you
 19 know, under the terms of the conditions of the policy,
 20 based upon the allegations in the complaint, "Do we owe
 21 you, Vasquez, a duty to defend under the policy" versus
 22 separately looking at "Do we owe Blue Streak a duty to
 23 defend under the policy?"
 24 A. Our coverage determination was made as to both
 25 insureds.

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1 speculation. Lacks foundation.
 2 THE WITNESS: I don't know all of the
 3 defenses available or interest of Blue Streak in --
 4 Q. BY MR. PRINCE: What defenses did you consider
 5 of Blue Streak, if any?
 6 A. We made a coverage determination based on the
 7 policy and all of the investigation.
 8 Q. Right. But, I mean, Blue Streak's and Century's
 9 interests were somewhat aligned, right, because they both
 10 were taking the position that he was not acting in the
 11 course and scope of his employment, therefore wouldn't be
 12 responsible to indemnify Vasquez for anything, right?
 13 MS. COUSINEAU: Objection. Argumentative.
 14 Lacks foundation.
 15 THE WITNESS: I don't understand the
 16 question.
 17 Q. BY MR. PRINCE: You don't? What don't you
 18 understand about it?
 19 MS. COUSINEAU: Object. That's
 20 argumentative. She said she doesn't understand it. You --
 21 MR. PRINCE: I'm just trying to figure out
 22 what her problem is with the question. It's not
 23 argumentative. I mean, you object to every question so I
 24 don't know whether it's an appropriate objection or not
 25 honestly.

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<p>1 Q. BY MR. PRINCE: But I'm trying to find out 2 what you didn't understand about the question. 3 A. Can you repeat the question? 4 Q. I can. But is there something about it you</p>	<p>1 me. 2 Q. BY MR. PRINCE: Wouldn't -- Think about it. 3 If -- Let's assume Mr. Pretner's case is worth five 4 million --</p>
<p>5 didn't understand? Did I mumble? Did you just not 6 understand what I was asking you? 7 A. Yeah, I just -- I don't understand what you're 8 asking. 9 Q. Right. I mean, for example, if you're an 10 employer and it's your position that the employee was not 11 acting in the course and scope of your employment, I mean, 12 you'd want to assert that defense, right, so you're not 13 vicariously liable for the employee's actions? 14 MS. COUSINEAU: Incomplete hypothetical. 15 Calls for a legal conclusion. 16 THE WITNESS: I don't know what the 17 employer would want to do. You're talking about liability 18 and defense. I don't know. I don't know what you're 19 defending against or -- I don't understand. 20 Q. BY MR. PRINCE: Well, you know, in the 21 complaint there's the allegation that Vasquez was acting in 22 the course and scope of his employment and for business 23 purposes at the time of the accident. There's the 24 allegation of respondeat superior specifically directed at 25 Blue Streak because of that, right?</p> <p style="text-align: right;">Page 186</p>	<p>5 The judge has already determined it's 6 worth more than \$12 million, so let's assume the case is 7 worth \$10 million. There's only a million dollars in 8 insurance so Blue Streak wants to protect itself as a 9 separate legal entity from Mr. Vasquez. 10 One defense it would have is, "Hey, you're 11 not acting in the course and scope of your employment. 12 Therefore you can't impute liability back to the company." 13 You understand that concept, right? 14 MS. COUSINEAU: Vague and ambiguous. 15 Incomplete hypothetical. 16 THE WITNESS: I -- It's so general I don't 17 know how to answer that question. 18 Q. BY MR. PRINCE: How is it general? 19 A. I can't even really begin to understand exactly 20 what you're trying to ask me. 21 Q. Well, when you looked at the complaint and you 22 saw the allegations of respondeat superior, what did you 23 understand that to mean? 24 MS. COUSINEAU: Asked and answered. 25 THE WITNESS: It's a -- it's a count of</p> <p style="text-align: right;">Page 188</p>
<p>1 A. (The witness gave a non-verbal response.) 2 Q. And, if Blue Streak is trying to avoid 3 significant liability exposure because of the severity of 4 the injuries, wouldn't they want to have a defense that 5 says, "Hey, Vasquez, you're not acting in the course and 6 scope of your employment. Therefore we're not legally 7 liable for your actions"? 8 MS. COUSINEAU: Incomplete hypothetical. 9 Calls for a legal conclusion. 10 THE WITNESS: I don't know what 11 Blue Streak would do to defend themselves. 12 Q. BY MR. PRINCE: Well, didn't you undertake a 13 similar analysis when trying to determine whether there was 14 coverage available for Blue Streak, saying, "Well, the 15 allegation is saying that Blue Streak is liable, which is 16 the named insured, because Vasquez was acting in the course 17 of his employment and for business purposes at the time of 18 the accident, so therefore we're going to hire a lawyer to 19 defend their position on that issue"? 20 MS. COUSINEAU: Vague and ambiguous. 21 I'm not sure there was a question in 22 there. 23 THE WITNESS: I made a cover -- I 24 participated in making a coverage determination. But I 25 don't know how to answer the question that you just asked</p> <p style="text-align: right;">Page 187</p>	<p>1 the complaint. 2 Q. BY MR. PRINCE: Directed at whom? 3 A. Do you know where the complaint is? 4 Q. I can find it. Also part of 1C, it is -- okay. 5 Seven -- okay, I'm sorry, Bate number 105. 6 A. The complaint is against both Vasquez and 7 Blue Streak. The respondeat superior is the fourth claim 8 for relief. I don't know if it's directed at both of them 9 or just Blue Streak. 10 Q. Who do you think the most likely target of a 11 respondeat superior claim is between Vasquez and 12 Blue Streak? 13 MS. COUSINEAU: Argumentative. 14 THE WITNESS: The employer. 15 Q. BY MR. PRINCE: Blue Streak, right? 16 A. Right. 17 Q. And so their alle -- sorry -- okay. 18 So you can see where there would be a 19 potential conflict between Vasquez and Blue Streak in this 20 case, right? Vasquez may want indemnification from his 21 employer and may make some statement that he was acting in 22 the course and scope of his employment, whereas Blue Streak 23 may say, "You weren't acting in the course of your 24 employment. Therefore we're not liable for this 25 potentially substantial judgment," right? You can see that</p> <p style="text-align: right;">Page 189</p>

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1 conflict, couldn't you?
 2 MS. COUSINEAU: Incomplete hypothetical.
 3 Compound.
 4 THE WITNESS: I can't comment on what the
 5 conflict could or couldn't be. I don't know.
 6 Q. BY MR. PRINCE: Okay. But wouldn't -- so
 7 wouldn't Blue Streak's interests be similar to that of --
 8 For example, let's assume the case went to
 9 trial, right, and the jury found that Vasquez was not
 10 driving the truck for business purposes or in the course of
 11 his employment. That would mean that Blue Streak is not
 12 legally liable to the plaintiffs for those damages, then,
 13 right, under respondeat superior, right?
 14 MS. COUSINEAU: Calls for a legal
 15 conclusion.
 16 THE WITNESS: I don't know what all the
 17 requirements are. I don't know if you're talking about
 18 Nevada. I don't know what all the respondeat superior
 19 requirements are in Nevada. I don't know what that
 20 determination that you just said means.
 21 Q. BY MR. PRINCE: Okay. Okay. So, anyway,
 22 let's look -- let's go back to your denial letter,
 23 March 31st, 2011.
 24 A. What page?
 25 Q. 192 of 1C.

1 complaint used the word "sometimes."
 2 Q. BY MR. PRINCE: And you don't say in there
 3 that the complaint specifically alleges that Vasquez was
 4 driving the vehicle in the course of Blue Streak's
 5 business, correct? You don't say that, do you?
 6 MS. COUSINEAU: Argumentative. The
 7 document speaks for itself.
 8 THE WITNESS: It doesn't say that right on
 9 that page, no.
 10 Q. BY MR. PRINCE: In fact, it doesn't say that
 11 anywhere in the entire letter, correct?
 12 A. I don't see it.
 13 Q. Why didn't you put those critical facts or
 14 critical facts relating to the allegations in the complaint
 15 in your denial letter?
 16 MS. COUSINEAU: Argumentative. Lacks
 17 foundation.
 18 THE WITNESS: I summarized the facts.
 19 Q. BY MR. PRINCE: Yeah. But it's incon --
 20 when -- in your log note, you indicated that -- when you
 21 were summarizing the complaint, you said that the complaint
 22 alleged that the truck was being used for business
 23 purposes. Why didn't you put that in your denial letter,
 24 that the truck was being used for business purposes
 25 according to the complaint.

1 Now, you've kind of summarized. It says,
 2 "The factual background." It says, "The facts are based in
 3 large part upon the allegations contained in the
 4 complaint," right?
 5 A. Yes, that's what it says.
 6 Q. Now, it says, "According to the complaint on
 7 January 12th, 2009, Michael Vasquez struck Ryan Pretner
 8 with the side mirror of his truck while Pretner was riding
 9 his bike. Pretner was thrown from the bike and sustained
 10 catastrophic injuries. Mr. Vasquez was driving a 2007 Ford
 11 F150, sometimes used during the course of Blue Streak
 12 Auto's business of mobile detailing."
 13 That's an inaccurate statement, isn't it,
 14 the last sentence?
 15 A. I don't know. What part are you talking about?
 16 Q. That the truck was sometimes used.
 17 A. I don't know. It's a summary of the complaint.
 18 I don't know if that word is used in the complaint.
 19 Q. Well, you looked at the complaint. It says you
 20 carefully -- you even tell them you carefully reviewed it.
 21 It was never alleged that the truck was sometimes used
 22 during the course of the business, right, the complaint?
 23 MS. COUSINEAU: The document speaks for
 24 itself.
 25 THE WITNESS: I don't know if the

1 A. I don't know. I was summarizing the complaint.
 2 Q. But it's not the same way you summarize it in
 3 your activity log note when you said that the allegation
 4 said that it was being used for business purposes. Why
 5 didn't you put that in there is what I'm trying to find
 6 out?
 7 MS. COUSINEAU: Argumentative.
 8 THE WITNESS: I don't know. They're not
 9 the same, but I don't know why I didn't word it exactly the
 10 same.
 11 Q. BY MR. PRINCE: Now, we talked about earlier
 12 page five of your note, Bate number 196, that since he told
 13 the adjustor and you that he was not performing any garage
 14 operations at the time of the accident, then no coverage
 15 was going to be afforded, correct?
 16 MS. COUSINEAU: Could you read that
 17 question back, please.
 18 (The pending question was read.)
 19 MS. COUSINEAU: Vague and ambiguous.
 20 Object to the form of the question.
 21 Q. BY MR. PRINCE: Go ahead.
 22 A. Yeah, it says, "You were -- you told Century
 23 that you were not performing any garage operations but had
 24 finished your work and were performing a personal errand
 25 unrelated to Blue Streak's auto business."

1 Q. And it's for that reason you denied coverage,
2 right?
3 A. That was one of the reasons. It also says there
4 may be other reasons.

5 Q. Okay. What other reason do you cite in your
6 coverage denial letter, other than that one?
7 A. That's the only one specifically cited.
8 Q. Doesn't Nevada law require you to outline all of
9 the bases in the policy as well as applicable law why
10 you're denying coverage?
11 MS. COUSINEAU: Objection. Misstates the
12 law. It's argumentative.
13 THE WITNESS: I don't know.
14 Q. BY MR. PRINCE: And isn't it also true that is
15 the only reason you denied coverage, is for that reason you
16 just described?
17 A. I don't know if that's the only reason. That's
18 a specifically cited reason.
19 Q. What other reasons were there to deny coverage
20 other than that one?
21 A. I don't know.
22 Q. What other facts did you have in March of 2011
23 which would have supported denial of coverage for any other
24 reason?
25 A. I don't know.

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1 Q. What other -- were there any exclusions
2 applicable as of March 2011?
3 A. I can't recall as I sit here.
4 Q. If there would have been any other basis to deny
5 coverage, would you have set those forth at that time?
6 A. I don't know. We might have or we might have
7 just set aside this one specific one. I don't know.
8 Q. Why would you -- what would be the circumstance
9 where you would -- if you believe there was -- multiple
10 reasons to deny coverage but only cite one but not the
11 others, what circumstance could you envision you wouldn't
12 tell the insured all the reasons you're denying coverage?
13 MS. COUSINEAU: Argumentative.
14 THE WITNESS: I can't think of a
15 circumstance at this point.
16 Q. BY MR. PRINCE: Then why --
17 A. I can't think of a specific example. All the
18 cases are different. It depends on all the factors. The
19 main factor that was cited in here was that it wasn't
20 garage operations and that was the factor on which it was
21 denied.
22 Q. But you keep saying there may be other reasons.
23 You keep saying that, the garage operation, that was just
24 one reason, but there may be others. I'm trying to find
25 out, as you sit here right now, what other reasons could

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1 there be?
2 MS. COUSINEAU: Objection. Calls for
3 speculation.
4 THE WITNESS: Yeah, I really don't know.
5 I'd be guessing.
6 Q. BY MR. PRINCE: Okay. Now, I want to talk
7 about the policy for a minute. When you had the file --
8 did you get the complete underwriting file -- I mean, part
9 of -- when I got the claim file, it included parts of the
10 underwriting file like the application for insurance.
11 Would that have been in your file then?
12 A. No.
13 Q. It would have been just the policy itself?
14 A. No, I can get the policy from the underwriting
15 file.
16 Q. Okay. Did you get a copy of the policy or did
17 you just use an exemplar on the system?
18 A. I copy it out of the underwriting file and put
19 it into the claim file.
20 Q. So you knew that this was a mobile business,
21 correct?
22 A. Can you tell me where the policy is in the
23 exhibits?
24 Q. Well, it's multiple places, but I have 1A
25 starting at 139 -- I guess 138.

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1 A. Yeah, I've got it. Yeah, business description,
2 "auto detailing and wash," yes.
3 Q. But you knew from the documents and underwriting
4 that this is a mobile detail operation?
5 MS. COUSINEAU: Lacks foundation.
6 THE WITNESS: It says "auto detailing and
7 wash."
8 Q. BY MR. PRINCE: Right. But you know it was a
9 mobile -- based upon the investigation, that it was a
10 mobile detail, right?
11 A. I don't recall what I knew at that time, whether
12 it was mobile or auto detailing.
13 Q. When you looked at the claim file, did you
14 understand, the notes, did you understand it was a mobile
15 detail?
16 MS. COUSINEAU: Vague as to time.
17 THE WITNESS: In 2011, March 2000 --
18 Q. BY MR. PRINCE: Yeah.
19 A. I don't know. I reviewed the investigative
20 report. If that's in there, then I would have reviewed
21 that. If you give me a second, I'm looking for a specific
22 document. If you need to take a break, I need to find
23 something.
24 MS. COUSINEAU: Off the record.
25 MR. PRINCE: Yeah.

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1 (A 4-minute break was taken from 2:09 p.m.
2 to 2:13 p.m.)
3 MR. PRINCE: Back on the record.
4 Q. BY MR. PRINCE: We're at exhibit 1D, Bate
5 number 33. I asked you if it's your understanding that
6 Blue Streak was a mobile detail business, and I'm referring
7 you now to what appears to be some sort of an underwriting
8 or -- or document or application, and it says, "Highlights.
9 Insured provides a mobile automobile detailing service."
10 Do you see that?
11 A. Yes.
12 Q. So that would have been available to you, right?
13 MS. COUSINEAU: Calls for speculation.
14 THE WITNESS: This wasn't -- I don't
15 recall having this in my claim file.
16 Q. BY MR. PRINCE: Okay. When you spoke with
17 Mr. Vasquez, did you confirm with him that it was a mobile
18 detailing business?
19 A. I don't recall if I specifically confirmed that
20 it was mobile detailing.
21 Q. So do you know if he had -- do you believe --
22 well, did you think he had a fixed location?
23 A. I don't know what I thought at that time.
24 Q. In March of 2011, what was your understanding of
25 how and where the insured did his business?

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1 A. I understood it was auto detailing, but I don't
2 know what I recall about it being mobile or not.
3 Q. Do you think that's an important fact it's a
4 mobile business versus one with a fixed location?
5 MS. COUSINEAU: Vague and ambiguous.
6 Incomplete hypothetical.
7 THE WITNESS: I don't know if it's
8 important or not.
9 Q. BY MR. PRINCE: Were you aware that the -- if
10 you look on Bate number 34, it says, "Describe exact
11 operations." It says, "Insured provides a mobile
12 automobile detailing service which the insured washes,
13 waxes, cleans automobile carpets, interiors, as well as
14 degreases engines at the customer's location."
15 Did you -- before reading this today, were
16 you aware that that's what Blue Streak did?
17 A. I don't know if I was aware of that in March of
18 2011.
19 Q. And were you aware that the trucks were taken
20 home every night and equipment was stored at a storage
21 facility?
22 A. I don't recall if I was aware of that.
23 Q. Are you aware that the business was operated out
24 of the insured's home?
25 A. I don't recall.

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1 Q. Did you ask how many trucks were used in the
2 business?
3 A. I don't recall.
4 Q. Did you ask how -- how the Ford was utilized in
5 the business, if at all?
6 A. I asked, with regard to the date of the loss,
7 what he was doing on that date with the Ford, and he was on
8 a personal errand.
9 Q. The only thing you asked is about what he was
10 doing right at the time of the accident, right?
11 A. Yes.
12 Q. That's what you asked about?
13 A. Yes.
14 Q. Were you aware that he was going to his uncle's
15 house to pick up mail?
16 A. I recall something about mail.
17 Q. Did you ask him if it included business mail?
18 A. I asked if it had anything to do with the
19 business. He said, no, it was personal.
20 Q. Did you ask him, did he receive business mail at
21 that address?
22 A. At which address?
23 Q. The uncle's house. He was going to pick up mail
24 there.
25 A. I don't know if he was picking up mail or

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1 dropping off mail. I don't --
2 Q. Well, the documents say picking up mail, don't
3 they? We could go back through them. It says that he was
4 picking up mail.
5 MS. COUSINEAU: Lacks foundation. Assumes
6 facts not in evidence.
7 THE WITNESS: I don't recall. I don't
8 know if that's what it says.
9 Q. BY MR. PRINCE: Okay. Would your analysis
10 have changed -- let's assume two minutes before this
11 accident happened he takes a call while in the truck on his
12 mobile phone, which is the phone number for his business
13 which is part of the underwriting file here, and he
14 schedules an appointment for a customer to come out to
15 their house tomorrow, the following day. Would that have
16 changed your coverage analysis?
17 MS. COUSINEAU: Incomplete hypothetical.
18 Lacks foundation. Calls for speculation.
19 THE WITNESS: I don't know.
20 Q. BY MR. PRINCE: Well, he'd be in the truck for
21 business purposes at that point, right, because he uses the
22 truck in the business. He's taking a phonecall on the
23 number that's in your underwriting file, and he's
24 scheduling an appointment just moments before the accident
25 happened. Would that -- would you consider that part of

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1 being in the business?
 2 MS. COUSINEAU: Lacks foundation. Assumes
 3 facts not in evidence. Incomplete hypothetical.
 4 THE WITNESS: I don't know.

5 Q. BY MR. PRINCE: What happens if he stopped at
 6 his uncle's house -- or before he got to his uncle's house,
 7 he wanted to stop and have a bite to eat and went to a bar,
 8 had a beer and gave his cards out before going to his
 9 uncle's house? I mean, assuming those facts were true,
 10 would that put him in the course and scope of his
 11 employment?
 12 MS. COUSINEAU: Lacks foundation. Calls
 13 for a legal conclusion.
 14 THE WITNESS: I don't know. I mean, there
 15 could be other considerations. I don't know in March of
 16 2011 whether that would have made any difference or not.
 17 Q. BY MR. PRINCE: My question, why didn't you
 18 ask those things?
 19 MS. COUSINEAU: Argumentative.
 20 THE WITNESS: Why didn't I ask other
 21 hypotheticals?
 22 Q. BY MR. PRINCE: Yeah, find out more facts,
 23 correct, which could include, "How do you market yourself,
 24 do you have signs on your truck, do you take calls while
 25 you're driving, would you -- do you -- when you basically

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1 Q. BY MR. PRINCE: So go ahead and answer the
 2 question.
 3 MS. COUSINEAU: I haven't made my
 4 objection yet.

5 MR. PRINCE: What is it, then?
 6 MS. COUSINEAU: Lacks foundation.
 7 Incomplete hypothetical.
 8 Q. BY MR. PRINCE: Go ahead and answer the
 9 question.
 10 A. Could you say the question again?
 11 Q. Sure. Let's assume that he's going from his
 12 house -- Mr. Vasquez is going from his house to his uncle's
 13 house, and along the way he takes a call from a customer on
 14 his cellular phone in the truck that he uses for business
 15 to schedule an appointment to detail a car the following
 16 day. Two minutes later he hits Ryan and knocks him off his
 17 bike and injures him.
 18 Does that now make -- was he now doing
 19 something for business purposes while driving the truck
 20 because he fielded the call.
 21 MS. COUSINEAU: Calls for a legal
 22 conclusion. Lacks foundation.
 23 THE WITNESS: I don't know. I just know
 24 what the insured told me, that he wasn't doing anything
 25 business related.

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1 stop, do you give out your business cards when you stop at
 2 a restaurant or something?" I mean, why didn't you ask
 3 those things?
 4 MS. COUSINEAU: Compound.
 5 THE WITNESS: I asked th -- if it had
 6 anything to do with his business, it related to his
 7 business at all, and he told me it didn't, it was personal.
 8 Q. BY MR. PRINCE: Well, let's assume he's going
 9 from home -- Hypothetical. Let's assume he's driving from
 10 home to his uncle's house, and on the way he receives a
 11 customer call as part of his mobile detail business in the
 12 truck that he uses for the mobile detail business, and he
 13 schedules an appointment for the next day. Is that -- does
 14 it now make it business related because he took a phonecall
 15 while en route?
 16 MS. COUSINEAU: Objection. First of all,
 17 I don't know why you're raising your voice to her, but
 18 these are hypothetical questions which you're asking her to
 19 make coverage decisions on facts that aren't here, so it's
 20 improper to ask her a hypothetical question --
 21 MR. PRINCE: Well --
 22 MS. COUSINEAU: -- for coverage.
 23 MR. PRINCE: What are you talking about?
 24 One, I disagree that I'm raising my voice;
 25 and two, you're making improper speaking objections.

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1 Q. BY MR. PRINCE: Well, I guess if you're going
 2 to your uncle's house -- Well, let's assume hypothetically
 3 he's going over to his uncle's house for a pool party. I
 4 mean, he's going over there for recreation. But on the way
 5 he takes a call for his mobile business because he is the
 6 business and he -- while he's driving in his car, and he
 7 sets the appointment. Two minutes later he's in an
 8 accident. Is now that trip business related because he
 9 took a business call while in the truck?
 10 MS. COUSINEAU: Lacks foundation. Calls
 11 for a legal opinion.
 12 THE WITNESS: I don't know.
 13 Q. BY MR. PRINCE: How would you analyze that for
 14 coverage purposes, since you did that in this case? How
 15 would that change your analysis?
 16 MS. COUSINEAU: Incomplete hypothetical.
 17 THE WITNESS: I can't do it on the spot
 18 like this and remember everything from March of 2011. I
 19 know what I did -- or what the file reflects I did in
 20 March 2011. I don't know how to answer that question.
 21 Q. BY MR. PRINCE: Okay.
 22 A. I don't know if it would have made a difference
 23 or not.
 24 Q. Is it possible?
 25 A. I don't know.

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1 Q. I mean, if he has a mobile business and he has
 2 no fixed location, I mean, he's kind of -- he is the
 3 business. It just kind of moves around with him, right?
 4 MS. COUSINEAU: Objection. Vague and
 5 ambiguous.
 6 THE WITNESS: I don't know. That's what
 7 you're telling me. I don't know.
 8 Q. BY MR. PRINCE: Well, I'm ask -- Well, did you
 9 ask him any questions specific about his business?
 10 A. I asked him if what he was doing at the time was
 11 business related. I remember the mail issue coming up, but
 12 I don't recall exactly what we discussed in terms of all
 13 the things that he did in his business.
 14 Q. So you're saying you didn't even get the gist
 15 from the conversation that it was a mobile business, right?
 16 MS. COUSINEAU: Argumentative. Lacks
 17 foundation.
 18 THE WITNESS: I don't recall.
 19 Q. BY MR. PRINCE: All right. Let's go to the
 20 policy. I'm trying to get to that one. There's multiple
 21 versions of it, but I'm going to go to -- it's in 1A, Bate
 22 number 154. And looking at section one -- that's for
 23 covered autos, correct? And then there's a symbol 29.
 24 Those are the covered autos applicable for Blue Streak,
 25 right?

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1 A. I'd have to see the dec page.
 2 Q. Okay. I can help you with that. That is -- if
 3 you look at 139. Okay.
 4 A. Yes, it was number 29.
 5 Q. Now, this defines, "Any auto you do not own,
 6 lease, hire, rent, or borrow used in connection with your
 7 garage business described in the declarations. This
 8 includes autos owned by your employees or partners,
 9 members, or members of their household while used in your
 10 garage business."
 11 Do you see that?
 12 A. Yes, I do.
 13 Q. And you understood that Blue Streak was an
 14 L.L.C., correct?
 15 A. It's insured as an organization, but I don't
 16 recall if I specifically knew that it was an L.L.C.
 17 Q. Assuming it was an L.L.C., if he's a member of
 18 it, I mean, then that would qualify that if he's using the
 19 truck in connection with a garage business, it would be
 20 considered a covered auto, correct?
 21 MS. COUSINEAU: Lacks foundation.
 22 THE WITNESS: It says "while used in the
 23 garage business."
 24 Q. BY MR. PRINCE: All right. Now, is the term
 25 "garage business" defined anywhere in the policy? Or is

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1 that an undefined term?
 2 A. I'd have to look at the definitions.
 3 Q. Okay.
 4 A. There's "garage operations."
 5 Q. I want to know if -- look at Bate number 172
 6 under 173. Those are the definitions for the policy. And
 7 see if there's any definition for "garage business."
 8 A. No, just "garage operations" is what I see. It
 9 says, "garage operations include all operations necessary,
 10 incidental to garage business," but there's no specific
 11 definition for "garage business."
 12 Q. Okay. Did you ever question whether this was an
 13 appropriate policy to even issue a mobile detail business,
 14 a garage policy?
 15 A. I don't recall considering whether it was
 16 appropriate. I deal with a policy that has been issued.
 17 Q. Did you ever consider whether the policy was
 18 ambiguous as it relates to a mobile detail business?
 19 A. I don't know what you mean.
 20 Q. Have you ever had to look at a policy and
 21 question whether the policy was ambiguous, the language of
 22 the policy was ambiguous?
 23 MS. COUSINEAU: Objection. Lacks
 24 foundation.
 25 THE WITNESS: I don't know. I can't think

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1 of a specific example, but I'm not going to say that I've
 2 never considered something ambiguous.
 3 Q. BY MR. PRINCE: Right. Because you know under
 4 the law in virtually every state that an ambiguity within
 5 an insurance policy is going to be construed in favor of
 6 the insured, right? You know that?
 7 A. I don't know for sure in every state.
 8 Q. Okay. Have you ever heard of that concept
 9 before?
 10 A. I've heard of a breach of con -- or a contract
 11 action that there can be a presumption that a contract is
 12 construed against its drafter.
 13 Q. Have you ever heard of -- in terms of standards
 14 for consuring -- insurance -- insuring agreements that --
 15 Well, strike that.
 16 Are you aware of any case law that you've
 17 ever read -- Strike that.
 18 Have you ever heard of any concept where
 19 when you're construing an insurance agreement, that if
 20 there's an ambiguity, you construe it in favor of the
 21 insured and against the insurer?
 22 MS. COUSINEAU: Object to the form.
 23 THE WITNESS: I don't know. It could be
 24 the rule in some jurisdictions. I don't know.
 25 Q. BY MR. PRINCE: Have you ever heard of that

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1 concept before?
 2 A. Just what I told you earlier as a contract
 3 concept that's construing a document against the drafter.
 4 Q. My question is a little bit different than that.
 5 If the policy provision is determined to be ambiguous, have
 6 you heard of the concept that the policy will be construed
 7 in favor of the insured and against the insurer?
 8 A. I don't know that I've heard of that.
 9 Q. Okay. It says here, "Garage operations means
 10 the ownership, maintenance, or use of locations for garage
 11 business and that portion of the roads or other accesses
 12 that adjoin those locations." Do you see that?
 13 A. Yes.
 14 Q. Now, here there is -- he did not own or maintain
 15 a garage business because there was no fixed location,
 16 correct?
 17 MS. COUSINEAU: Lacks foundation.
 18 THE WITNESS: I don't know. I don't
 19 recall at this point.
 20 Q. BY MR. PRINCE: Well, based on what you knew
 21 in March of 2011, you knew that there was no garage
 22 business -- I mean a fixed location, correct?
 23 A. I don't recall if I specifically -- if I knew
 24 that or not.
 25 Q. Do you agree that the policy contemplates a

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1 fixed location when it's discussing a garage operation by
 2 the use of the term "ownership, maintenance, or use of
 3 locations for garage business and that portion of the roads
 4 or other access that adjoin these locations"?
 5 MS. COUSINEAU: Object to the form.
 6 THE WITNESS: I don't --
 7 MS. COUSINEAU: Calls for speculation.
 8 THE WITNESS: Yeah, I don't know what
 9 "contemplates" means, but it says the word "locations."
 10 Q. BY MR. PRINCE: Right. And you would know
 11 that to be, like, a fixed location where there's some
 12 garage business located, right?
 13 MS. COUSINEAU: Lacks foundation.
 14 THE WITNESS: I don't know. It could be.
 15 Q. BY MR. PRINCE: What would it mean to you as a
 16 person who is reviewing this policy in March of 2011 and
 17 applying it in this case?
 18 A. What does what mean to me, the definition?
 19 Q. Yeah.
 20 A. It means what it says.
 21 Q. Well, what does it mean "to have locations for
 22 garage business"? What does that -- that -- those terms
 23 mean to you?
 24 A. It means there could be a location for a garage
 25 business.

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1 Q. Okay. Since this is a mobile business, there
 2 would be no location for a garage business, would there?
 3 MS. COUSINEAU: Lacks foundation.
 4 THE WITNESS: I don't know if that's true.
 5 Q. BY MR. PRINCE: What steps did you take to
 6 determine whether there was a location for a garage
 7 business?
 8 A. I don't recall.
 9 Q. How do you use the term "garage business" as
 10 in-house attorney adjusting litigated claims that may
 11 involve garage coverage forms?
 12 MS. COUSINEAU: Could you read that back,
 13 please.
 14 (The pending question was read.)
 15 MS. COUSINEAU: Object to the form.
 16 THE WITNESS: It depends on the claim.
 17 Q. BY MR. PRINCE: Well, how did you do it in
 18 this case?
 19 A. How did I -- I'm sorry. Could you say it again?
 20 How did I --
 21 Q. Yeah. How did you construe the language
 22 "locations for garage business" in this case?
 23 MS. COUSINEAU: Lacks foundation.
 24 Q. BY MR. PRINCE: That's a yes/no location.
 25 MS. COUSINEAU: Lacks foundation.

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1 THE WITNESS: I don't know.
 2 Q. BY MR. PRINCE: How did you apply this term
 3 "locations for garage business" to a mobile business that
 4 has no location?
 5 MS. COUSINEAU: Lacks foundation. Assumes
 6 facts not in evidence.
 7 THE WITNESS: I don't know. You're
 8 talking about locations as like a separate location that
 9 says "Blue Streak Auto" as opposed to locations he goes to
 10 to do --
 11 Q. That's what I'm trying to find out --
 12 A. -- business --
 13 Q. That's what I'm trying to find out from you.
 14 A. I don't know.
 15 Q. Okay. And it says, "Garage operations includes
 16 the ownership, maintenance, or use of autos indicated in
 17 section one of the garage coverage form as indicated as
 18 covered autos."
 19 A. I'm sorry?
 20 Q. Doesn't that include -- doesn't that include the
 21 use of the Ford F150? Wouldn't that be part of garage
 22 operations?
 23 MS. COUSINEAU: Calls for a legal
 24 conclusion.
 25 THE WITNESS: But the covered auto thing

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<p>1 is number 29 and it has to be used in the garage business 2 to be under that definition. 3 Q. BY MR. PRINCE: Don't you think "garage 4 business" is ambiguous?</p>	<p>1 Mr. Mayer. 2 Q. Did either one of you ever raise that issue, 3 whether it was discussed in any detail or not? 4 A. I don't recall.</p>
<p>5 MS. COUSINEAU: Argumentative. Calls for 6 a legal conclusion. 7 THE WITNESS: I don't know. 8 Q. BY MR. PRINCE: Do you see how someone might 9 construe the term "garage business" as being ambiguous? 10 MS. COUSINEAU: Objection. Calls for 11 speculation. 12 THE WITNESS: I don't know what someone 13 thinks. 14 Q. BY MR. PRINCE: But I mean as someone who's a 15 claims professional, a lawyer, and someone who's making 16 coverage determinations, do you see that that term could be 17 ambiguous in certain circumstances, the term "garage 18 business"? 19 MS. COUSINEAU: Lacks foundation. Calls 20 for speculation. 21 THE WITNESS: Yeah, I don't know. I'd 22 just be guessing. 23 Q. BY MR. PRINCE: Okay. This person, 24 Mr. Vasquez has -- with Blue Streak has no garage. They 25 don't operate out of a fixed location. How could they ever Page 214</p>	<p>5 Q. You think you should have? 6 MS. COUSINEAU: Argumentative. 7 THE WITNESS: I don't know. 8 Q. BY MR. PRINCE: Do you have some sort of 9 internal documents or records or e-mails or anything 10 available to you that helps you construe the term "garage 11 business"? 12 A. Not that I can think of off the top of my head. 13 Q. Can you envision a situation where that term 14 would be considered ambiguous, "garage business"? 15 MS. COUSINEAU: Calls for a legal 16 conclusion. Calls for speculation. 17 THE WITNESS: I don't know. I can't think 18 of a situation. I don't know. 19 Q. BY MR. PRINCE: When did you first learn -- 20 Strike that. 21 Let me go to Exhibit 2. And I want you 22 to -- 23 MR. PRINCE: For the record, Mr. Davis and 24 I had a discussion the other day about production of 25 certain documents in Progressive's claim log. One set of Page 216</p>
<p>1 have a garage business? 2 MS. COUSINEAU: Objection. Argumentative. 3 Lacks foundation. 4 THE WITNESS: I don't know that you can't 5 have a garage business that doesn't have a fixed location. 6 Q. BY MR. PRINCE: When you handled any claim for 7 Century where there's been a garage policy, can you think 8 of any type of claim where there hasn't been a fixed 9 location for the business? 10 A. Off the top of my head, I can't think of a 11 specific example. 12 Q. And, obviously, before this claim, you've never 13 had to utilize this policy as it relates to a mobile 14 business of some form, correct? 15 MS. COUSINEAU: Lacks foundation. Assumes 16 facts not in evidence. 17 THE WITNESS: I don't know if I ever had a 18 mobile business case before this. 19 Q. BY MR. PRINCE: Do you recall asking -- Strike 20 that. 21 Do you recall ever having a discussion 22 between you and your supervisor, Mr. Mayer, about whether a 23 mobile business even fit -- how the term "garage 24 operations" applies to a mobile business? 25 A. I don't recall if that was discussed with Page 215</p>	<p>1 documents had the claim notes, one set of documents did 2 not. So I do have one set now in case he discussed that 3 with you. 4 Q. BY MR. PRINCE: Look at Bate number 11, which 5 is kind of in the center of the page that says "Progressive 6 CF11 Notice of Entry of Judgment." 7 A. Yeah, got it. 8 Q. I want you to go to 13. 9 A. Page 13? 10 Q. Sorry. Page 13. I'm sorry. Yes. 11 A. Okay. 12 Q. This is a default judgment entered April 11th, 13 2012. It's three pages long. It's progressive CF13 14 through Progressive CF15. 15 Have you ever seen this document? 16 A. No. 17 Q. Were you aware that an 18-plus-million-dollar 18 judgment was entered against Blue Streak and Vasquez in 19 April 2012? 20 A. No. 21 Q. That's the first time you ever heard of it or 22 seen it is today? 23 A. Yes. 24 Q. So before coming in here today, you're unaware 25 that the purpose of this action was to enforce a Page 217</p>

1 18-plus-million-dollar default judgment?
 2 A. I never saw a default judgment. I knew there
 3 was a lawsuit, but I didn't know that there was this
 4 default judgment. I've never seen it.

5 Q. Okay. When were you -- were you ever aware that
 6 there was any judgment entered against Blue Streak or
 7 Vasquez before right now?
 8 MS. COUSINEAU: Vague as to time.
 9 THE WITNESS: I don't know if I was aware
 10 of the judgment. I know there was a lawsuit against the
 11 company that I was made aware of that we talked about
 12 earlier. I can't remember who made me aware of it.

13 Q. BY MR. PRINCE: Did you ever have any meetings
 14 about your claim handling with anybody within the company
 15 after this lawsuit was filed?
 16 MS. COUSINEAU: I'm going to caution you
 17 that to the extent that you met with counsel, that you
 18 can't reveal anything that was stated.

19 Q. BY MR. PRINCE: Well, hang on. I'm going to
 20 find out if you had any meetings and, if so, who would have
 21 been present.
 22 MR. PRINCE: We can decide what's
 23 privileged and what isn't.
 24 THE WITNESS: You said with regard to my
 25 claims handling?

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1 Q. BY MR. PRINCE: Right. Any -- at any --
 2 Strike that.
 3 Before the lawsuit against Century was
 4 filed, were you ever aware that there was a default
 5 judgment entered against Vasquez and Blue Streak?
 6 A. I didn't know there was a default judgment.
 7 Q. There's now a bad faith lawsuit filed against
 8 Century. After this lawsuit, the bad faith lawsuit was
 9 filed, were you ever asked to participate in any meeting
 10 concerning your claims handling?
 11 A. About this claim?
 12 Q. Yes, this claim.
 13 A. No. No.
 14 Q. No one's ever reviewed your claims handling with
 15 you in this case?
 16 A. No.
 17 Q. Okay. Did your manager -- Okay.
 18 Now let's look at page 14, Bate number 14,
 19 number 2, finding number 2.
 20 It says, "At the time of the accident,
 21 Vasquez was an employee of Blue Streak Auto Detailing, LLC.
 22 At the time of the accident, Vasquez was in the course and
 23 scope of his employment and/or agency of Blue Streak acting
 24 in furtherance of its business interests. Accordingly,
 25 Defendant Blue Streak is legally liable for the injuries

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1 and damages sustained by Pretner caused by Defendant
 2 Vasquez's negligence." Do you see that?
 3 A. Yes.
 4 Q. Now, you agree that those -- the facts as
 5 determined by the District Court Judge that Vasquez was an
 6 employee of Blue Streak and at the time of the accident
 7 Vasquez was acting in the course and scope of his
 8 employment or agency in furtherance of Blue Streak's
 9 business interest, that would trigger coverage under the
 10 Century policy, correct?
 11 MS. COUSINEAU: Objection. Lacks
 12 foundation.
 13 THE WITNESS: I don't know.
 14 Q. BY MR. PRINCE: What don't you know? Why
 15 don't you know?
 16 A. I don't know if there would be coverage if
 17 that's the only consideration or not.
 18 Q. Well, we already established that you're not
 19 aware of any other considerations. So with that in mind,
 20 based upon those findings made by the Court, would that
 21 trigger coverage under the Century policy?
 22 MS. COUSINEAU: Calls for a legal
 23 conclusion.
 24 THE WITNESS: I don't know if it would.
 25 Q. BY MR. PRINCE: What information would you

Page 220

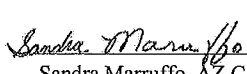
1 need to know in order to determine whether that would
 2 trigger coverage under the policy?
 3 A. I don't know what other information could be
 4 relevant, but there could be other information. I just
 5 can't say.
 6 Q. As you sit here right now, what other
 7 information would you need to know in order to answer my
 8 question?
 9 MS. COUSINEAU: Calls for speculation.
 10 THE WITNESS: I don't know.
 11 Q. BY MR. PRINCE: Since this has happened, has
 12 there been any change in the policy, procedure, or practice
 13 of Century in terms of accepting defense -- or providing a
 14 defense to its insured in connection with a lawsuit?
 15 MS. COUSINEAU: Vague and ambiguous as
 16 phrased.
 17 THE WITNESS: I don't know. I can't think
 18 of whether there's been any specific changes or not.
 19 Q. BY MR. PRINCE: Have you noticed any changes
 20 in how Century investigates and evaluates and determines
 21 whether to provide a defense to an insured?
 22 A. I don't know of any that I can think of.
 23 Q. When you stopped handling the file in June of
 24 2011, can you -- as of that date, can you think of any
 25 interests in the Blue Streak litigation that Century had at

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1 that point?
 2 MS. COUSINEAU: Asked and answered.
 3 Q. BY MR. PRINCE: Go ahead.
 4 A. I don't know.
 5 Q. You don't know of any?
 6 A. I don't know if there is any or not.
 7 Q. Before you issued your denial letter of
 8 March 31st, 2011, did you ever call and speak with the
 9 independent adjustor?
 10 A. I don't recall speaking with --
 11 Q. Did you ever ask for his recording of the
 12 recorded interview?
 13 A. I don't believe I asked for his recording of the
 14 interview.
 15 Q. Did you ever ask for a transcribed recorded
 16 statement?
 17 A. I don't believe I did.
 18 Q. When you spoke to the insurer, it was not
 19 recorded, correct?
 20 A. That's right.
 21 Q. Was there some sort of quality assurance
 22 recording for every phonecall that you make?
 23 MS. COUSINEAU: Vague and ambiguous.
 24 THE WITNESS: Are phonecalls that I --
 25 outgoing calls I make recorded; is that what you're saying?
 Page 222

1 Q. BY MR. PRINCE: Yes.
 2 A. Not to my knowledge.
 3 Q. Are inbound calls recorded?
 4 A. I don't know.
 5 Q. Okay. So you don't know if the company has a
 6 practice of recording inbound phonecalls to you as an
 7 adjustor?
 8 A. I don't know of any, no.
 9 Q. Does that mean they don't do it or you don't
 10 know?
 11 A. I don't know of any procedures about recording
 12 calls, no.
 13 Q. You know what I'm talking about?
 14 A. Yes.
 15 Q. Okay. Sometimes you call a business and they'll
 16 say, "Hey, this call may be recorded for quality
 17 assurance." I'm just asking, does Century do something
 18 like that?
 19 A. I never say that to anyone, no.
 20 Q. Do you know if there's an automated phone system
 21 that does that?
 22 A. Not to my knowledge.
 23 MR. PRINCE: I'm going to take a couple
 24 minutes, check my notes, get my thoughts together. That
 25 may be all the questions I have. I'm pretty sure that it
 Page 223

1 probably is.
 2 MS. COUSINEAU: Okay.
 3 (A 4-minute break was taken from 2:43 p.m.
 4 to 2:47 p.m.)
 5 MR. PRINCE: I have no additional
 6 questions at this time, subject to bringing her back for a
 7 deposition pending receipt of training materials,
 8 guidelines, policy, procedural manuals, et cetera.
 9 MS. COUSINEAU: So reserving the right to
 10 question her only on those additional documents?
 11 MR. PRINCE: Correct. Okay. Fair enough.
 12 Thanks.
 13 COURT REPORTER: Ms. Cousineau, are you
 14 ordering the transcript?
 15 MS. COUSINEAU: I am.
 16 (The deposition was concluded at 2:48 p.m.)
 17 (Signature was not waived.)
 18
 19
 20
 21
 22
 23
 24
 25
 Page 224

1 REPORTER'S CERTIFICATION
 2
 3 STATE OF ARIZONA)
) ss.
 4 COUNTY OF MARICOPA)
 5
 6 I, Sandra Marruffo, Certified Reporter in
 7 and for the State of Arizona, do hereby certify:
 8 That the foregoing witness, LISA HENDERSON,
 9 was duly sworn by me on November 8, 2012; that the
 10 deposition was taken before me at the time and place herein
 11 set forth; that the testimony and proceedings were reported
 12 stenographically by me and later transcribed into
 13 typewriting under my direction; that the witness requested
 14 transcript review and signature; that the foregoing is a
 15 full, true, and accurate record of the testimony and
 16 proceedings taken at that time, all done to the best of my
 17 skill and ability.
 18 IN WITNESS WHEREOF, I have subscribed my
 19 name this 18th day of November 2012.
 20
 21 
 Sandra Marruffo, AZ C.R. 5000
 22
 23 Assignment No. 284448
 24
 25
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Lisa Henderson

<p>1 DEPOSITION SIGNATURE PAGE</p> <p>2</p> <p>3 DANA ANDREW, as Legal Guardian of Case No. 2:12-cv-00978 RYAN T. PRETNER, and RYAN PRETNER, individually,</p> <p>4 Plaintiffs,</p> <p>5 v.</p> <p>6 CENTURY SURETY COMPANY, a foreign corporation; and DOES 1-10 inclusive, 7 Defendants.</p> <p>8 _____</p> <p>9 Assignment No. 284448</p> <p>10</p> <p>11 DECLARATION UNDER PENALTY OF PERJURY</p> <p>12 I declare under penalty of perjury that I</p> <p>13 have read the entire transcript of my deposition taken in</p> <p>14 the above-captioned matter or the same has been read to me,</p> <p>15 and the same is true and accurate, save and except for</p> <p>16 changes and/or corrections, if any, as indicated by me on</p> <p>17 the DEPOSITION ERRATA SHEET hereof, with the understanding</p> <p>18 that I offer these changes as if still under oath.</p> <p>19 Signed on the _____ day of</p> <p>20 _____, 20_____.</p> <p>21</p> <p>22</p> <p>23 _____</p> <p>24 LISA HENDERSON</p> <p>25</p> <p style="text-align: right;">Page 226</p>	<p>DEPOSITION ERRATA SHEET OF LISA HENDERSON Assignment No. 284448</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>SIGNATURE: _____ DATE _____</p> <p>LISA HENDERSON</p> <p style="text-align: right;">Page 228</p>
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<p>DEPOSITION ERRATA SHEET OF LISA HENDERSON Assignment No. 284448</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>SIGNATURE: _____ DATE _____</p> <p>LISA HENDERSON</p> <p style="text-align: right;">Page 227</p>	
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EXHIBIT "29"

EXHIBIT "29"

Daniel Mayer

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

DANA ANDREW, as Legal Guardian of Case No. 2:12-cv-00978
RYAN T. PRETNER, and RYAN PRETNER,
individually,

Plaintiffs,

v.

CENTURY SURETY COMPANY, a foreign
corporation; and DOES 1-10 inclusive,

Defendants.

DEPOSITION OF DANIEL MAYER

Pages 1 through 210

November 13, 2012

9:02 a.m. to 3:00 p.m.

3838 North Central Avenue, 15th Floor

Phoenix, Arizona 85012

Prepared by: Sandra Marruffo, R.P.R., AZ C.R. 50815

Page 1

U.S. LEGAL SUPPORT
(800) 993-4464

R.App. 001524

Daniel Mayer

<p>1 The deposition of DANIEL MAYER, Noticed by 2 Dennis M. Prince, Esq., was taken on November 13, 2012, 3 from 9:02 a.m. to 3:00 p.m. at the Offices of Kunz Plitt 4 Hyland Demlong, 3838 North Central Avenue, 15th Floor, 5 Phoenix, Arizona 85012, before Sandra Marruffo, Arizona 6 certified reporter No. 50815. 7 8 APPEARANCES OF COUNSEL 9 10 Representing the plaintiffs: PRINCE & KEATING BY: DENNIS M. PRINCE, ESQ. 11 3230 South Buffalo Drive Suite 108 12 Las Vegas, Nevada 89117 (702) 228-6800 13 (702) 228-0443 Facsimile dprince@princekeating.com 14 15 Representing the defendant: SEDGWICK, LLP 16 BY: MARIA LOUISE COUSINEAU, ESQ. 801 South Figueroa Street 17 Los Angeles, California 90017-5556 (213) 426-6900 18 (213) 426-6921 Facsimile maria.cousineau@sedgwicklaw.com 19 20 ALSO PRESENT: Victoria Roberts 21 22 23 24 25</p>	<p>1 Phoenix, Arizona 2 November 13, 2012 3 9:02 a.m. 4 5 DANIEL MAYER, 6 having been first duly sworn to tell the truth, the 7 whole truth, and nothing but the truth, was examined 8 and testified as follows: 9 10 EXAMINATION 11 Q. BY MR. PRINCE: Can you please state your name 12 for the record. 13 A. Daniel Mayer. 14 Q. Mr. Mayer, by way of reintroduction, my name is 15 Dennis Prince and I represent the plaintiffs in this 16 lawsuit against Century Surety Company. 17 Have you ever had your deposition taken 18 before? 19 A. No. 20 Q. I understand that you are a lawyer or at least 21 have a law degree; is that correct? 22 A. Yes. 23 Q. Are you also a licensed attorney? 24 A. Yes. 25 Q. In what states?</p>
<p>Page 2</p>	<p>Page 4</p>
<p>1 INDEX OF EXAMINATION 2 3 WITNESS: Daniel Mayer 4 5 EXAMINATION PAGE 6 By Mr. Prince 4 7 8 9 INDEX TO EXHIBITS 10 11 NO. DESCRIPTION PAGE 12 (No exhibits were marked for identification.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>1 A. Arizona. 2 Q. Okay. Have you ever been licensed in any other 3 state? 4 A. No. 5 Q. How long have you been an employee of Century 6 Surety Company? 7 A. I'm actually an employee of Meadowbrook 8 Insurance Group. I've been an employee there for a little 9 over four years. 10 Q. When did you become an employee of Meadowbrook 11 Insurance Group? 12 A. October of 2008. 13 Q. And was it Meadowbrook at that time? 14 A. Yes. 15 Q. Okay. What's its relationship with -- what's 16 Meadowbrook Insurance Group's relationship with Century 17 Surety Company? 18 A. Meadowbrook Insurance Group is a holding 19 company, parent company, for Century Surety. 20 Q. All right. Century Surety is an underwriting 21 entity? 22 A. Yes. 23 Q. So Meadowbrook writes paper under the name 24 Century Surety Group, among other entities, to your 25 knowledge?</p>
<p>Page 3</p>	<p>Page 5</p>

2 (Pages 2 to 5)

Daniel Mayer

<p>1 MS. COUSINEAU: Calls for a legal 2 conclusion. 3 Q. BY MR. PRINCE: Go ahead.</p>	<p>1 A. You know, I don't know the way the structure is 2 set up, whether there are -- whether there is anyone that's 3 actually a direct employee of Century Surety Company.</p>
<p>4 A. Century Surety Company is an insurance company 5 that we write -- we handle claims for them and, yes, they 6 do underwrite policies. 7 Q. All right. What is your position at 8 Meadowbrook? 9 A. Managing claims attorney. 10 Q. Do you manage litigated claims as an employee of 11 Meadowbrook Insurance Group on behalf of Century Surety 12 Company? 13 A. I supervise a team of claims attorneys that 14 manages claims, yes. 15 Q. But it's the Meadowbrook Insurance Group 16 employees that manage the litigated claims involving 17 Century Surety Company and its insureds? 18 MS. COUSINEAU: Calls for speculation. 19 Lacks foundation. 20 THE WITNESS: I'm not sure I quite 21 follow. 22 Q. BY MR. PRINCE: I'm trying to find out you -- 23 Does Century have their own employees or 24 do they use the Meadowbrook employees to manage and 25 supervise litigated claims?</p> <p style="text-align: right;">Page 6</p>	<p>4 Q. Okay. And how long were you in private -- 5 Well, what year did you graduate law 6 school? 7 A. 2005. 8 Q. And after you -- 9 Where did you go to law school? 10 A. Notre Dame. 11 Q. And after you graduated from law school, did you 12 come back to the state of Arizona? 13 A. Yes. 14 Q. Are you from Arizona? 15 A. Yes. 16 Q. And what year did you become licensed in 17 Arizona? 18 A. 2005. 19 Q. Before joining Century Surety Company sometime 20 in around 2008 time period, were you in private practice 21 for any period of time? 22 A. Yes. Yes. 23 Q. Did you ever take any depositions? 24 A. A few, yes. 25 Q. When you say "a few," what do you mean by that?</p> <p style="text-align: right;">Page 8</p>
<p>1 A. I'm sure the whole scope. I know I'm an 2 employee of Meadowbrook Insurance Group working for -- 3 working in Century Surety Company to -- largely what I do 4 is supervise claims attorneys that are handling, for the 5 most part, claims generated under Century Surety policies, 6 as well as several other underwriting entities. 7 Q. The employees in the litigation unit, are they 8 employees of Meadowbrook Insurance Group? 9 A. Yes. 10 Q. And then those claims attorneys supervise 11 litigated claims involving Century Surety Company and/or 12 its insureds? 13 A. Along with some other underwriting entities, 14 yes. 15 Q. So there's no separate claim adjusters for 16 supervising litigation claims for Century Surety Company, 17 correct? 18 MS. COUSINEAU: Vague and ambiguous. 19 THE WITNESS: Yeah, I mean, I can say 20 there are other people in the company that handle litigated 21 claims. 22 Q. BY MR. PRINCE: Well, I guess I'm trying to 23 find out, does Century Surety have their own employees, in 24 case I need to amend the complaint to name Meadowbrook? 25 I'm not trying to find out who you're doing work for.</p> <p style="text-align: right;">Page 7</p>	<p>1 A. I don't remember the exact number. 2 Q. A few hundred? A few thousand? Just a handful? 3 A. A handful or more in that range. 4 Q. Okay. When you got out of law school and came 5 back to the state of Arizona, where did you first go to 6 work as a lawyer? 7 A. Hinshaw & Culbertson. 8 Q. What's the nature of the Hinshaw & Culbertson's 9 practice? 10 A. Well, they're a large firm so they have a lot of 11 practice groups. I think they have about -- at the time 12 they probably had 26 or 27 offices, so they did just about 13 everything. 14 Q. Were they, obviously, a national practice? Had 15 a national practice? 16 A. They had a presence in a number of states. 17 Q. And you worked in the Phoenix office? 18 A. Yes. 19 Q. And what practice group were you associated with 20 at Hinshaw? 21 A. Mostly I did insurance defense work, largely 22 professional liability. 23 Q. When you say "professional liability," you mean 24 professional liability defense? 25 A. Yes.</p> <p style="text-align: right;">Page 9</p>

3 (Pages 6 to 9)

Daniel Mayer

<p>1 Q. Defense of whom? 2 A. It was mostly attorneys, although we did have 3 some other professionals that we were defending, as well. 4 Q. So primarily defense of legal malpractice 5 claims? 6 A. That was the bulk of the work, yes. 7 Q. How long did you work at Hinshaw? 8 A. I don't remember the exact dates, but it was 9 roughly two years. It may have been a little less. 10 Q. And what was your position at Hinshaw? An 11 associate attorney? 12 A. An associate attorney. 13 Q. What are the types of things that you did at 14 Hinshaw? 15 A. Well, there are a number of things. I'm sure I 16 can't remember all of them, but it was largely the 17 research, drafting motions, writing research memorandum. 18 Q. Okay. While at Hinshaw, were you involved at 19 all in providing any sort of insurance coverage analysis? 20 A. I don't remember doing any. I may have but I 21 don't remember. 22 Q. Okay. Did you handle any first-party litigated 23 insurance claims at Hinshaw? 24 MS. COUSINEAU: Vague and ambiguous. 25 THE WITNESS: By "first party," what do</p> <p style="text-align: right;">Page 10</p>	<p>1 A. I don't remember. The office here was 2 relatively small. And I don't remember if the -- which 3 groups the partners that I was working for were a part of. 4 Q. Were you involved in any sort of insurance 5 litigation -- Strike that. 6 Were you involved in any sort of coverage 7 litigation while at Hinshaw, to your recollection? 8 A. I don't remember anything specific. 9 Q. And after you left -- Well, strike that. 10 Where did you go after you left Hinshaw? 11 A. Meagher & Geer? 12 Q. Spell it. 13 A. M-E-A-G-H-E-R. And Geer is G-E-E-R. 14 Q. Why did you leave Hinshaw? 15 A. I didn't feel that I had enough work there. I 16 was looking to get more experience. 17 Q. Okay. What's the name of -- Well, strike that. 18 What's the nature of the Meagher -- 19 Meagher & Geer's practice? 20 A. They are also in multiple states so they have a 21 lot of practice areas. 22 Q. And what was the size of the office here in the 23 Phoenix area? 24 A. I don't remember exact numbers. It was probably 25 somewhere -- while I was there, it was probably somewhere</p> <p style="text-align: right;">Page 12</p>
<p>1 you mean? 2 Q. BY MR. PRINCE: You know what -- you don't 3 know what "first party" is? 4 A. I know what it means in number of different 5 contexts, yeah. 6 Q. What do you mean? There's only, like, one 7 context, right? There's a lawsuit directly against an 8 insurance company by its own assured, that would be a 9 first-party case, right? 10 A. If that's what you're referring to, sure. 11 Q. Do you remember have -- 12 A. I don't remember having handled any of those 13 types of claims as you described them. 14 Q. Were you involved in any type of bad-faith 15 litigation while at Hinshaw? 16 A. Not that I remember. 17 Q. What was the name of the group that you were 18 with at Hinshaw? Was it with the professional liability 19 group or what? 20 MS. COUSINEAU: Lacks foundation. 21 THE WITNESS: You know, I don't know if 22 they actually had it divided into groups. 23 Q. BY MR. PRINCE: Well, you said they had a 24 number of practice areas, like if someone -- were you 25 assigned a particular practice area or group?</p> <p style="text-align: right;">Page 11</p>	<p>1 in the range of eight to ten attorneys. 2 Q. Okay. In the Phoenix office, what was the 3 nature of the practice primarily? 4 A. Their office was actually in Scottsdale, and 5 there was -- a significant portion of the work was 6 coverage. There was some bad faith as well as some 7 professional liabilities and appellate work. 8 Q. Were you an associate attorney at Meagher & 9 Geer? 10 A. Yes. 11 Q. And what type of matters did you work on while 12 at Meagher & Geer? 13 A. I worked on a lot of different matters. The 14 majority of the work that I did was coverage work, as well 15 as appellate. 16 Q. When you say "coverage work," what do you mean 17 by "coverage work"? 18 A. Providing coverage opinions for carriers. 19 Q. Who were the larger insurance clients of the 20 office -- of the firm that you -- for which you provided 21 coverage work in Arizona? 22 A. Some of the -- a couple of the larger clients 23 that I remember are Scottsdale Insurance Company and 24 Western Heritage. 25 Q. And would you typically provide coverage</p> <p style="text-align: right;">Page 13</p>

4 (Pages 10 to 13)

Daniel Mayer

<p>1 opinions to Scottsdale and Western, as well as other 2 insurers? 3 A. That was the majority of the work that I worked 4 on, yes. 5 Q. What was the majority of the types of claims for 6 which you provided coverage analysis? 7 A. It was a wide range of types of policies. I 8 don't know whether it -- well, I'd say the majority of the 9 opinions we were asked for were probably generated from 10 general liability policies. 11 Q. Do you recall providing any coverage analysis 12 concerning a garage keeper policy? 13 A. I don't remember if I did or not. 14 Q. Were the majority of the claims related to 15 construction defect claims? 16 A. I don't know if it would have been the majority, 17 no. 18 Q. Would you say a substantial number of the 19 coverage analysis opinions you worked on involved 20 construction defect matters? 21 A. I had some construction defect matters that I 22 worked on. 23 Q. Was there any type of claim that you commonly 24 saw while working at Meagher & Geer for which you provided 25 coverage analysis?</p> <p style="text-align: right;">Page 14</p>	<p>1 There was some coverage work as well. 2 Q. How long did you work at O'Connor & Campbell? 3 A. It was a short time. Probably only about six 4 months. 5 Q. Why did you leave Meagher & Geer? 6 A. I was hoping to get more experience in 7 litigation. 8 Q. Do you remember handling any litigated matters 9 at Meagher & Geer? 10 A. Yes. 11 Q. Okay. How many litigated matters were you 12 involved in? 13 A. I don't remember. 14 Q. And the coverage work you were providing, what 15 was typically the scope of the coverage analysis? 16 Determine if a particular claim was covered by the policy? 17 MS. COUSINEAU: Objection. That may get 18 into both work product and attorney-client privilege. 19 MR. PRINCE: I'm just asking generally. 20 Q. BY MR. PRINCE: Go ahead. 21 MS. COUSINEAU: Same objection. 22 Q. BY MR. PRINCE: Go ahead. 23 A. Without getting into -- hopefully getting into 24 any privileged information, generally -- 25 Q. Well, I'm not asking about any privilege. I'm</p> <p style="text-align: right;">Page 16</p>
<p>1 A. No, it pretty -- it ran the gamut. 2 Q. Were you involved in any coverage litigation 3 while working at Meagher & Geer? 4 A. I don't remember specific cases, but I know I 5 would have worked on at least a few bad-faith-type claims. 6 Q. Okay. Do you remember the nature of those 7 cases? 8 A. I don't. 9 Q. How long did you work at Meagher & Geer? 10 A. It was probably between a year and a half, two 11 years. 12 Q. Where did you go to work after that? 13 A. A small firm called O'Connor & Campbell. 14 Q. How many lawyers at O'Connor & Campbell? 15 A. I don't know how many they have now. While I 16 was there, it was probably six or eight. 17 Q. What was your position at the firm? 18 A. Associate attorney. 19 Q. What's the -- What was the nature of O'Connor & 20 Campbell's practice when you were in there? 21 A. It was largely general insurance defense work. 22 Q. When you say "general insurance defense work," 23 what do you mean by that? 24 A. There were personal injury-type claims, property 25 damage claims, some construction defect, product liability.</p> <p style="text-align: right;">Page 15</p>	<p>1 just asking the types of things you did. I'm not asking 2 about a specific matter or a specific client. I'm trying 3 to understand -- 4 A. Sure. 5 Q. -- your special background and experience in 6 providing coverage analysis so I'm trying to find out what 7 the scope of your work was providing coverage analysis. 8 MS. COUSINEAU: That may get into his 9 work product. 10 Q. BY MR. PRINCE: Okay. Go ahead. 11 A. Very generally, it would be the work would come 12 in the form of a question from a carrier about whether some 13 particular claim was covered, and we would work on the 14 research to provide an opinion on that. 15 Q. When you say "covered," what do you mean by 16 "covered"? 17 A. Whether a particular claim was covered under a 18 particular type of policy. 19 Q. You mean whether there was, like, a duty to pay, 20 indemnify an insured for a particular claim that was made 21 against a policy? 22 A. It could have had to do with duty to defend, 23 duty to indemnify any type of coverage available under the 24 policy. 25 Q. Okay. While working at Meagher & Geer, did you</p> <p style="text-align: right;">Page 17</p>

5 (Pages 14 to 17)

Daniel Mayer

<p>1 ever provide any coverage opinions or analysis concerning 2 an insurer's duty to defend an insured? 3 MS. COUSINEAU: I'm going to object to</p>	<p>1 Q. Okay. And then after O'Connor & Campbell, where 2 did you go work? 3 A. At Meadowbrook.</p>
<p>4 the extent that it seeks to invade the attorney-client 5 privilege or the work product doctrine. 6 Q. BY MR. PRINCE: Go ahead and answer. 7 A. I don't remember specifically whether I did any 8 projects solely related to duty to defend. 9 Q. Were you involved in any litigated cases 10 concerning an insurer's duty to defend or the scope of an 11 insurer's duty to defend? 12 A. I'm sorry. Could you repeat that? 13 Q. Sure. While at Meagher & Geer, were you 14 involved in any litigated matters where one of the issues 15 was an insurer's duty to defend or the scope of an 16 insurer's duty to defend? 17 A. I don't recall being involved in any. 18 Q. Okay. And when you worked at O'Connor & 19 Campbell for six months, what are the types of cases that 20 you were involved in, or matters? 21 A. I'm sure I don't remember all of them, but I 22 know I worked on some product liability cases, some 23 personal injury cases, and assisted with some coverage work 24 as well. 25 Q. When you say "personal injury case," what type Page 18</p>	<p>4 Q. How did you find out about the job at 5 Meadowbrook? 6 A. I had a friend that worked there, actually. 7 Q. Who is that? 8 A. Neil Singh. 9 Q. Neil Singh? 10 A. Uh-huh. 11 Q. S-I-N-G-H? 12 A. Yes. 13 Q. What did Neil Singh do there? 14 A. He was one of the coverage attorneys. 15 Q. So you went to work there sometime in 2008 at 16 Meadowbrook? 17 A. Yes. 18 Q. Does Neil Singh still work there? 19 A. No. 20 Q. When did he leave? 21 A. I don't remember. It's been a while. 22 Q. What was your position when you first became an 23 employee of Meadowbrook? 24 A. Claims attorney. 25 Q. Okay. What does it mean to be a claims attorney Page 20</p>
<p>1 of personal injury cases are we talking about? 2 A. Auto accidents, slip and falls. 3 Q. What type of coverage matters did you work on at 4 O'Connor & Campbell? 5 A. I don't remember. 6 Q. Do you recall ever being involved in any 7 litigated matter where coverage was an issue, like O'Connor 8 & Campbell? 9 A. Not that I remember. 10 Q. Okay. Did you -- were you ever involved in 11 providing any coverage analysis for any client at O'Connor 12 & Campbell concerning an insurer's duty to defend or the 13 scope of an insurer's duty to defend? 14 A. Not that I remember. 15 MS. COUSINEAU: Object to the extent 16 that it seeks to invade the attorney-client privilege. 17 Q. BY MR. PRINCE: What was your answer? 18 A. I don't remember being involved in anything. 19 Q. And why did you leave O'Connor & Campbell? 20 A. Well, largely because they asked me to. 21 Q. Okay. What was the reason -- what was their 22 stated reason for letting you go? 23 A. They didn't really give any specific reason, but 24 my impression was they -- they needed more experienced 25 attorneys in the office. Page 19</p>	<p>1 at Meadowbrook in 2008? 2 A. Well, I'm sure that it means more than I can 3 probably say shortly, but it very generally -- I was a part 4 of the litigated claims unit that we -- that handled some 5 litigated claims for the company. 6 Q. And that was, obviously, here in the Scottsdale 7 office, correct? 8 A. At the time it was a Phoenix address, but, yes, 9 in the Arizona office. 10 Q. Okay. Here in the Phoenix-Scottsdale area? 11 A. Yes. 12 Q. So as a claims attorney, would you supervise 13 litigated claims? 14 MS. COUSINEAU: Vague and ambiguous. 15 THE WITNESS: I'm not sure what you mean 16 by "supervise" exactly. 17 Q. BY MR. PRINCE: What did you do as a -- well, 18 I'm trying to ask what you did. You said you handled 19 litigated claims for the company. I'm trying to find out, 20 did you, like, monitor third-party litigation where 21 Meadowbrook and/or Century's insured was involved in a 22 lawsuit? 23 A. Typically, yeah, it was -- 24 Q. Why don't you just tell me what you did. 25 A. Sure. If one of our claims -- or one of our Page 21</p>

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<p>1 insureds had been sued, was involved in litigation, 2 submitted the claim to us, it would come to our group for 3 handling, adjusting. As a claims attorney, I would work to 4 evaluate the claim, retain counsel to defend the insured if 5 necessary, and evaluate the matter as it developed. 6 Q. Okay. So you would supervise litigated claims 7 involving companies' insureds, right? 8 A. Well, I never used the word "supervise" for it, 9 but I would handle or adjust a litigated claim. 10 Q. Okay. I guess you would -- did you ever defend 11 an insured, you yourself actually represent an insured in a 12 litigated matter? 13 MS. COUSINEAU: As a claims attorney? 14 Q. BY MR. PRINCE: As a claims attorney for 15 Meadowbrook. 16 A. As a claims attorney for Meadowbrook, no. 17 Q. It's really a claims adjuster role, isn't it? 18 A. It's akin to. I would say it's fair to say it's 19 akin to a claims adjuster. 20 Q. Right. I mean, you're not there providing -- I 21 mean, while you are a lawyer, I mean, your function of 22 handling and adjusting and evaluating claims, that's -- 23 those are adjuster-based functions, right? 24 A. Typically, yeah. The reason we call them claims 25 attorneys is because all of us happen to be attorneys.</p> <p style="text-align: right;">Page 22</p>	<p>1 A. Yes. 2 Q. And after 2008 after you were hired, I mean, 3 when you hired additional people or people left and they 4 were replacing people, I mean, was there a conscious 5 decision by the company to only hire lawyers to become 6 claims attorneys? 7 MS. COUSINEAU: Lacks foundation. Calls 8 for speculation. 9 THE WITNESS: I don't know. 10 Q. BY MR. PRINCE: What's that? 11 A. I don't know whether the company had made a 12 conscious decision about that. 13 Q. Is there any particular reason why they're all 14 lawyers now versus adjusters -- I mean, claim adjuster, 15 nonlawyers, rather? 16 MS. COUSINEAU: Calls for speculation. 17 THE WITNESS: Yeah, I can't speak for 18 other people. But I know for myself, I like having 19 attorneys on my team, again, for the experience they bring 20 to the table. 21 Q. BY MR. PRINCE: When you say you can't speak 22 for anybody else, I mean, there's only one litigation unit 23 here in the Phoenix area, right? 24 A. The litigation unit isn't -- it's not separated 25 from -- Phoenix from Columbus. There's one unit. We have</p> <p style="text-align: right;">Page 24</p>
<p>1 Q. Is there anybody in the litigated litigation 2 unit that's not an attorney? 3 MS. COUSINEAU: Vague as to time. 4 Q. BY MR. PRINCE: As to -- for when you started 5 there. Let's start there. 6 A. At the time I started there, yes. 7 Q. Everybody was a lawyer? 8 A. No. 9 Q. They weren't. How about today? 10 A. Today everyone is a lawyer, yes -- 11 Q. Okay. 12 A. -- in the litigation unit. 13 Q. And is that by design? 14 MS. COUSINEAU: Calls for speculation. 15 THE WITNESS: Yeah, I can't talk to how 16 it was originally set up. And I don't know what people 17 several steps above me may be envisioning, but I know I, 18 for the people I supervise, appreciate having attorneys for 19 the experience they bring. 20 Q. BY MR. PRINCE: Who was your supervisor 21 starting in 2008? 22 A. Her name was Carol Broerman. 23 Q. What's her last name? 24 A. Broerman, B-R-O-E-R-M-A-N. 25 Q. Was Carol a lawyer?</p> <p style="text-align: right;">Page 23</p>	<p>1 some folks in Ohio, some folks here. 2 Q. I thought from Lisa Henderson that this office, 3 the Phoenix office, handled typically litigated claims west 4 of the Mississippi. Is that right? Is that not right? 5 A. We're actually handling for most of the country 6 at this point. Typically we try to stick with the western 7 portion of the country when possible. It makes it easier 8 with time zones. But, yeah, we typically tend to handle 9 western claims. 10 Q. So is it your practice, then, for at least the 11 Phoenix-Scottsdale office, to hire only attorneys to be -- 12 to handle litigated claims for the company? 13 A. I would prefer to have attorneys, yes. 14 Q. What's the rationale for that? 15 MS. COUSINEAU: Asked and answered. 16 THE WITNESS: Yeah, same thing. I just 17 -- I appreciate the experience they bring to the table and 18 the training they have. 19 Q. How is their training different than an 20 experienced adjuster who's handled litigated claims for, 21 say, 20 years? 22 A. Well, if we're hiring attorneys that have 23 litigated claims personally themselves, they've not only 24 been through law school, but actively participated in the 25 litigation process.</p> <p style="text-align: right;">Page 25</p>

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<p>1 Q. Do you think they have a more comprehensive 2 knowledge base to fulfill that function?</p> <p>3 MS. COUSINEAU: Vague and ambiguous. 4 Lacks foundation.</p> <p>5 THE WITNESS: Not necessarily. I think 6 it will vary from person to person.</p> <p>7 Q. BY MR. PRINCE: Then tell me why it's your 8 preference, then, to hire only attorneys to handle claims 9 in the litigation unit.</p> <p>10 MS. COUSINEAU: Asked and answered. 11 THE WITNESS: I appreciate the type of 12 training and experience they typically bring to the table.</p> <p>13 Q. BY MR. PRINCE: What's the type of training 14 that a licensed attorney brings to the table to handle and 15 adjust and evaluate litigated claims?</p> <p>16 MS. COUSINEAU: Misstates his testimony. 17 Asked and answered.</p> <p>18 THE WITNESS: I mean, there's -- 19 depending on the individual we're talking about, there 20 could be a host of examples. Generally, you know, an 21 attorney will have been to law school, for example, whereas 22 a nonattorney likely has not been to law school before, so 23 that would be one example of that training.</p> <p>24 Q. BY MR. PRINCE: Why would going to law school 25 give someone an advantage of handling, adjusting, or</p> <p style="text-align: right;">Page 26</p>	<p>1 attorney so it gives them an understanding -- more in-depth 2 understanding than a lot of people may have into the 3 process.</p> <p>4 Q. BY MR. PRINCE: Well, would it give them more 5 understanding about legal issues or would it give them more 6 understanding about how to evaluate, you know, a liability 7 claim, in terms of the factual evaluation of a liability 8 claim on the issue of liability and/or damages?</p> <p>9 MS. COUSINEAU: Lacks foundation. 10 THE WITNESS: I'm not sure I follow the 11 question.</p> <p>12 Q. BY MR. PRINCE: Let me restate it, then. 13 Would going to law school give a claims 14 attorney in the Meadowbrook environment more experience in 15 terms of understanding the law as it would apply to a 16 particular claim or would it assist them in the handling, 17 adjustment, and evaluation of liability and damages of a 18 claim?</p> <p>19 MS. COUSINEAU: Calls for speculation. 20 THE WITNESS: I'm sure that's going to 21 vary heavily from person to person, depending on their own 22 experience with law school and their practice of the law as 23 well.</p> <p>24 Q. BY MR. PRINCE: Okay. Now, what about the 25 experience level of a lawyer, do you think, that makes it</p> <p style="text-align: right;">Page 28</p>
<p>1 evaluating litigated claims?</p> <p>2 MS. COUSINEAU: Lacks foundation. 3 Misstates his testimony.</p> <p>4 THE WITNESS: Yeah, I don't know that in 5 every case it necessarily creates an advantage. But it's 6 one type of training that they've had that they can use in 7 handling litigated claims.</p> <p>8 Q. BY MR. PRINCE: How would going to law school 9 assist an adjuster in handling a litigated claim? What 10 advantage would that give them?</p> <p>11 MS. COUSINEAU: Lacks foundation. 12 Assumes facts not in evidence. Asked and answered.</p> <p>13 THE WITNESS: I didn't say it would give 14 them an advantage over any specific person out there. But 15 having training in the litigation process and the legal 16 process in general generally provides assistance in 17 handling litigated claims.</p> <p>18 Q. BY MR. PRINCE: Well, what sort of training 19 would someone get in law school that would assist them in 20 handling, adjusting, and evaluating litigated claims? What 21 part of that legal training would help them?</p> <p>22 MS. COUSINEAU: Same objection. 23 THE WITNESS: Yeah, I'm not sure how 24 else to say it, other than it's, obviously, the form of 25 training that all attorneys go through to become an</p> <p style="text-align: right;">Page 27</p>	<p>1 your preference to have someone who's an attorney handle, 2 adjust, and evaluate litigated claims?</p> <p>3 MS. COUSINEAU: Vague and ambiguous. 4 THE WITNESS: Are you asking about my 5 personal?</p> <p>6 Q. BY MR. PRINCE: Yeah, you said it's your 7 personal preference for people in your group to be lawyers.</p> <p>8 A. Okay. I personally have found it advantageous 9 at times to have a personal understanding and background of 10 having been involved in the litigation process. I have 11 found that to be helpful, not only in evaluating our 12 claims, but the relationships with the attorneys that are 13 defending our insureds and the communication that we can 14 have. So based on my own personal experience with that, I 15 can understand how it may be helpful for others as well.</p> <p>16 Q. Are you saying that a defense counsel can't have 17 the same type of discussion with an experienced adjuster 18 who's handled litigated claims?</p> <p>19 MS. COUSINEAU: Argumentative. 20 THE WITNESS: No, I'm not saying that at 21 all.</p> <p>22 Q. BY MR. PRINCE: I'm trying to, I guess, 23 understand why you think claims attorneys, then, have a 24 unique experience that would assist them as -- in the role 25 as an adjuster handling litigated claims.</p> <p style="text-align: right;">Page 29</p>

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<p>1 MS. COUSINEAU: Misstates his testimony. 2 Argumentative. 3 THE WITNESS: Yeah, I don't know how</p>	<p>1 Q. BY MR. PRINCE: Well, what about in every 2 claim there needs to be an evaluation of liability, right? 3 Some cases, there may be a dispute as to liability. Other</p>
<p>4 else to add to it other than to say again I appreciate 5 personally the experience that they have of having gone to 6 law school, practiced the law, that they're able to bring 7 to the table in managing litigated matters. 8 Q. BY MR. PRINCE: Is that what claims attorneys 9 do at Meadowbrook, is they manage litigated matters? 10 A. I wouldn't say that's all they do. 11 Q. Is that one of the things they do? 12 A. That's probably fair to say. 13 Q. What else do they do, other than manage 14 litigated matters? 15 MS. COUSINEAU: Overbroad. 16 THE WITNESS: There's a lot that goes 17 into it. I mean -- 18 Q. BY MR. PRINCE: Like what? 19 A. I'm sure I'll leave out a whole bunch of things, 20 but ... 21 Q. Why are you qualifying it that way, that you're 22 going to leave out a bunch of things? I'm a lawyer and 23 I've done this for 20 years and you can speak freely and 24 openly with me and we'll take as much time as we need to. 25 A. I'll tell you the things I can think of right <p style="text-align: right;">Page 30</p></p>	<p>4 cases, you may think it's reasonably clear and so it may 5 not be a contested issue. But every case involves an 6 evaluation of liability, right? 7 MS. COUSINEAU: Objection. Compound. 8 Argumentative. 9 THE WITNESS: I'd say generally most 10 cases do involve some evaluation of liability. 11 Q. BY MR. PRINCE: And also every case involves 12 evaluation of exposure or damages, right? 13 MS. COUSINEAU: Vague and ambiguous. 14 THE WITNESS: Most cases involve some 15 level of evaluating damages or injuries claimed. 16 Q. BY MR. PRINCE: You don't think all claims 17 involve evaluation of damages? 18 A. I can't think of particular circumstances, but 19 I'm sure there are exceptions to every rule. 20 Q. Okay. So -- But that's what a claims attorney 21 would do; they would -- for a new assignment, they would 22 initially evaluate coverage, right? 23 A. Usually that's -- 24 Q. Usually. They may investigate facts or gather 25 additional information relating to the claim, right? <p style="text-align: right;">Page 32</p></p>
<p>1 now that are part of the job. I'm qualifying it because I 2 may forget some things that people do in their day-to-day 3 lives. 4 I do know we will typically receive a new 5 claim, and evaluating coverage is a part of the work that a 6 claims attorney may do. Sometimes -- Well, I shouldn't say 7 "sometimes." Investigating the facts through various means 8 may be another piece to what they're doing. 9 Q. Okay. 10 A. Retaining counsel is a part of what they may do 11 if the situation calls for it. Communicating with the 12 insured. Assuming we're providing a defense, they'll often 13 oversee the litigation itself and communicate with various 14 parties to stay abreast of what's going on. 15 Q. Okay. What else? They perform evaluations of 16 liability aspects of claims? 17 A. They may. That may be a part of the process of 18 evaluating potential exposure on a claim, yes. 19 Q. Well, that's an essential claim adjustment 20 function, is to evaluate liability, right? 21 MS. COUSINEAU: Argumentative. 22 THE WITNESS: In some -- every claim is 23 going to be different. Sometimes analyzing the liability 24 closely isn't necessarily a key part of a particular claim, 25 where it may be a key part of another claim. <p style="text-align: right;">Page 31</p></p>	<p>1 A. That's usually part of it, yes. 2 Q. And that would often relate to a coverage 3 evaluation, correct, if they're engaging in that function? 4 MS. COUSINEAU: Overbroad. 5 THE WITNESS: The type of investigation 6 necessary and the reasons behind an investigation, 7 questions that need to be answered are going to vary widely 8 from claim to claim. It may relate to coverage. 9 Q. BY MR. PRINCE: Okay. And in your unit, the 10 majority of time is that there -- a lawsuit has been filed 11 against one of the insureds, correct? 12 A. In the majority of cases, yes. 13 Q. And in the vast majority, correct? 14 MS. COUSINEAU: Vague and ambiguous. 15 THE WITNESS: Depending on what you mean 16 by "vast." I'd say the majority, yes. 17 Q. BY MR. PRINCE: Well, I mean, with -- by 18 definition, I mean, your unit's called litigation unit. Do 19 you get nonlitigated matters in the litigation unit? 20 A. On occasion. 21 Q. Infrequent, correct? 22 A. Infrequently, yes. 23 Q. And so, if there's a lawsuit and the company has 24 elected to provide a defense, then it would be up to the 25 claims unit to hire defense counsel in the jurisdiction <p style="text-align: right;">Page 33</p></p>

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<p>1 where the lawsuit's located, correct? 2 A. Usually, yes. 3 Q. And then they would communicate -- the claims 4 attorney would then communicate with the defense counsel in 5 terms of overall management and oversight of the 6 litigation, correct? 7 A. Usually they do maintain regular communication 8 with the defending attorney, yes. 9 Q. Right. So once there's a lawsuit and the 10 defense counsel is selected by the claims attorney, he or 11 she would then communicate with the claims attorney, 12 correct? 13 MS. COUSINEAU: Vague and ambiguous as 14 phrased. 15 THE WITNESS: Yeah, the only qualifier 16 I'd put in there is it's not always counsel selected by the 17 claims attorney. Whoever is defending the insured in a 18 particular case, our claims attorney will usually maintain 19 regular communication with that person. 20 Q. BY MR. PRINCE: Well, hang on a second. If 21 you're going to provide a defense under your policies, you 22 have the right to select defense counsel, correct? 23 A. Under certain circumstances, we often have the 24 right to select, yes. 25 Q. Virtually all circumstances, right?</p> <p style="text-align: right;">Page 34</p>	<p>1 phrased. 2 THE WITNESS: Yeah, I think you're 3 assuming we've chosen the defense counsel. If what you're 4 getting at is, does our claims attorney communicate with 5 defense counsel, whoever that may be, when we're providing 6 a defense for an insured, yes, we typically will 7 communicate with them. 8 Q. BY MR. PRINCE: Okay. You agree with me that 9 if the company is electing to provide a defense in a 10 particular jurisdiction -- well, let's take California, for 11 example. I mean, you have approved attorneys that the 12 company will hire to defend an insured, correct? 13 MS. COUSINEAU: Overbroad, calls for 14 speculation. 15 THE WITNESS: Depending on the 16 particulars of a claim, we have a panel of attorneys that 17 we work with that we will retain at times to provide a 18 defense for insureds. California is probably a bad example 19 because there's also a right to independent counsel there, 20 and in many instances the insured has the right to select 21 their own counsel. 22 Q. BY MR. PRINCE: But in most states where you 23 provide a defense, you typically have a panel of approved 24 attorneys that you will assign the defense of an insured 25 to, correct?</p> <p style="text-align: right;">Page 36</p>
<p>1 A. Most of the time, I'd say it's probably the 2 case. 3 Q. Right. And not only -- you have the right to 4 not only select defense counsel, but also control the 5 litigation under the terms of your policies, correct? 6 MS. COUSINEAU: Vague and ambiguous. 7 Overbroad as phrased. 8 THE WITNESS: I think that's a pretty 9 broad generalization, but that can be the case. 10 Q. BY MR. PRINCE: That's generally the case, 11 isn't it? 12 MS. COUSINEAU: Vague and ambiguous. 13 Argumentative. 14 THE WITNESS: Most of the time, that may 15 be the case. And depending on the facts in a particular 16 claim, yes. 17 Q. BY MR. PRINCE: And so the claims attorney 18 would, then, communicate with defense counsel selected by 19 the company to defend an insured, correct? 20 MS. COUSINEAU: Could you read that 21 back, please? 22 THE WITNESS: Yeah, I'm not sure what 23 the question was. 24 (The pending question was read.) 25 MS. COUSINEAU: Vague and ambiguous as</p> <p style="text-align: right;">Page 35</p>	<p>1 MS. COUSINEAU: Overbroad. Incomplete 2 hypothetical. 3 THE WITNESS: We have a panel of 4 attorneys that we will use from time to time to represent 5 insureds, yes. 6 Q. BY MR. PRINCE: Right. In the jurisdictions 7 where you, correct, have litigation, right? 8 A. In the jurisdictions where we typically see 9 litigated claims, we do typically have attorneys available 10 through our panel. 11 Q. Right. Then the -- When the company has 12 decided -- elects to provide a defense to an insured, you 13 select -- typically select one of the firms which are part 14 of the panel to defend the insured, correct? 15 MS. COUSINEAU: Overbroad, incomplete 16 hypothetical. 17 THE WITNESS: If we have determined that 18 we have a duty to defend, we will typically retain counsel 19 from our panel list to provide that defense for the 20 insured. 21 Q. BY MR. PRINCE: Right. And I'm assuming you 22 have litigation guidelines, correct? The company has 23 litigation guidelines for your defense counsel? 24 A. Yes, we do have a set of litigation guidelines. 25 Q. And you have the -- or a member -- the</p> <p style="text-align: right;">Page 37</p>

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<p>1 lawyers -- the firms that are members of your panel in a 2 particular jurisdiction, they agree to provide a defense 3 consistent with the litigation guidelines, correct?</p>	<p>1 MS. COUSINEAU: Lacks foundation. 2 THE WITNESS: Typically if a defense 3 attorney is submitting an invoice to us for payment -- I</p>
<p>4 MS. COUSINEAU: Objection. This whole 5 line of questioning is irrelevant, but it's also vague and 6 ambiguous and it's also overbroad as framed. 7 THE WITNESS: Not necessarily. 8 Q. BY MR. PRINCE: To become a panel member, you 9 don't have to agree to the company's guidelines? 10 MS. COUSINEAU: Calls for speculation. 11 THE WITNESS: I don't know exactly what 12 that process entails. 13 Q. BY MR. PRINCE: Are you involved at all in 14 approving the use of law firms in a particular state as an 15 approved member of the panel of attorneys you may use in a 16 particular state? 17 A. To the extent that I -- I have input or 18 experience with particular counsel, I may provide input to 19 management above me. Beyond that, I'm not the end of the 20 line for choosing who goes on the panel and who doesn't. 21 Q. I mean, are there billing guidelines that your 22 defense attorneys must bill in accordance with? 23 MS. COUSINEAU: Calls for speculation. 24 THE WITNESS: We have billing 25 guidelines. What I don't know is whether they have to sign <p style="text-align: right;">Page 38</p></p>	<p>4 can only speak to how we handle in our particular group. I 5 don't know how other groups in the company handle it. But 6 our claims attorneys will typically review those bills and 7 approve payment. 8 Q. BY MR. PRINCE: Okay. Now, once a matter goes 9 into litigation or the company has elected to provide a 10 defense and selected the defense counsel, then will the 11 claims attorney then primarily gather factual information 12 from the defense lawyer? 13 MS. COUSINEAU: Vague and ambiguous as 14 phrased. Overbroad. 15 THE WITNESS: I'm not sure what you mean 16 by "primarily gather." 17 Could you restate that again? 18 Q. BY MR. PRINCE: Right. When there's a lawsuit 19 and it comes to your department, the litigation unit, and 20 it's assigned to a claims attorney and the company has 21 elected to provide a defense and you've hired defense 22 counsel for the insured, does the claims attorney primarily 23 get their information concerning liability or damages of a 24 claim from the defense lawyer at that point? 25 MS. COUSINEAU: Lacks foundation. <p style="text-align: right;">Page 40</p></p>
<p>1 any type of agreement or otherwise agree to follow them in 2 every case. 3 Q. BY MR. PRINCE: Well, I mean, the -- do you 4 get electronic billing as far as your guidelines? Like 5 with some service where they review, your defense firms 6 submit to a particular bill, and then it's reviewed for 7 conformity with the billing guidelines? Do you -- 8 MS. COUSINEAU: Objection. This 9 question's compound. 10 THE WITNESS: Sorry, I'm not sure I 11 followed the first part. 12 Q. BY MR. PRINCE: The defense lawyers that you 13 utilize, do they have to -- when they send a bill to the 14 company, is it reviewed by any third party for conformity 15 with the company's guidelines. 16 MS. COUSINEAU: Calls for speculation. 17 THE WITNESS: That I'm aware of, third 18 parties don't review invoices submitted to us. 19 Q. BY MR. PRINCE: Do you guys have some 20 department within the company where you review attorneys' 21 invoices for conformity with the company's guidelines. 22 MS. COUSINEAU: Calls for speculation. 23 THE WITNESS: Not that I'm aware of. 24 Q. BY MR. PRINCE: Who reviews the invoices of 25 defense counsel? <p style="text-align: right;">Page 39</p></p>	<p>1 Assumes facts not in evidence. 2 THE WITNESS: We get information from 3 defense counsel typically, yes. That's not always the only 4 source of information that we -- 5 Q. BY MR. PRINCE: Right. I mean, according to 6 Ms. Henderson, she handles anywhere from a hundred to 125 7 claims at any one time as part of her pending so she 8 probably, obviously, has a number of defense lawyers that 9 report to her concerning, you know, a claim, right, a 10 litigated claim? 11 MS. COUSINEAU: The question lacks 12 foundation. Assumes facts not in evidence. Misstates 13 testimony. 14 THE WITNESS: Yeah, I lost the question 15 there. Can you restate it? 16 Q. BY MR. PRINCE: Sure. I mean, Ms. Henderson 17 testified last week that she has on average between 100, 18 125 in her pending of litigated matters. I mean, her 19 function is to oversee those litigated claims, right? 20 MS. COUSINEAU: Misstates testimony. 21 THE WITNESS: Part of her job is to 22 oversee pending litigation against our insureds, yes. 23 Q. BY MR. PRINCE: You expect when the company 24 does provide a defense, that the defense counsel is going 25 to take all necessary steps to defend is an insured's <p style="text-align: right;">Page 41</p></p>

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<p>1 interests, correct? 2 MS. COUSINEAU: Lacks foundation. 3 Incomplete hypothetical.</p> <p>4 THE WITNESS: If we retain counsel to 5 provide a defense for one of our insureds, I would expect 6 them to meet all of their ethical obligations to provide a 7 valid defense for that insured. 8 Q. BY MR. PRINCE: Right. And one of those is to 9 protect the insured's interest in accordance with their 10 ethical obligations to zealously represent the client, 11 correct? 12 MS. COUSINEAU: Lacks foundation. 13 Misstates the law. 14 THE WITNESS: I'm not sure I followed 15 everything you said, but same answer essentially. I would 16 expect them to provide a zealous defense for the insured in 17 accord with their ethical obligations. 18 Q. BY MR. PRINCE: What didn't you understand 19 about my question? 20 A. I'm just not sure I heard the whole thing. 21 MR. PRINCE: Go ahead and read it back. 22 (The pending question was read.) 23 MS. COUSINEAU: Same objections. Vague 24 and ambiguous. Lacks foundation. 25 THE WITNESS: Generally their -- it</p> <p style="text-align: right;">Page 42</p>	<p>1 really thought I meant something other than claim 2 litigation? 3 MS. COUSINEAU: Counsel, that's not how 4 your question was phrased. 5 MR. PRINCE: No, I'm asking that now. 6 MS. COUSINEAU: Agreed. But that is not 7 how your original question was phrased. 8 MR. PRINCE: Oh, whatever. 9 Q. BY MR. PRINCE: Go ahead and answer that 10 question, would you? 11 MS. COUSINEAU: It is argumentative. 12 Lacks foundation. 13 Q. BY MR. PRINCE: Go ahead and answer. 14 A. To the extent that you're asking me whether my 15 understanding is that if we retain counsel to represent our 16 insured and provide a defense, they are to provide a 17 zealous defense to protect the insured's interest with 18 regard to that particular matter, yes, that's correct. 19 Q. All right. Because that's one of the benefits 20 to an insured under a policy, if there is a potentially 21 covered claim, the company's going to provide them a 22 defense of that potentially covered claim, correct? 23 MS. COUSINEAU: Lacks foundation. 24 Misstates the law. 25 THE WITNESS: One of the benefits under</p> <p style="text-align: right;">Page 44</p>
<p>1 depends on the scope of the representation. I think the 2 only problem I have with the question is it seems overbroad 3 at protecting the insured's interest. They're not retained 4 to necessarily provide trust and estates advice, for 5 example, so it -- 6 Q. Well, do you mean -- 7 A. -- to the extent that that part may be 8 overbroad, I'd say no. To the extent that I do expect them 9 to provide a zealous defense to represent their interest, 10 yes. 11 Q. Did you really understand my question to mean 12 protect their interest to mean something trusts and 13 estates, something unrelated to the claim litigation? Did 14 you really construe my question that way? 15 MS. COUSINEAU: Argumentative. 16 Q. BY MR. PRINCE: No, I want to find out -- 17 A. I'm saying that part's a little overbroad. 18 Q. No, I'm not sure if you're here to really object 19 to my questions. If you don't understand one of my 20 questions, I really want you to tell me you don't 21 understand it and let me know. I'll rephrase it. 22 But my last question, did you really 23 believe that when I asked the question, "Is the defense 24 counsel hired by the company there to protect the insured's 25 interests and, of course, their ethical obligations," you</p> <p style="text-align: right;">Page 43</p>	<p>1 a policy is often a defense. 2 Q. BY MR. PRINCE: Of a potentially covered 3 claim, correct? 4 MS. COUSINEAU: Objection. Incomplete 5 hypothetical. Misstates the law. 6 THE WITNESS: It can -- Yes, that can 7 be -- that is a potential, that a defense can be provided 8 where a claim is potentially covered. 9 Q. BY MR. PRINCE: But that is a benefit under 10 the policy to an insured, is the right to have a defense of 11 a potentially covered claim, correct? 12 MS. COUSINEAU: Overbroad. Incomplete 13 hypothetical. 14 THE WITNESS: The insured, as part of 15 what they get with the policy, my understanding is there 16 are circumstances where, yes, they do get a defense 17 provided to them. 18 Q. BY MR. PRINCE: With respect to a liability 19 coverage of a -- whether it be a CGL policy, commercial 20 auto policy, a garage policy, is that there's two basic 21 duties that the company has: One is the duty to indemnify 22 a covered claim and two is a duty to defend an insured 23 concerning litigation of a potentially covered claim, 24 correct? 25 MS. COUSINEAU: Objection, compound,</p> <p style="text-align: right;">Page 45</p>

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1 lacks foundation, misstates law.
 2 THE WITNESS: I'm not sure I followed
 3 the whole thing, but I -- carriers often have a duty to
 4 defend, often have a duty to indemnify. They are two
 5 separate duties, yes.
 6 Q. BY MR. PRINCE: Right. They are entirely
 7 separate and distinct, aren't they, the duty to indemnify
 8 and the duty to defend?
 9 MS. COUSINEAU: Objection,
 10 argumentative, compound.
 11 Q. BY MR. PRINCE: Correct.
 12 A. Depending on the particular circumstances of a
 13 claim, they can be distinct from one another.
 14 Q. Well, the duty to indemnify is an entirely
 15 different concept than the duty to defend an insured,
 16 correct?
 17 MS. COUSINEAU: Objection, vague and
 18 ambiguous.
 19 Q. BY MR. PRINCE: Those are two separate
 20 concepts, don't you agree?
 21 A. A duty to defend and a duty to indemnify are two
 22 separate concepts, yeah.
 23 THE WITNESS: Mind if I get some water?
 24 MR. PRINCE: Sure.
 25 MS. COUSINEAU: Actually, can we take a
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1 quick break?
 2 MR. PRINCE: Sure can.
 3 (A 6-minute break was taken from 9:51 a.m.
 4 to 9:57 a.m.)
 5 Q. BY MR. PRINCE: How long were you a claims
 6 attorney?
 7 A. A little over two years.
 8 Q. And how long -- when were you promoted to
 9 becoming a manager?
 10 A. I was promoted in, I believe, December of 2010.
 11 I think the official title was, in fact, January of 2011.
 12 Q. Okay. In March of 2009, what was your position
 13 with the company?
 14 A. March of 2009?
 15 Q. Yes.
 16 A. I was a claims attorney.
 17 Q. In June of 2009, what was your position with the
 18 company?
 19 A. In June of 2009, I was a claims attorney, as
 20 well.
 21 Q. Okay. Were you assigned any particular claims
 22 as a claims attorney in 2009?
 23 MS. COUSINEAU: Vague and ambiguous.
 24 THE WITNESS: I had a number of claims
 25 that I was responsible for.
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1 Q. BY MR. PRINCE: Were you assigned any
 2 particular types of claims?
 3 A. Oh, types of claims. I had a wide range of
 4 types of claims. I couldn't say it was narrowed down to a
 5 particular type, no.
 6 Q. Were you responsible for handling claims in any
 7 particular states in 2009?
 8 A. Quite a few states.
 9 Q. What states were those?
 10 A. I don't know if I could even list all of them.
 11 It was largely west of the Mississippi. I'd say the bulk
 12 of my claims were.
 13 Q. Where were the majority of your claims located,
 14 what states?
 15 MS. COUSINEAU: In 2009?
 16 Q. BY MR. PRINCE: Yes, in 2009.
 17 A. Well, I mean, at any given point during that
 18 year, I don't know exactly which state would have had the
 19 majority at a given time. I can tell you largely we tended
 20 to receive quite a few claims from Texas, quite a few from
 21 California. I don't know which state made up the majority
 22 of my load at that particular time, though.
 23 Q. Well, I mean, there are however many states
 24 there are west of the Mississippi, 20 plus. I mean, of
 25 that 20, were there like two or three states that seemed to
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1 be the majority of the claims litigation were located?
 2 MS. COUSINEAU: Asked and answered.
 3 THE WITNESS: Typically most of our
 4 claims in the western portion of the county generate from
 5 California and Texas.
 6 Q. BY MR. PRINCE: Did you -- okay. So in March
 7 of 2009, you were not Lisa Henderson's supervisor; is that
 8 correct?
 9 MS. COUSINEAU: Objection, irrelevant as
 10 to time.
 11 THE WITNESS: In March of 2009, I was
 12 not Lisa's supervisor, no.
 13 Q. BY MR. PRINCE: Okay. In March of 2011, were
 14 you her supervisor?
 15 A. In March of 2011, yes.
 16 Q. The -- When you first became an employee of the
 17 company in 2008, what sort of training did they provide to
 18 you?
 19 A. There was quite a bit. I received training on
 20 the various software programs we use, systems we use. I
 21 remember sitting with some of the other claims personnel to
 22 get a feel for how they handle their day and how they
 23 typically handle their claims. I spend quite a bit of time
 24 with my supervisor going over expectations and general
 25 practices for the job.
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<p>1 Q. Okay. What sort of training did you have for 2 general practices for your job as a claims attorney at 3 Meadowbrook? 4 A. It wasn't a formal process. You know, there's 5 not a -- at least as far as I remember at the time, there 6 wasn't a set program to go through, so I -- I don't -- a 7 lot of it's pretty fuzzy in my memory right now. 8 Q. For example, when you first became -- Well, 9 strike that. 10 When you became employed at Meadowbrook, 11 was it your understanding that you were going to be a 12 claims attorney for litigated claims? 13 A. When I was hired, yes, I understood I would be 14 handling litigated claims, yes. 15 Q. All right. Were you given any policy, 16 procedure, or process manuals, guidelines, or criteria for 17 your role as a claims attorney handling litigated claims? 18 A. You know, at the time I don't remember exactly 19 what I was given at that particular time. 20 Q. Was it your knowledge and understanding that you 21 were going to be handling litigated claims in a number of 22 states around the country? 23 A. Yes. 24 Q. Okay. Were you given any material, written or 25 electronic written material relating to an insurer's</p> <p style="text-align: right;">Page 50</p>	<p>1 what was available at the time. I do remember there were 2 some resources online for finding out -- I don't remember 3 which specific obligations and all of those kind of things, 4 but I do know there were some materials available that 5 would relate to that. 6 Q. BY MR. PRINCE: Do you know, when you were 7 first hired, if there was information available in the 8 company's intranet in any state concerning the standard -- 9 the legal standard for an insurer's duty to defend in a 10 particular state? 11 MS. COUSINEAU: Vague and ambiguous as 12 phrased. 13 THE WITNESS: I don't remember what was 14 available related to duty to defend at the time. 15 Q. BY MR. PRINCE: Was there -- How about as it 16 relates to claims handling practices in a particular state, 17 could you go to your company's intranet and find 18 information concerning claims handling practices, legal 19 standards for the state of Nevada? 20 MS. COUSINEAU: Asked and answered. 21 THE WITNESS: As far as I remember, 22 there were some materials available related to obligations 23 in various states. I just don't remember specifically what 24 those material were at the time. 25 Q. BY MR. PRINCE: Are you licensed as an</p> <p style="text-align: right;">Page 52</p>
<p>1 obligations in the various states where Meadowbrook or its 2 entities do business? 3 MS. COUSINEAU: Objection, vague as to 4 time. 5 THE WITNESS: At the time I was hired, 6 like I say, I don't remember what I was given. I know 7 there were resources available, I believe, on our computers 8 for -- you know, relating to obligations in various 9 different states, but I don't recall exactly what was made 10 available. 11 Q. BY MR. PRINCE: What sort of resources were 12 made available to you as a claims attorney? 13 A. I don't remember exactly what they were at the 14 time. 15 Q. What do you generally remember they were? 16 A. I remember there being materials available 17 through our intranet that would provide some information 18 about various obligations in different states. 19 Q. Like, for example, if you wanted to learn about 20 what an insurer's obligations are in the state of Nevada 21 specific to Nevada, could you use the company's intranet to 22 gain access to that information? 23 MS. COUSINEAU: Vague and ambiguous. 24 Overbroad as phrased. 25 THE WITNESS: I don't remember exactly</p> <p style="text-align: right;">Page 51</p>	<p>1 adjustor in any state? 2 A. Yes. 3 Q. Which states? 4 A. I don't remember. It's -- There are a number of 5 them. 6 Q. How many? 7 A. I'm not sure. 8 Q. Some states require adjustors to have specific 9 continuing education to maintain their licensure. Are you 10 licensed in any state that has continuing education 11 requirements as an adjustor? 12 A. I don't remember. I keep track of that, but I 13 can't remember off the top of my head. 14 Q. What do you mean you keep track of it? 15 A. I have a list of states that I'm licensed in. 16 Q. You can't tell me one state as you sit here 17 right now? 18 MS. COUSINEAU: Objection. 19 Argumentative. 20 THE WITNESS: I can tell you one state. 21 I know I'm licensed in Texas, for example. I can't tell 22 you the whole list, though. I just don't remember at all. 23 Q. BY MR. PRINCE: Well, what are the states that 24 you do recall being licensed in? 25 MS. COUSINEAU: Asked and answered.</p> <p style="text-align: right;">Page 53</p>

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<p>1 THE WITNESS: I don't want to give you 2 the wrong states. I just don't remember right now. 3 Q. BY MR. PRINCE: What are the ones that you 4 feel confident that you're licensed in, other than Texas? 5 MS. COUSINEAU: Asked and answered. 6 THE WITNESS: I wouldn't feel confident 7 on this by giving you any of them without looking at my 8 list. That's not anything I review on a daily basis so I 9 just don't have it in my memory. 10 Q. BY MR. PRINCE: Does Texas have any continuing 11 education requirements? 12 A. I don't remember if they're one of the states 13 that does. 14 Q. Can you identify any state that has a continuing 15 education requirement as an adjustor? 16 A. I don't remember which ones do, no. 17 Q. Do you maintain your licensure as a lawyer in 18 the state of Arizona? 19 A. As an attorney? 20 Q. Yeah. Even though you're not practicing. 21 A. Yes, I do. 22 Q. And obviously the State of Arizona has required 23 CLE, correct, annual CLE? 24 A. Correct. 25 Q. Can you utilize the CLE that you go to as a</p> <p style="text-align: right;">Page 54</p>	<p>1 training on a number of topics. 2 Q. Such as? 3 A. They can range, a lot of times depending on what 4 we feel our training needs are in any given year. But, 5 yeah, they vary from year to year, depending on our needs. 6 Q. Well, I asked you what the topics were that you 7 recall receiving training on. That's what I'd like for you 8 to answer. 9 A. I know we've received some training, for 10 example, on good faith claims handling practices in 11 California. They have a requirement that you certify that 12 you've received that training, so I know we receive that 13 annually. 14 Sorry, my mind is drawing a blank on other 15 topics. Like I say, there's not a lot of topics that we do 16 on a regular basis. It's more of an as-needed type thing 17 if we identify a particular area that we need training in. 18 Q. For example, one of the things I do in my 19 capacity as a lawyer is I represent many insurance 20 companies. I frequently will come to them and provide 21 training. You know, it typically deals with claims 22 handling standards, the duties of good faith and fair 23 dealing, defense obligations, indemnification obligations, 24 certain coverage issues that may arise. I mean, those are 25 common themes in the insurance industry.</p> <p style="text-align: right;">Page 56</p>
<p>1 licensed attorney to satisfy the -- any continuing 2 education requirements as an adjustor? 3 MS. COUSINEAU: Lacks foundation. Calls 4 for speculation. 5 THE WITNESS: I don't know. I know that 6 that varies from state to state, and depending on which 7 course -- which particular education course we're talking 8 about, I don't know whether there are some that overlap. 9 Q. BY MR. PRINCE: When you became a claims 10 attorney -- from the time you became a claims attorney at 11 Meadowbrook up through and including this year, 2012, have 12 you ever been provided any training concerning claims 13 handling? 14 MS. COUSINEAU: Overbroad. Vague and 15 ambiguous. 16 THE WITNESS: From -- I'm sorry. The 17 first part of that you asked -- 18 Q. BY MR. PRINCE: Since you first became a 19 claims attorney at Meadowbrook in 2008 up till the current 20 year, have you received any training concerning claims 21 handling by the company? 22 A. Yes. 23 Q. Okay. And what training do you recall them 24 giving you concerning claims handling? 25 A. Generally throughout any given year, we'll have</p> <p style="text-align: right;">Page 55</p>	<p>1 And so I guess I'm asking you -- I use 2 that just to illustrate what my question is -- have you 3 received that type of training by the company since you 4 became employed there on those types of topics? 5 MS. COUSINEAU: Overbroad. Compound. 6 THE WITNESS: We will have counsel come 7 in and provide training on similar topics from time to 8 time, yes. I'm not thinking of a specific topic right now, 9 but coverage-related topics, claims handling-related 10 topics, those types of thing. 11 Q. BY MR. PRINCE: Well, virtually all topics 12 concern on some level claims handling, don't they? 13 MS. COUSINEAU: Objection, lacks 14 foundation, assumes facts not in evidence. 15 THE WITNESS: Not necessarily. 16 Q. BY MR. PRINCE: You're a claim adjustor, and 17 so if someone's providing you training, it would have to 18 relate to the adjustment of claims on some level, right? 19 MS. COUSINEAU: Objection, 20 argumentative, lacks foundation. 21 THE WITNESS: It doesn't have to relate. 22 Generally our training will be with the goal of improving 23 our jobs as claims handler, so yeah. 24 Q. BY MR. PRINCE: Right. I mean, the claims 25 department is the service organization of an insurer,</p> <p style="text-align: right;">Page 57</p>

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<p>1 correct? 2 MS. COUSINEAU: Objection. 3 THE WITNESS: I'm sorry. What was that? 4 Say it again. 5 Q. BY MR. PRINCE: That's the service for an 6 insurance company, is the claims department, right? 7 MS. COUSINEAU: Vague and ambiguous. 8 THE WITNESS: We provide claims handling 9 service. 10 Q. BY MR. PRINCE: Right. That's the service 11 that an insurance company provides is claims handling, 12 correct? 13 MS. COUSINEAU: Objection, 14 argumentative, lacks foundation. 15 THE WITNESS: One of the services 16 provided is claims handling, yes. 17 Q. BY MR. PRINCE: That's the primary service of 18 an insurance carrier; don't you agree with that? 19 MS. COUSINEAU: Objection. Lacks 20 foundation. Calls for speculation. 21 THE WITNESS: I don't know. I know that 22 I handle claims. 23 Q. BY MR. PRINCE: No. You're in the insurance 24 industry. You're a manager for an insurance company. I 25 mean, what other service, other than claims handling, does Page 58</p>	<p>1 A. There are a host of things that any insurance 2 company gives. I'm agreeing with you that we provide 3 claims services. I don't know all the services that a 4 company the size of Meadowbrook, for example, may be 5 providing to the public. 6 Q. Okay. Well, the things you do provide to your 7 insured, the service you provide to an insured is the 8 claims handling function, right? 9 MS. COUSINEAU: Objection, 10 argumentative, lacks foundation, asked and answered. 11 THE WITNESS: We do provide claims 12 handling service. 13 Q. BY MR. PRINCE: Right. And so when you 14 receive training as a claims adjustor, the goal is 15 typically to improve the claims handling process or 16 service, right? 17 MS. COUSINEAU: Lacks foundation. 18 THE WITNESS: Typically our training is 19 done with the goal of improving the jobs that we do, yes. 20 Q. BY MR. PRINCE: Right. And commonly that 21 deals with good faith claims practices, right? 22 A. Some of the training relates to good faith 23 claims handling, yes. 24 Q. And some of it relates to coverage analysis, 25 correct? Page 60</p>
<p>1 an insurance company provide generally? 2 MS. COUSINEAU: Calls for speculation. 3 THE WITNESS: There's far more to the 4 company than I'm aware that we even provide, I'm sure. 5 Q. BY MR. PRINCE: As a property casualty 6 insurer, you're saying you don't know what other service, 7 other than claims handling, the company provides? 8 MS. COUSINEAU: Objection. 9 Argumentative. 10 THE WITNESS: I'm agreeing with you that 11 we provide claims handling services. I can't give you a 12 comprehensive list of all services that we provide or 13 whether one particular insured may view one service as a 14 primary for them versus another. 15 Q. BY MR. PRINCE: But other than adjust and pay 16 claims, what else does an insurance company do, other than, 17 I guess, underwrite the policy? 18 MS. COUSINEAU: Objection. 19 Argumentative. 20 Q. BY MR. PRINCE: What else do they do? 21 MS. COUSINEAU: You just named another 22 one. 23 THE WITNESS: There are a host of 24 things -- 25 Q. BY MR. PRINCE: I'm not on the service side. Page 59</p>	<p>1 A. Sometimes, yes. 2 Q. And part of that would include when an 3 insurer -- or when you, as an insurer, should provide a 4 defense to your policyholder, right? 5 MS. COUSINEAU: Vague and ambiguous as 6 phrased. 7 THE WITNESS: Some of the training may 8 include discussion of duty to defend, for example, yes. 9 Q. BY MR. PRINCE: Because that's one of the 10 functions that an insurer -- that's one of the benefits that 11 an insurer like Meadowbrook or Century, as the case may be, 12 provides to its insured, is a defense in connection with a 13 litigated claim, right? 14 MS. COUSINEAU: Lacks foundation. 15 THE WITNESS: Depending on the 16 particular claim, we provide a defense at times, yes. 17 Q. BY MR. PRINCE: Right. And you understand 18 that the legal standards for the duty to defend are 19 different than a duty to indemnify, right? 20 MS. COUSINEAU: Overbroad, lacks 21 foundation. 22 THE WITNESS: My understanding -- and 23 the rules and laws vary from state to state, but oftentimes 24 there are -- there is a different analysis applied to a 25 duty to defend versus a duty to indemnify. Page 61</p>

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<p>1 Q. BY MR. PRINCE: Well, there is some subtlety 2 to the law in every state. I mean, you would agree 3 generally that the law is universal that the duty to defend 4 is broader than the duty to indemnify, right? 5 MS. COUSINEAU: Lacks foundation. May 6 misstate the law. Calls for a legal conclusion. 7 THE WITNESS: I don't know whether 8 that's a universal concept. I do know sometimes the duty 9 to defend is different than the duty to indemnify. 10 Q. BY MR. PRINCE: And you heard -- as a claims 11 adjustor and as a lawyer, you're aware that the duty to 12 defend is broader than the duty to indemnify, correct? 13 MS. COUSINEAU: Same question. Same 14 objections. 15 THE WITNESS: Same answer. I don't know 16 that that's a universal concept. I do know the duty to 17 defend is sometimes distinct from a duty to indemnify. 18 Q. BY MR. PRINCE: What do you mean "sometimes"? 19 It's always distinct, isn't it? 20 MS. COUSINEAU: Objection. 21 Argumentative. Calls for a legal conclusion. Lacks 22 foundation. 23 THE WITNESS: I'm speaking in 24 generalities because we're not talking about a particular 25 claim. Every claim may be different. Sometimes the two</p> <p style="text-align: right;">Page 62</p>	<p>1 from time to time. 2 Q. BY MR. PRINCE: I'm not asking if it varies. 3 I'm asking do they ever? That was the question: Do they 4 ever? 5 A. Yeah, people bring in PowerPoint presentations. 6 Q. They give you handouts, written handouts, right? 7 A. Not usually, no. 8 Q. Do you keep the presentations for any record 9 keeping within the company? 10 A. No, not typically. 11 Q. Why? 12 MS. COUSINEAU: Calls for speculation. 13 THE WITNESS: I know that it's a general 14 rule that we're not to keep any of the presentations and 15 we're not given presentations. 16 Q. BY MR. PRINCE: Well, why is -- 17 A. I shouldn't say it's a rule. A general 18 practice, we don't -- nobody gives us presentations, we 19 don't keep presentations around. 20 Q. Who established that practice, not to keep any 21 of the presentations by the counsel that comes in and 22 provides your training session? 23 MS. COUSINEAU: Lacks foundation. 24 Misstates his testimony. 25 THE WITNESS: All I know is we don't</p> <p style="text-align: right;">Page 64</p>
<p>1 duties may look or feel exactly the same. 2 Q. BY MR. PRINCE: But the concept of the duty to 3 defend, as we talked about earlier, that is distinct from 4 the duty to indemnify, right? 5 A. Those are two different concepts, yes. 6 Q. And you've read and you've done legal research, 7 whether as a lawyer or as a claims adjustor, claims 8 attorney, that the duty to defend is broader than the duty 9 to indemnify, right? 10 MS. COUSINEAU: Lacks foundation. 11 Assumes facts not in evidence in evidence. 12 THE WITNESS: Again, I don't know that 13 that's a universal concept. I do know that oftentimes, 14 depending upon which state we're talking about, the duty to 15 defend can be broader than the duty to indemnify. 16 Q. BY MR. PRINCE: Can you think of a state where 17 you handled a claim where the duty to defend is not broader 18 than the duty to indemnify? 19 A. I can't think of anything that I've encountered 20 off the top of my head, no. 21 Q. And when you have outside firms come in and 22 provide claims handling training, do they typically bring 23 in a PowerPoint presentation? 24 MS. COUSINEAU: Vague and ambiguous. 25 THE WITNESS: That will vary quite a bit</p> <p style="text-align: right;">Page 63</p>	<p>1 generally keep them. I don't have -- 2 Q. BY MR. PRINCE: Why is that? 3 A. I don't know. 4 Q. What's the purpose of having the training if you 5 don't keep the written material so that you can refer back 6 to it? 7 MS. COUSINEAU: Argumentative. Assumes 8 facts not in evidence. Lacks foundation. 9 THE WITNESS: My own personal take is 10 just because I don't have the PowerPoint to refer to later 11 doesn't make the training any less valuable. 12 Q. BY MR. PRINCE: Okay. If you're going to 13 qualify for CLE or some type of continuing education, 14 typically I think it's required that there be written 15 material be provided to you. I mean, I think that's 16 generally required. So when you're getting it for actual 17 continuing education -- to satisfy continuing education 18 requirements as an adjustor, what do you do with the 19 written materials in those situations? 20 MS. COUSINEAU: Lacks foundation. 21 Actually, could you read that question 22 back, please. 23 (The pending question was read.) 24 MS. COUSINEAU: Lacks foundation. 25 Assumes facts not in evidence in evidence. And calls for</p> <p style="text-align: right;">Page 65</p>

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<p>1 speculation. 2 THE WITNESS: Yeah, I'm not quite clear 3 what you were getting at there. 4 Q. BY MR. PRINCE: If you're -- Do you keep -- 5 Strike that. 6 If you're receiving training for the 7 purposes of getting continuing education credits for 8 continuing education requirements as a claims adjuster, do 9 you keep the written materials provided -- that are 10 utilized for any purpose associated with that training? 11 MS. COUSINEAU: Assumes facts not in 12 evidence. 13 THE WITNESS: Are you talking about 14 continuing education for an adjuster license? 15 Q. BY MR. PRINCE: Yes. 16 A. I don't know if I have any materials right now 17 from prior courses. I may, but I just can't remember. 18 Q. I mean, the training you get that satisfies 19 continuing education as an adjuster, is that all training 20 provided at the company, I mean at the office of the 21 company or do you go somewhere for that? 22 A. For continuing education as an adjuster, it's 23 not necessarily all provided just at the company. 24 Q. Where else would you go get it? 25 A. Typically adjustors are free to select whatever</p> <p style="text-align: right;">Page 66</p>	<p>1 familiar with all the ways they handle their training in 2 Ohio. 3 Q. Okay. Do you -- Does the company ever send 4 somebody out, say, from Ohio to come to the office here and 5 provide any sort of training to the claims adjustors since 6 you've been there? 7 MS. COUSINEAU: Overbroad. Calls for 8 speculation. Same objections. 9 THE WITNESS: You know, I don't remember 10 whether there have been any formal training sessions where 11 someone from Columbus came out and provided it. I don't 12 remember anything particular. 13 Q. BY MR. PRINCE: Who keeps track of all the 14 training that's provided to the claims adjustors at 15 Meadowbrook? 16 MS. COUSINEAU: Calls for speculation. 17 THE WITNESS: If you're talking about 18 all the claims adjustors at Meadowbrook, I don't know. 19 Q. BY MR. PRINCE: What about the adjustors 20 handling the litigated claims? 21 MS. COUSINEAU: Calls for speculation. 22 THE WITNESS: I personally will keep 23 track of training that I'm aware of that the people that 24 report to me have had just so I can have an understanding 25 of what training they've had and what they may need in the</p> <p style="text-align: right;">Page 68</p>
<p>1 courses they want from any number of vendors. 2 Q. Okay. And so where would you -- what sort of 3 vendors are available to you as an adjustor at Meadowbrook? 4 MS. COUSINEAU: Calls for speculation. 5 THE WITNESS: Yeah, you know, I haven't 6 taken a continuing education for an adjustor license for 7 some time now so I'm drawing a blank on particular vendors 8 that I've used in the past. 9 Q. BY MR. PRINCE: Does the company provide any 10 in-house training to the claims adjustors handling 11 litigated matters? 12 MS. COUSINEAU: Asked and answered. 13 THE WITNESS: From time to time, yes. 14 Q. BY MR. PRINCE: When I'm saying in-house 15 training, I mean someone like an employee of the company is 16 actually doing the training, not an outside firm. 17 A. Speaking only for our particular group, that's 18 not typical. It happens from time to time, yes, but it's 19 not typical. 20 Q. Okay. When you say "our particular group," what 21 group are you referring to? 22 A. Litigated claims. 23 Q. Just here in the Arizona office, or also the 24 Ohio office? 25 A. Just here in Arizona. I'm not a hundred percent</p> <p style="text-align: right;">Page 67</p>	<p>1 future. 2 Q. BY MR. PRINCE: How do you keep track of that 3 training? 4 A. I have notes that I will keep. 5 Q. What kind of notes? 6 A. Just I will write down if we have a particular 7 training session. Or if somebody attends a CLE event that 8 I'm aware of anyway, I'll just make a note of it. 9 Q. Okay. Where do you make a note of it? 10 A. I think it's a Word document I have in my 11 computer somewhere. 12 Q. So it's an electronically stored document? 13 A. Yes. 14 Q. Is it shared with anyone? 15 MS. COUSINEAU: Vague and ambiguous. 16 THE WITNESS: I don't know exactly how 17 all the technology works on the server. I save it on -- I 18 don't share it with anyone. It's my document that I keep. 19 Q. BY MR. PRINCE: Like, for example, does Human 20 Resources have a copy of it so they can keep track of it? 21 MS. COUSINEAU: Calls for speculation. 22 THE WITNESS: I don't know if they can 23 get access to it, but I don't believe I provided them with 24 a copy of it. 25 Q. BY MR. PRINCE: What information do you keep</p> <p style="text-align: right;">Page 69</p>

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<p>1 on this document concerning training to the adjustors who 2 you supervise?</p>	<p>1 Q. BY MR. PRINCE: Are these outside counsel 2 members of your panel from a particular state or</p>
<p>3 MS. COUSINEAU: Asked and answered. 4 THE WITNESS: It -- just a list of which 5 training sessions which one has attended and whether 6 they've attended, you know, a separate CLE event or 7 training that I know about. 8 Q. BY MR. PRINCE: When you say "training 9 session," you mean that's a training session that is 10 conducted at the office of Meadowbrook? 11 A. Sometimes, yeah. 12 Q. Where else would there be training sessions? 13 MS. COUSINEAU: Overbroad. 14 THE WITNESS: Yeah, I mean, it could be 15 anywhere. For example, if I know two of them go to the 16 same CLE event together or something, I may make a note of 17 it so that I'm aware of the training they're receiving. 18 Q. BY MR. PRINCE: Well, I guess I'm 19 differentiating between a training session and a CLE event 20 or continuing CE event. And so when I'm talking about a 21 training session, I'm talking more driven by the company. 22 Would you agree with that? Is that how you're using the 23 term? 24 A. I guess I wasn't thinking about -- 25 MS. COUSINEAU: I'm going to object. It Page 70</p>	<p>3 jurisdiction? 4 MS. COUSINEAU: Calls for speculation. 5 THE WITNESS: Of the training that I 6 know I've been involved in and set up, oftentimes it will 7 be a member of our panel. 8 Q. BY MR. PRINCE: Often or always? 9 A. I wouldn't say always. 10 Q. So sometimes you'll hire firms that you have no 11 relationship with who'll come in and provide a training 12 session? 13 MS. COUSINEAU: Misstates his testimony. 14 THE WITNESS: I don't hire anyone to 15 come do any particular kind of training for us. But we've 16 had training from many different sources, some of which are 17 panel counsel, some aren't. 18 Q. BY MR. PRINCE: When panel counsel comes in and 19 provides a training session, is it done free of charge 20 typically? 21 MS. COUSINEAU: Calls for speculation? 22 THE WITNESS: I have not been involved 23 in paying a firm for a training session. 24 Q. BY MR. PRINCE: Right. Whether that's your 25 panel counsel or not, you've never paid a firm to come in Page 72</p>
<p>1 misstates his testimony. I'm not sure it's a term he used. 2 MR. PRINCE: He used the term "training 3 session." 4 Q. BY MR. PRINCE: You used the term "training 5 session." 6 A. Yeah, I wasn't thinking about particular 7 definition of it, but I'll keep track of training. If an 8 attorney comes into the office and provides a presentation 9 of something, I may make a note of that so that I can 10 remember that, yes, we did receive some training on this 11 topic. 12 Q. Do you hire attorneys to come and provide 13 training? 14 A. I don't typically hire someone, no. 15 Q. Do you arrange for the training sessions for the 16 people in your department? 17 A. Not necessarily all of them. Sometimes I'll 18 arrange a training session. 19 Q. And who is it typically done by? Outside 20 counsel? 21 MS. COUSINEAU: Assumes facts not in 22 evidence, lacks foundation. 23 THE WITNESS: I'm trying to think of 24 whether there's a majority of the time. A lot of times 25 outside counsel will come in and do a presentation, yes. Page 71</p>	<p>1 and provide a training session? 2 A. I personally have not made arrangements to pay 3 anyone to do a training session. 4 Q. Typically those are free of charge, right? 5 MS. COUSINEAU: Objection, calls for 6 speculation. 7 THE WITNESS: Of the ones I've been 8 involved in setting up and organizing, I haven't typically 9 been aware of any payment arrangement, no. 10 Q. BY MR. PRINCE: And since you've been at the 11 company, have you had any training sessions concerning an 12 insurer's duty to insure an insured. 13 MS. COUSINEAU: Vague and ambiguous, 14 overbroad. 15 THE WITNESS: I'm sure that discussions 16 about the duty to defend have been a part of some of the 17 training sessions. I don't recall if there's been a 18 particular session devoted solely to that topic, no. 19 Q. BY MR. PRINCE: But when you were a claims 20 attorney, were there any training sessions that you 21 participated in where the duty to defend was discussed? 22 MS. COUSINEAU: Same objection -- I'm 23 sorry, asked and answered. 24 THE WITNESS: Yeah, same answer, I'm 25 sure that it has been a part of discussions in context of Page 73</p>

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1 training. I don't remember there being a training session
 2 devoted specifically to the duty to defend. We may have.
 3 I just don't remember.

4 Q. BY MR. PRINCE: It may be part of a training
 5 session, though, correct?
 6 MS. COUSINEAU: Overbroad. Calls for
 7 speculation.
 8 THE WITNESS: It may have been part of
 9 some of the training that we've had, yes.

10 Q. BY MR. PRINCE: Was this training related to
 11 legal standards in a particular state, or are these just
 12 general legal standards kind of -- you know, that -- for
 13 claims handling generally?
 14 MS. COUSINEAU: Vague and ambiguous as
 15 phrased.
 16 THE WITNESS: We've had both.
 17 Q. BY MR. PRINCE: Well, let me be more specific.
 18 When you've had training sessions which included discussion
 19 about the duty to defend, was it specific to a particular
 20 state or jurisdiction or was it a general discussion or
 21 presentation concerning an insurer's duty to defend?
 22 MS. COUSINEAU: Misstates his testimony.
 23 Lacks foundation.
 24 THE WITNESS: You know, I can't remember
 25 whether there have been -- when the duty to defend has been

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1 discussed, I can't remember whether it was in the context
 2 of a particular state or a general concept.
 3 Q. BY MR. PRINCE: Okay. Can you -- Do you
 4 believe that you've had general discussions concerning an
 5 insurer's duty to defend since you've been a claims
 6 attorney or manager of the claims attorneys at Meadowbrook?
 7 MS. COUSINEAU: Asked and answered.
 8 THE WITNESS: Yeah, I believe so.
 9 Q. BY MR. PRINCE: What do you recall about those
 10 discussions about an insurer's duty to defend generally?
 11 MS. COUSINEAU: Overbroad.
 12 THE WITNESS: You know, I don't recall
 13 any specific discussions, so I'm --
 14 Q. BY MR. PRINCE: I said generally.
 15 A. Yeah, and that's why I'm saying I don't recall
 16 any specific training sessions so I don't remember
 17 generally what was discussed at those sessions.
 18 Q. BY MR. PRINCE: Well, based upon your
 19 education, training, and experience, what is your
 20 understanding generally of an insurer's duty to defend an
 21 insured?
 22 MS. COUSINEAU: Overbroad as phrased.
 23 THE WITNESS: Generally speaking, a
 24 carrier may have a duty to defend where there is some
 25 coverage potentially available under the policy.

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1 Q. BY MR. PRINCE: What does it mean to be "some
 2 coverage potentially under the policy"?
 3 A. That can vary quite a bit from one claim to
 4 another, and also my understanding is from one state to
 5 another, depending upon any given state's laws.
 6 Q. And you understand that I mean you may not
 7 know -- an insurer may not know whether there's a duty to
 8 indemnify until the litigation of the claim is concluded,
 9 right?
 10 MS. COUSINEAU: Incomplete hypothetical.
 11 Lacks foundation.
 12 THE WITNESS: Whether a duty to
 13 indemnify exists could reveal itself at a whole number of
 14 different points in the process, but sometimes it could be
 15 at the end of a litigation process.
 16 Q. BY MR. PRINCE: Right. Sometimes you may know
 17 it early, sometimes you may not know it until the end,
 18 correct?
 19 A. It's possible.
 20 MS. COUSINEAU: Vague and ambiguous as
 21 phrased.
 22 Q. BY MR. PRINCE: Have you provided any sort of
 23 training -- Strike that.
 24 Have you received any sort of training
 25 since you've been an employee of Meadowbrook concerning

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1 providing a defense under reservation of rights?
 2 A. I don't remember any particular formal training
 3 related to that specific topic.
 4 Q. How about any --
 5 A. I may have.
 6 Q. How about any informal training?
 7 A. I know discussions about providing a defense
 8 under a reservation of rights, I'm sure, were had when I
 9 was hired. And it's part of our everyday claims handling,
 10 so informally, I'm sure, yes.
 11 Q. What does it mean to have -- what do you mean
 12 that it's part of your everyday claims handling concerning
 13 decisions regarding "providing a defense under a
 14 reservation of rights"?
 15 A. Well, to the extent, for example, that I may
 16 have a conversation with someone that reports to me about a
 17 particular claim, if it involves a defense under a
 18 reservation of rights, we may discuss that in the context
 19 of discussing that claim.
 20 Q. In fact, most defenses provided by Meadowbrook
 21 are done under a reservation of rights, correct?
 22 MS. COUSINEAU: Calls for speculation.
 23 Lacks foundation.
 24 THE WITNESS: I don't know if the
 25 numbers work out to where I could say most.

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<p>1 Q. BY MR. PRINCE: But there are number of cases 2 that Meadowbrook provides -- or Century, as the case may 3 be, provides a defense under reservation of rights, 4 correct? 5 MS. COUSINEAU: Vague and ambiguous as 6 phrased. Lacks foundation. 7 THE WITNESS: Of the claims that either 8 I have worked on directly or my reports have worked on, a 9 number of them, we are providing a defense under a 10 reservation, yes. 11 Q. BY MR. PRINCE: What does it mean, for our 12 record, to provide a defense under the reservation of 13 rights? 14 MS. COUSINEAU: Would you read that 15 question back, please. 16 (The pending question was read.) 17 MR. PRINCE: I said "for our record." 18 MS. COUSINEAU: Oh, that's what I -- 19 Objection. Vague and ambiguous. 20 THE WITNESS: I'm sorry. Can you -- 21 MR. PRINCE: Let me restate the 22 question. 23 Q. BY MR. PRINCE: What does it mean to provide a 24 defense under a reservation of rights? 25 MS. COUSINEAU: Calls for a legal</p>	<p>1 the company provide a defense to an insured under 2 reservation of rights? 3 MS. COUSINEAU: Can you read that back, 4 please. 5 (The pending question was read.) 6 MS. COUSINEAU: Objection. Overbroad. 7 THE WITNESS: I really can't speak for 8 the whole company. There are a number of lines of business 9 out there that I'm not even familiar with so I can't give 10 you all the circumstances. 11 Q. BY MR. PRINCE: Well, at least as it relates 12 to the claims that you manage or oversee, under what 13 circumstances do -- does the company for those claims that 14 you're -- have direct or an indirect involvement in provide 15 a defense under reservation of rights? 16 MS. COUSINEAU: Objection. Lacks 17 foundation. Overbroad. 18 THE WITNESS: Very generally speaking, 19 if it appears that some provision of the policy may apply 20 to limit the available coverage, we'll often issue a 21 reservation of rights letter. 22 Q. BY MR. PRINCE: Under what circumstances do 23 you provide a defense under a reservation of rights? 24 MS. COUSINEAU: Objection. Overbroad -- 25 Q. BY MR. PRINCE: -- for the claims you oversee</p>
<p>1 conclusion. 2 THE WITNESS: Very generally it 3 typically would mean that we have reserved our right to 4 rely on some provision of the policy to limit coverage, 5 possibly deny coverage during the time that we're also 6 providing a defense for the insured. 7 Q. BY MR. PRINCE: When you say to limit or deny 8 coverage, you mean to not indemnify an insured for all or a 9 portion of a claim, correct? 10 MS. COUSINEAU: Objection. Misstates 11 his testimony. Argumentative. 12 THE WITNESS: It can mean that we're 13 reserving the right to limit the indemnification that we'll 14 provide. 15 Q. BY MR. PRINCE: That's what you're talking 16 about, right? Whether you're going to cover a claim or 17 not, what you're really talking about is whether you're 18 going to indemnify an insured for a particular type of 19 claim or a particular aspect of a claim, correct? 20 MS. COUSINEAU: Objection. Misstates 21 his testimony. Argumentative. Lacks foundation. 22 THE WITNESS: Generally, if we reserve 23 our rights, typically it is reserving the right to limit 24 the indemnity that we may afford later. 25 Q. BY MR. PRINCE: Under what circumstances does</p>	<p>1 directly or indirectly? 2 MS. COUSINEAU: Overbroad. Lacks 3 foundation. 4 THE WITNESS: That will vary a lot from 5 claim to claim. Generally speaking, if the claim is in 6 litigation and it appears there may be some coverage 7 available under the policy, but that other provisions of 8 the policy may limit or exclude that coverage entirely, 9 we'll often issue a reservation of rights letter and 10 provide a defense. 11 Q. BY MR. PRINCE: Have you ever seen, since 12 you've been a claims attorney at Meadowbrook, where the 13 claim was denied prelitigation, but then there was a 14 lawsuit filed, then the company provides a defense under 15 reservation of rights, you know, that it may later disclaim 16 coverage or deny coverage for all or part of the claim? 17 MS. COUSINEAU: Objection. Overbroad. 18 Lacks foundation. Calls for speculation. 19 THE WITNESS: I have seen some instances 20 in which a claims adjustor may deny a claim for some reason 21 and we later receive a lawsuit on that same claim where we 22 do provide defense, yeah. 23 Q. BY MR. PRINCE: Okay. Let me reask the 24 question. Have you ever seen circumstances, since you've 25 been a claim attorney at Meadowbrook, where prelitigation</p>

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<p>1 the claim was denied on the basis that there was no 2 coverage for the claim and then, once a lawsuit is filed, 3 the company provides a defense at least under a reservation 4 of rights? 5 MS. COUSINEAU: Incomplete hypothetical. 6 Lacks foundation. Calls for speculation. 7 THE WITNESS: I have seen some instances 8 in which we -- well, I say "we" -- a claims adjustor has 9 denied a claim -- denied coverage for a claim that we later 10 receive a lawsuit for and we then provide a defense under a 11 reservation of rights, yes. 12 Q. BY MR. PRINCE: Under what circumstances will 13 the company provide a defense under a reservation of rights 14 where prelitigation the company has denied the claim on the 15 basis that there's no coverage, at least for claims that 16 you're involved in? 17 MS. COUSINEAU: It's overbroad. Lacks 18 foundation. Calls for speculation. Incomplete 19 hypothetical. 20 THE WITNESS: I can't speak for the 21 whole company. For myself and the people that are 22 reporting to me, the -- there are a lot of reasons, I'm 23 sure, a lot of circumstances where that could happen. It's 24 going to vary a lot from claim to claim. 25 Q. BY MR. PRINCE: What are the typical types of Page 82</p>	<p>1 understand that. I'm only asking about you. I mean, 2 you're not the company. You're not denying coverage. The 3 company denies coverage through you and/or your direct 4 reports so that's the vein I'm asking these questions. 5 So the question, then, is again what do 6 you do in situations or people in your department, where 7 prelitigation the claim was denied on the basis of there 8 being no coverage, a lawsuit is filed which contains 9 allegations, some of which, if accepted as true, would 10 potentially trigger coverage under the policy, how do you 11 handle whether you're going to provide an insured a defense 12 under those circumstances? 13 MS. COUSINEAU: Lacks foundation. 14 Incomplete hypothetical. Improper hypothetical. 15 THE WITNESS: That would, again, vary 16 from one claim to another, one state to another. 17 Q. BY MR. PRINCE: Generally tell me how you'd 18 handle it. 19 MS. COUSINEAU: Lacks foundation. 20 Assumes facts not in evidence. 21 THE WITNESS: We would have to evaluate 22 it based on all the specific facts and circumstances of 23 that claim to determine whether our conclusion may be 24 different from the previous conclusion made. 25 Q. BY MR. PRINCE: Well, I'm not asking whether Page 84</p>
<p>1 circumstances that you see more commonly that you would 2 provide a defense under a reservation of rights where 3 the -- there's been a denial of coverage of the claim 4 prelitigation. 5 MS. COUSINEAU: Lacks foundation. 6 Assumes facts not in evidence. 7 THE WITNESS: I don't know that I can 8 say that there's a typical scenario in which that happens. 9 Q. BY MR. PRINCE: I mean, how does the company 10 handle generally, if the claim is -- prelitigation the 11 claim is denied on a basis of there being no coverage, a 12 lawsuit is filed which contain allegations which, if proven 13 true, would potentially trigger coverage on the policy -- 14 under the policy? What does the company do typically when 15 you have that sort of conflict in terms of providing an 16 insured a defense? 17 MS. COUSINEAU: Objection. Lacks 18 foundation. Assumes facts not in evidence. Object to the 19 form. It's an incomplete hypothetical. 20 THE WITNESS: I really can't speak to 21 what the company as a whole does. 22 Q. BY MR. PRINCE: Well, I'm asking you, in your 23 capacity as the manage -- managing claims attorney, how you 24 handle things, so all my questions are related to that. 25 Obviously, you can't speak to what goes on in Ohio. I Page 83</p>	<p>1 or not the conclusion concerning whether there's coverage 2 for a claim, therefore a duty to indemnify an insured for a 3 claim exists. I'm asking just solely about the duty to 4 provide a defense. 5 MS. COUSINEAU: Objection. 6 Q. BY MR. PRINCE: There's been a denial of 7 coverage prelitigation. There's a lawsuit filed which 8 contains allegations which, if proven true, would trigger 9 coverage under the policy. How does the company handle 10 whether it's going to provide a defense to the insured? 11 Even though it may believe there's no duty to indemnify, 12 how do they at least initially resolve whether they're 13 going to provide a defense? 14 MS. COUSINEAU: Lacks foundation. 15 Incomplete hypothetical. Improper hypothetical. 16 THE WITNESS: If a lawsuit is filed, we 17 will evaluate whether a duty to defend exists under the 18 particular circumstances of that claim. Beyond that, it's 19 going to vary heavily from one claim to another so there's 20 not a general rule. 21 Q. BY MR. PRINCE: I'm just asking about if 22 there's allegations in the complaint, accepting those as 23 true -- you know, that they're proven true -- would trigger 24 coverage under the policy, how do you resolve that 25 conflict? You believe you have facts or information which Page 85</p>

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<p>1 demonstrates there's no coverage. A lawsuit comes in that 2 has allegations which, if accepted as true, would trigger 3 coverage. How do you resolve that conflict in terms of 4 providing your insured a defense to a lawsuit? 5 MS. COUSINEAU: Lacks foundation. 6 Incomplete hypothetical. Improper hypothetical. Mis -- 7 That's enough. 8 THE WITNESS: Again, that's going to 9 vary from one state to the next, one claim to the next, the 10 steps that are necessary to evaluate that and resolve that. 11 Q. BY MR. PRINCE: Okay. For example -- Well, 12 strike that. 13 When a lawsuit comes in or suit papers 14 come to the company, let's assume it's already been through 15 the prelitigation process and there's been a denial of 16 coverage. Is it the typical practice of the company to 17 then turn the -- transfer the claim to the litigation unit, 18 at least in the Arizona office? 19 MS. COUSINEAU: Calls for speculation. 20 THE WITNESS: There are others in the 21 company that may handle various facets of litigated claims. 22 Typically for our unit we may receive some litigated claims 23 that have been handled by an adjustor prior to their going 24 into litigation. 25 Q. BY MR. PRINCE: Right. Did you understand my Page 86</p>	<p>1 typically handle litigated construction defect claims, for 2 example. We don't typically handle litigated claims 3 involving contractors. There's a separate group that does 4 that. We don't handle Worker's Comp. 5 And throughout Meadowbrook as a whole, 6 there are a number of offices that handle claims, so I 7 don't even know what other things may be out there that we 8 don't handle. 9 Q. BY MR. PRINCE: I'm only -- okay. I'm only 10 asking questions about the Arizona office. That's the only 11 thing I'm asking about right now. So I know you don't 12 handle construction defect -- the litigation unit does not 13 handle construction defect lawsuits, correct? 14 A. Correct. 15 Q. Who handles those? The coverage unit? 16 MS. COUSINEAU: Vague and ambiguous. 17 Calls for speculation. 18 THE WITNESS: I know we have a group of 19 construction defect adjustors that will handle construction 20 defect claims. 21 Q. BY MR. PRINCE: So is there, like, a 22 department for just construction defect claims? 23 MS. COUSINEAU: Calls for speculation. 24 THE WITNESS: There are adjustors that 25 will adjust just the construction defect cases. Page 88</p>
<p>1 question? 2 A. Maybe I didn't. 3 Q. Okay. 4 A. Can we repeat the question? 5 Q. I'm going to repeat it. 6 A. Sure. 7 Q. Generally when a lawsuit comes to the company 8 and a claim has already been through the prelitigation 9 process. Let's say the company has denied coverage for the 10 claim. Does -- is the claim then transferred to the 11 litigation unit? That's all I'm asking. 12 MS. COUSINEAU: Asked and answered. 13 THE WITNESS: Sure. If it's one that we 14 handle. What I meant to say was, for example, we don't 15 handle construction defect claims. So, if a construction 16 defect claim goes into litigation, it's not going to come 17 to us. If it's the type of claim that we typically would 18 handle litigation for, then, yes, it would come to us. 19 Q. BY MR. PRINCE: Okay. Well, what type of 20 claims does the litigation unit handle here in the Phoenix 21 office? 22 MS. COUSINEAU: Vague and ambiguous as 23 phrased. 24 THE WITNESS: It's a broad range. It's 25 probably easier to say the ones we don't handle. We won't Page 87</p>	<p>1 Q. BY MR. PRINCE: Are they in the coverage unit? 2 MS. COUSINEAU: Calls for speculation. 3 THE WITNESS: Not that I understand, no. 4 Q. BY MR. PRINCE: Is there a coverage unit at 5 Meadowbrook? 6 A. We have internal coverage counsel, yes. 7 Q. I mean, is it considered a coverage unit, like 8 there's a litigation unit? 9 A. Yeah, I don't know if there's an official title 10 for it, but I'll typically refer to it as the coverage 11 unit. 12 Q. Okay. Other than construction defect claims and 13 Worker's Compensation claims, is there any other type of 14 claim that your unit here in the Arizona office does not 15 handle? 16 MS. COUSINEAU: Asked and answered. 17 THE WITNESS: Yes, there -- I know there 18 are. I can't give you a comprehensive list. For example, 19 one Meadowbrook office may handle claims from a program 20 that they happen to be underwriting and I just wouldn't 21 know about it. So I'm sure there are. I just can't give 22 you a comprehensive list of all the things we don't get in 23 our office. 24 Q. BY MR. PRINCE: Well, I guess I'm trying to 25 find out what you get. That's what I'm trying to find out. Page 89</p>

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1 It wasn't that complicated of a question. I'm more just
 2 asking about if a lawsuit comes in generally to the Arizona
 3 office, does it come to the litigation unit?
 4 MS. COUSINEAU: Asked and answered.
 5 THE WITNESS: I can tell you generally,
 6 particularly on a Century Surety policy, a pro Surety -- or
 7 a pro Century policy, typically if it goes into -- if a
 8 claim goes into lawsuit and it's not construction defect or
 9 some of those other lines we don't handle, it will come to
 10 our unit, yes.
 11 Q. BY MR. PRINCE: And then once it comes to
 12 your -- the litigation unit, who initially looks at it?
 13 A. Typically -- well, I shouldn't say -- they can
 14 come in a whole -- a number of ways so a number of
 15 different people could see it before I do. Typically I
 16 will take a look at a claim and assign it to someone that
 17 reports to me, however -- however it ends up getting to me.
 18 Q. What was the reason for all the other
 19 qualification? I'm just asking generally what happens once
 20 it gets there. Does it go to you first? Does it go to
 21 somebody else first? Who sees it first --
 22 MS. COUSINEAU: Objection.
 23 Argumentative.
 24 Q. BY MR. PRINCE: -- once it gets to the
 25 litigation unit.

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1 MS. COUSINEAU: Asked and answered.
 2 THE WITNESS: Once it gets to the
 3 litigation unit, it will typically come to me first or my
 4 counterpart in Ohio, if it's an East Coast claim, for
 5 example.
 6 Q. BY MR. PRINCE: Okay. Follow my questions.
 7 My questions are only applicable to what happens in the
 8 Arizona office. You keep talking about what happens in
 9 Ohio, and that doesn't concern me right now.
 10 A. Sure.
 11 Q. I'm only trying to find out what happens here in
 12 the Arizona office so there's really no reason to muddy us
 13 up with what happens in Ohio. I know you don't always know
 14 what's happening out there so I obviously appreciate that.
 15 So generally, once there's a lawsuit filed
 16 and it comes to the company, it will be transferred to the
 17 litigation unit, and generally it comes to you first?
 18 MS. COUSINEAU: Lacks foundation.
 19 THE WITNESS: Typically a litigated
 20 claim will come to me, yes.
 21 Q. BY MR. PRINCE: And then you make the
 22 determination who to assign it to?
 23 A. Generally speaking, yes, I'll assign it to
 24 someone on my team.
 25 Q. And how many people were on your team in June --

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1 excuse me, March of 2011?
 2 A. I may be wrong. I believe there were three at
 3 the time. There may have been four, but I believe we had
 4 only three at the time.
 5 Q. So three or four claims attorneys in March of
 6 2011?
 7 A. Right.
 8 Q. How many were there in June of 2011?
 9 A. I can't -- I know we had a few people --
 10 personnel changes that year so I don't remember all the
 11 dates. It would be three or four, though.
 12 Q. Okay. And how do you make determinations as to
 13 how you assign litigated claims?
 14 A. There aren't really any hard and fast rules.
 15 I'll take a number of factors into consideration. You
 16 know, for example, vacation days may come into play. The
 17 number of claims someone already has may come into play.
 18 Occasionally experience with a particular kind of claim may
 19 come into play, or a particular insured. There aren't any
 20 hard and fast rules to it, though.
 21 Q. Okay. I mean, like, for example, Lisa
 22 Henderson, is there certain types of claims that you
 23 typically give her that she handles, you know, a certain
 24 type of claim more frequently than other types of claims
 25 that may come to the company?

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1 MS. COUSINEAU: Vague as to time.
 2 THE WITNESS: Yeah, I guess talking
 3 about right now, I -- I couldn't say there's a typical type
 4 of claim that she has. She's got a wide range of different
 5 types currently.
 6 Q. BY MR. PRINCE: Okay. Now, prior to March of
 7 2011, had you received any training concerning the legal
 8 standards in Nevada applicable to an insurer's duty to
 9 defend --
 10 MS. COUSINEAU: Asked and answered.
 11 Q. BY MR. PRINCE: -- an insured?
 12 A. I don't remember whether I received any specific
 13 training regarding Nevada's duty to defend.
 14 Q. Prior to March of 2011, had you ever done any
 15 legal research yourself concerning the legal standards for
 16 an insurer's duty to defend an insured in Nevada?
 17 A. In Nevada?
 18 I don't remember.
 19 Q. Okay. Had you ever engaged counsel in Nevada to
 20 provide you with any sort of legal analysis or opinion
 21 concerning an insurer's duty to defend an insured in Nevada
 22 prior to March of 2011?
 23 MS. COUSINEAU: May seek to invade the
 24 attorney-client privilege.
 25 THE WITNESS: I don't remember engaging

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<p>1 counsel for the purpose of getting coverage advice in 2 Nevada. I just don't remember if I had done that prior to 3 that day.</p>	<p>1 question to Vicki. 2 Q. BY MR. PRINCE: So she would be the point 3 person who you address your coverage questions or issues,</p>
<p>4 Q. BY MR. PRINCE: Okay. If you wanted coverage 5 advice specific to a particular state, would you retain 6 counsel for that purpose in a particular state? 7 MS. COUSINEAU: Calls for speculation. 8 Incomplete hypothetical. 9 THE WITNESS: I don't retain coverage 10 counsel, no. 11 Q. BY MR. PRINCE: Who does that? 12 MS. COUSINEAU: Calls for speculation. 13 THE WITNESS: If I feel like I need 14 input on a coverage-related matter, I'll typically ask for 15 input from our internal coverage counsel. 16 Q. BY MR. PRINCE: Who was your internal coverage 17 counsel in March of 2011? 18 MS. COUSINEAU: Vague and ambiguous as 19 phrased. 20 THE WITNESS: I don't remember who all 21 of them were at that time, but Vicki Roberts was managing 22 the coverage attorneys that we had at the time. 23 Q. BY MR. PRINCE: Are they all -- in the 24 coverage unit, are they all attorneys? 25 MS. COUSINEAU: Calls for speculation.</p> <p style="text-align: right;">Page 94</p>	<p>4 correct? 5 MS. COUSINEAU: Misstates his testimony. 6 THE WITNESS: If I felt the need to get 7 further input on a coverage matter, I would refer my 8 question to Vicki, yes. 9 Q. BY MR. PRINCE: So once a lawsuit comes to the 10 litigation unit -- 11 MR. PRINCE: Is this a good time for a 12 break? Anyone need a break? 13 MS. COUSINEAU: Yes, a break. 14 MR. PRINCE: This is a good time for a 15 break. I'm moving on to another subject. 16 (An 11-minute break was taken from 17 10:58 a.m. to 11:09 a.m.) 18 MR. PRINCE: Back on the record. 19 Tell me when you're ready. 20 MS. COUSINEAU: I'm ready. 21 Q. BY MR. PRINCE: When a file does make its way 22 to you as the manager for the litigation unit, you're 23 obviously -- what are you typically provided? 24 MS. COUSINEAU: Objection. Vague. 25 Lacks foundation.</p> <p style="text-align: right;">Page 96</p>
<p>1 THE WITNESS: I don't have personal 2 knowledge of that. 3 Q. BY MR. PRINCE: For example, is there any 4 adjustors over there who evaluate coverage issues for 5 nonlawyers? 6 MS. COUSINEAU: Calls for speculation. 7 THE WITNESS: Yeah, I can't really talk 8 to the makeup and function of that unit. I don't know. 9 Q. BY MR. PRINCE: Well, how far away do they 10 work from you? Are they like in the same office, right? 11 MS. COUSINEAU: Argumentative. 12 Irrelevant. 13 THE WITNESS: I know we have coverage 14 attorneys in various offices. 15 Q. BY MR. PRINCE: I'm only asking about the 16 Arizona office. 17 A. I don't remember who was there in March of 2011, 18 but there have typically been coverage counsel in our 19 offices. 20 Q. If you wanted coverage input on a particular 21 claim before March of 2011, would you typically go to 22 someone in the coverage unit in the Arizona office? 23 MS. COUSINEAU: Incomplete hypothetical. 24 Lacks foundation. 25 THE WITNESS: I would typically refer my</p> <p style="text-align: right;">Page 95</p>	<p>1 THE WITNESS: There's really not a 2 typical. Sometimes we'll get the complaint. Sometimes 3 we'll get just an Acord form that has very little 4 information on it. 5 Q. BY MR. PRINCE: Well, I guess let me state it 6 differently. Let's assume that the lawsuit is not the 7 first notice of loss and the company was involved in the 8 claim, investigating it, adjusting it, and evaluating it 9 presuit. Okay. So I want you to assume that. Assuming 10 that the company was involved with the prelitigation with 11 the claim, what comes to you as the manager of the 12 litigation unit initially? 13 MS. COUSINEAU: Lacks foundation. 14 Incomplete hypothetical. Vague and ambiguous as phrased. 15 THE WITNESS: I typically receive notice 16 that we have a suit that may belong with my group just 17 through a little note from our support unit attached to 18 whatever notice of the suit we may have received, whether 19 it was a complaint or some other means. That's usually 20 attached to a document that's in the claim file. So 21 whatever is in the claim file at the time would not -- 22 would remain in that claim file. 23 Q. BY MR. PRINCE: Right. And you said an Acord 24 notice, is that what you said? 25 A. Yes, sometimes there will be an Acord form from</p> <p style="text-align: right;">Page 97</p>

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<p>1 an agency. 2 Q. Right. And Acord form is how an agent would 3 report a loss to the company, right?</p>	<p>1 A. No. 2 Q. Were you primarily providing an assistive role 3 in terms of handling exhibits, dealing with legal issues,</p>
<p>4 MS. COUSINEAU: Lacks foundation. Calls 5 for speculation. 6 THE WITNESS: Sometimes they do. Some 7 of them don't use them at all. 8 Q. BY MR. PRINCE: Some agency -- that is one 9 method by which an agency reports a claim to the claim 10 department, right? 11 A. Yes. 12 Q. And so when you -- when -- before you assign a 13 claim, do you review the complaint? 14 MS. COUSINEAU: Lacks foundation. 15 THE WITNESS: When I receive notice that 16 we have a suit, if a complaint has been provided, sometimes 17 I'll take a quick look at it. I personally don't typically 18 review it in depth. I'm mainly just looking to see, 19 generally speaking, what is this about before I assign it 20 to someone. 21 Q. BY MR. PRINCE: I mean, you agree with me some 22 adjustors -- they have varying degrees of experience, and 23 some adjustors may be very good at handling a large loss, 24 others may be good at handling slip and falls, some are 25 good at, you know, handling cab claims, bodily injury <p style="text-align: right;">Page 98</p></p>	<p>4 and preparing pleadings as the need arose? 5 MS. COUSINEAU: Compound. 6 THE WITNESS: I was primarily supporting 7 the lead counsel, yes. 8 Q. BY MR. PRINCE: Okay. So when -- going back 9 to when a file comes to the litigation department, before 10 you make the determination who to assign it to, do you 11 review any other documents other than the complaint? 12 MS. COUSINEAU: Asked and answered. 13 Calls for speculation. Also lacks foundation. 14 THE WITNESS: When I received notice 15 that we have a suit, there's not a lot of typical -- I may 16 receive -- I may review some of the other documents in the 17 file, I may not before assigning it. 18 Q. BY MR. PRINCE: Typically if it's a case where 19 the company was involved prelitigation, there would be a 20 claim already established, right? 21 MS. COUSINEAU: Lacks foundation. 22 Incomplete hypothetical. 23 THE WITNESS: Typically if a suit that 24 we receive is coming in on a claim that we already had 25 notice of and had done anything with, there's typically <p style="text-align: right;">Page 100</p></p>
<p>1 claims, or motor vehicle accidents. They may have typical 2 niches that they fill. Do you have that in your unit? 3 MS. COUSINEAU: Objection. Lacks 4 foundation. 5 THE WITNESS: Currently in my unit I 6 feel comfortable with each of their abilities to handle any 7 claim they get, so I'm -- I -- I guess generally the answer 8 is no for the most part. 9 Q. BY MR. PRINCE: Okay. I think I know the 10 answer to this. Let me go back a second. 11 Before you went to work at Meadowbrook, 12 had you ever tried a case to verdict in front of a jury? 13 A. I second-chaired one. 14 Q. What type of case was that? 15 A. Products defect case. 16 Q. A product defect case. Was that here in 17 Arizona? 18 A. Yes. 19 Q. Had you ever arbitrated a case where you were 20 the lead counsel? 21 A. No. 22 Q. And the case where you second-chaired, did you 23 actively participate in the trial by either conducting a 24 voir dire, opening statement, examining of witnesses, or 25 closing argument? <p style="text-align: right;">Page 99</p></p>	<p>1 something in the file. 2 Q. BY MR. PRINCE: Right. For example, it would 3 be assigned a claim number, right? 4 A. Typically it has a claim number. 5 Q. Typically it would have been assigned an 6 adjustor, correct? 7 A. Typically there's an adjustor assigned already, 8 yes. 9 Q. And then typically, if that's the case, there 10 would also be a claims file, whether written or electronic? 11 A. Typically, yeah. If it's been with us for a 12 while, there's already a claims file. 13 Q. Okay. Assuming that the claim's already been 14 with the company and there's a claim number and, therefore, 15 a claims file, before you make the decision to assign it, 16 do you review any of the claims file information? 17 MS. COUSINEAU: Lacks foundation as 18 phrased. Asked and answered. 19 THE WITNESS: Typically I'll -- well, 20 again, I shouldn't say there's a typical because I'm mainly 21 just looking to see what is this claim about before I 22 assign it to someone. I don't do much of an in-depth 23 analysis at that point. 24 Q. BY MR. PRINCE: Okay. So, for example -- here 25 let's -- before I get into showing you these exhibits, let <p style="text-align: right;">Page 101</p></p>

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<p>1 me tell you what you have in front of you. You have 2 Exhibits 1 through 3.</p> <p>3 A. This stack here? 4 Q. Yes. Exhibits 1A through 1D is information 5 contained from the claims file produced by Century in this 6 litigation. Okay? In preparation for today's deposition, 7 did you review any documents? 8 A. Yesterday I reviewed some of what I understood 9 to be documents that were produced. 10 Q. Okay. What documents do you recall reviewing? 11 A. There were materials from the claims file, 12 everything Bates-labeled so I believe it's all the same 13 materials we're looking at here. 14 Q. That wasn't my question. My question: What 15 documents do you recall reviewing? 16 A. I recall reviewing some of the documents from 17 the claims file. 18 Q. Okay. What specific documents from the claims 19 file do you recall reviewing? 20 A. They were claim notes, activity logs, letters, 21 policy documents. That probably encompasses most of it. 22 Q. Whose letters? 23 A. I don't remember all -- all the letters that are 24 in here, but I know Lisa had some. You had some that were 25 in the file. I believe Charles Holland had some in there.</p> <p style="text-align: right;">Page 102</p>	<p>1 bad faith claim handling that are being alleged in this 2 case?</p> <p>3 MS. COUSINEAU: You're asking him if he 4 has a specific understanding outside anything I may have 5 told him? 6 MR. PRINCE: I'm going to ask right now 7 if he has a specific understanding. And then I'll ask 8 where he may have gotten it, and we can deal with it. 9 THE WITNESS: I don't know that I'd call 10 it a specific understanding. I have a general 11 understanding. 12 Q. BY MR. PRINCE: How do you have a general 13 understanding? 14 A. Through discussions with our counsel. 15 Q. Other than discussions with your counsel, do you 16 have any understanding other than through discussions with 17 your counsel? 18 A. No. 19 Q. Have you ever read any pleadings filed in 20 connection with this bad faith litigation? 21 A. No. 22 Q. So you haven't read the complaint or any other 23 documents filed with the Court? 24 A. No. 25 Q. I want you to look at Exhibit 1C. I want you to</p> <p style="text-align: right;">Page 104</p>
<p>1 I don't remember who else. 2 Q. Who did you review the documents with? 3 A. Counsel. 4 Q. Who do you say is counsel? 5 A. Our counsel. 6 Q. Who is that? 7 MS. COUSINEAU: You may say my name. 8 He may not know my full name. 9 Don't be embarrassed. 10 THE WITNESS: Ria. 11 Q. BY MR. PRINCE: Did you review the documents 12 at any time outside the presence of your counsel, Ria? 13 A. No. 14 Q. For example, on the days or weeks leading up to 15 the deposition, did you review any documents -- review the 16 claims file without Ria present? 17 A. No. 18 Q. Have you ever met and discussed this claim with 19 anyone when Maria was not present? 20 A. No. 21 Q. Have you ever read the lawsuit filed by my 22 clients against Century in this bad faith litigation? 23 A. No. 24 Q. So you're not even certain -- so you have no 25 specific understanding as to what the allegations are of</p> <p style="text-align: right;">Page 103</p>	<p>1 go to Bate No. 96. 2 A. Okay. 3 Q. Okay. It's a facsimile cover sheet, and we're 4 going to get to some of the Post-Its that are on the front 5 of it in a minute. But the second page, Bate No. 97, which 6 was the first page of the letter from the law firm, Prince 7 & Keating, to Mr. Holland, among other things, it's a 8 letter of representation and is enclosing a copy of the 9 complaint against the Century insureds, Michael Vasquez and 10 Blue Streak Auto Detailing. 11 Now, was this provided to you by the 12 prelitigation department? 13 MS. COUSINEAU: Object to the form. 14 Q. BY MR. PRINCE: "This" meaning the facsimile 15 of my letter of March 3rd, 2011, and a copy of the 16 complaint filed in the Eighth Judicial Court, Clark County, 17 Nevada. 18 MS. COUSINEAU: Vague and ambiguous. 19 Object to the form. 20 THE WITNESS: I don't recall how it was 21 provided to me, but given my note on here, I received it at 22 some point. 23 Q. BY MR. PRINCE: Okay. Did you review the 24 content of my letter of December 3rd, 2011? 25 A. When I first received it?</p> <p style="text-align: right;">Page 105</p>

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<p>1 Q. Yes. 2 A. When do you mean? I don't recall whether I 3 reviewed the entire letter upon first receiving it. 4 Q. Well, as you sit here right now, I mean, do you 5 have a specific recollection of this -- of being involved 6 in this claim, in the claim decision making process in June 7 of 2011? 8 MS. COUSINEAU: Object to the form of 9 the question. 10 THE WITNESS: In June of 2011, you said? 11 Q. BY MR. PRINCE: Yeah, well, March and -- I 12 think or later in June of 2011. 13 A. I don't have a lot of specific recollections. I 14 generally recall having this claim at some point, yeah. 15 Q. What do you generally recall about the claim? 16 A. I generally remember there being an auto 17 accident and that there was -- there were questions about 18 the nature of our -- what our insured was doing when he was 19 driving at the time the accident happened. 20 Q. Okay. Anything else? 21 A. I can't think of anything specific. 22 Q. Okay. So the -- in the sequence here, what's 23 the first sticky note on Bate No. 96? 24 MS. COUSINEAU: Object to the form. 25 THE WITNESS: Not all of the notes have</p> <p style="text-align: right;">Page 106</p>	<p>1 Q. In March of 2011 who did you report to? 2 A. In March of 2011, I reported to Dave Gervers. 3 Q. Dave Gervers? 4 A. Yeah, G-E-R-V-E-R-S. 5 Q. Now, John Wilcox, what was his position in the 6 claims department in March of 2011? 7 MS. COUSINEAU: Lacks foundation. Calls 8 for speculation. 9 THE WITNESS: I don't know exactly what 10 his title would have been at the time. 11 Q. BY MR. PRINCE: What did he do? Was he head 12 of claims? Was he -- I mean ... 13 A. He was -- I know some of the claims managers 14 directly reported to him, but I don't know the whole scope 15 of what he did. I didn't have direct relationship with him 16 in any way. 17 Q. What was Dave Gervers' position in the company? 18 A. Also vice-president. 19 Q. Of what? 20 A. You know, I don't know specifically what his 21 title is. 22 Q. What was Dave Gervers' role in the company in 23 March 2011 as opposed to John Wilcox? 24 MS. COUSINEAU: Calls for speculation. 25 Lacks foundation.</p> <p style="text-align: right;">Page 108</p>
<p>1 a time on there so I'm not sure of the exact sequence of 2 when these would have been placed. 3 Q. BY MR. PRINCE: Well, top left, it says, 4 "Existing claim, new suit tasked to Charles, Jim, John, 5 Daniel, processing." And it says "3" -- you know, 6 "March 4th, 2011, 9:35." I'm assuming that's 9:35 a.m. 7 Would that be correct, it's 9:35 a.m.? It says 0935. 8 MS. COUSINEAU: Calls for speculation. 9 THE WITNESS: I don't know what -- each 10 person can have their timing set differently, so I don't 11 know for sure. I would also guess it would be the morning, 12 but I can't be certain. 13 Q. BY MR. PRINCE: Okay. Who created that sticky 14 note just saying the claim was received? 15 A. It looks like someone in our support unit. 16 Q. And who is John? 17 A. I don't know for sure who -- 18 Q. Okay. Who do you believe it is? 19 MS. COUSINEAU: Calls for speculation. 20 THE WITNESS: I mean, if I had to guess, 21 given the context, likely John Wilcox. 22 Q. BY MR. PRINCE: Okay. Who is John Wilcox? 23 A. He is a vice-president in the company. 24 Q. Where is his office? 25 A. In Ohio.</p> <p style="text-align: right;">Page 107</p>	<p>1 THE WITNESS: I know I reported to Dave, 2 as does my counterpart in Ohio. I don't know, though, the 3 full scope of John's duties at the time. 4 Q. BY MR. PRINCE: Did Dave Gervers oversee claim 5 litigation in March of 2011 companywide? 6 MS. COUSINEAU: Vague and ambiguous. 7 Calls for speculation. 8 THE WITNESS: As I understand it, not 9 companywide. 10 Q. BY MR. PRINCE: Well, what did he do, then? 11 Just tell me what he did. 12 A. He was my direct supervisor, along with 13 Natalie's. 14 Q. Who's Natalie? 15 A. My counterpart in Ohio. 16 Q. She managed the litigation unit in Ohio? 17 A. Yeah, that portion of the unit. 18 Q. When you say "that portion of the unit," what 19 unit was she in? 20 MS. COUSINEAU: Calls for speculation. 21 THE WITNESS: The litigation unit 22 includes people here in Arizona and people in Ohio. I 23 supervise the people here in Arizona. She supervises the 24 people in Ohio. And we both report to Dave Gervers. 25 Q. BY MR. PRINCE: So Dave Gervers oversaw the</p> <p style="text-align: right;">Page 109</p>

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<p>1 litigation department -- units in the company at least in 2 March of 2011?</p> <p>3 MS. COUSINEAU: Objection. Misstates 4 his testimony. Lacks foundation. 5 THE WITNESS: The litigation unit that 6 I'm a part of, Dave overseas, correct. 7 Q. BY MR. PRINCE: Does he still oversee it? 8 A. Yes. 9 Q. Does John Wilcox oversee the litigation unit? 10 MS. COUSINEAU: Calls for speculation. 11 THE WITNESS: Not that I'm aware of. I 12 don't believe he's in that chain of command. 13 Q. BY MR. PRINCE: What chain of command is he 14 in, then? 15 A. I don't know for sure. 16 Q. Is he in the prelitigation unit? 17 MS. COUSINEAU: Calls for speculation. 18 Q. BY MR. PRINCE: Is he the head of 19 prelitigation claims or supervise the prelitigation claims 20 departments? 21 MS. COUSINEAU: Calls for speculation. 22 THE WITNESS: I really don't know the 23 whole scope of his -- 24 Q. BY MR. PRINCE: I'm not asking what his whole 25 scope is. I'm trying to ask -- find out what he does. I'm</p> <p style="text-align: right;">Page 110</p>	<p>1 Q. I mean, you have regular interaction -- Strike 2 that. 3 You had regular interaction with Mr. Karp 4 in March of 2011, correct? 5 MS. COUSINEAU: Vague and ambiguous. 6 THE WITNESS: I see him. I don't have 7 to necessarily work with him every day, but I do see him in 8 the office, yes. 9 Q. BY MR. PRINCE: How far away is his desk from 10 yours? 11 A. It's just down the hallway 20 feet, 30 feet. 12 Q. So not very far, right? 13 A. Not very far. 14 Q. He's someone you see at work every day, right? 15 A. I'll usually see him on a daily basis. 16 Q. So you interface with him in terms of when 17 matters need to be -- come from his prelitigation unit to 18 the litigation unit, he may be someone you interface with, 19 right? 20 MS. COUSINEAU: Lacks foundation, 21 misstates his testimony. 22 THE WITNESS: He may in some 23 instances -- 24 Q. BY MR. PRINCE: Do you ever discuss claims or 25 claims decisions with him?</p> <p style="text-align: right;">Page 112</p>
<p>1 trying to ask it in every way possible to get some kind of 2 substantive answer from you. I'm trying to search for any 3 way to do that. 4 MS. COUSINEAU: Well, in light of the 5 fact that he was guessing, he says, that that's who the 6 John was, the whole line of questioning is irrelevant. 7 MR. PRINCE: I'm only asking about John 8 Wilcox. 9 MS. COUSINEAU: I understand that. But 10 we don't even know that John Wilcox is the John that's 11 listed there, and you're asking him a whole bunch of 12 questions about what John Wilcox does as oppose -- and 13 that's not his position to know that. 14 Q. BY MR. PRINCE: What do you understand John 15 Wilcox to do at the company? 16 MS. COUSINEAU: Lacks foundation. 17 THE WITNESS: All I know for sure, I 18 under -- my understanding is that some of the claims 19 supervisors report to John. 20 Q. BY MR. PRINCE: Like, for example, in March of 21 2011 would Jim Karp report to John Wilcox -- 22 MS. COUSINEAU: Calls for speculation. 23 Q. BY MR. PRINCE: -- to your knowledge? 24 A. My understanding is that Jim has reported to 25 John. I don't know for sure in March of 2011, but --</p> <p style="text-align: right;">Page 111</p>	<p>1 MS. COUSINEAU: Vague as -- Vague and 2 ambiguous. 3 THE WITNESS: I don't think I've ever 4 discussed a particular claims decision with him. I may 5 have, but I don't -- I don't recall a particular instance. 6 Q. BY MR. PRINCE: Okay. Did you discuss the 7 denial of the Pretner claim with Mr. Karp at any time 8 concerning this claim? 9 MS. COUSINEAU: And I would simply 10 caution you not to reveal anything that was in the presence 11 of me as your attorney. 12 THE WITNESS: I don't recall any 13 conversations with him about this claim outside the 14 presence of counsel. 15 Q. BY MR. PRINCE: Okay. Well, in March of 16 2011 -- between March and June of 2011, do you recall ever 17 having any discussions with Mr. Karp concerning this claim? 18 A. I don't remember having any conversations with 19 him. 20 Q. And you didn't record any in any diary note, 21 claim log note, or otherwise, right? 22 A. I don't remember for sure, but I also don't 23 remember having those conversations with him. 24 Q. Did you document any conversation in any log 25 notes or in any sort of fashion, whether written or</p> <p style="text-align: right;">Page 113</p>

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<p>1 electronically? 2 A. I don't remember. I can look through -- 3 Q. I'm just asking if you remember. That's all I'm</p>	<p>1 on, no claims adjustor has seen in the office until the 2 litigation unit gets it, so most of the time there's just 3 no reason for me to have regular communication with any</p>
<p>4 asking you. 5 A. I don't remember whether I made any notes about 6 the conversations with him. 7 Q. Well, I mean, you looked at the claim notes 8 yesterday with your counsel present. Do you recall seeing 9 any note entry of any kind memorializing any conversation 10 you may have had with Mr. Karp? 11 A. I don't recall seeing a note like that, no. 12 Q. I mean, you did look at the claim notes 13 yesterday, didn't you? 14 A. I looked at some of them, yes. 15 Q. And you looked at e-mails, correct. 16 A. I did look at some, yes. 17 Q. Is there any entry that you were shown where 18 there was any -- you memorialize any conversation between 19 you and Mr. Karp concerning this claim? 20 A. Not that I remember. 21 Q. Okay. Do you recall having any discussions 22 about this claim between March of 2011 and June of 2011 23 with Charles Holland? 24 A. Not that I remember, no. 25 Q. Generally, would you have any discussion with</p> <p style="text-align: right;">Page 114</p>	<p>4 other claims adjustors. 5 Q. BY MR. PRINCE: Okay. So when this matter 6 gets referred to the litigation unit -- Well, strike that. 7 According to the one sticky note from 8 Mr. Karp, it says, "Daniel, recommend transfer to the 9 litigation unit." See that? 10 A. Yes. 11 Q. And that's Jim Karp making a note to you 12 recommending that the claim file be transferred to the 13 litigation unit now that it's in suit, correct? 14 A. It looks like that, yeah. 15 Q. Right. Then you have, "Please assign to Lisa 16 Henderson and set diaries for her and me." Who are you 17 sending that note to? 18 A. I'll typically put a note like this on there 19 with the understanding our support personnel will make the 20 transfer in the system to whoever I assigned it to. 21 Q. What does it mean to have it "transfer in the 22 system"? 23 A. Within the software itself, just change the 24 adjustor name from whoever had it before -- Charles Holland 25 in this case, I think -- to Lisa Henderson.</p> <p style="text-align: right;">Page 116</p>
<p>1 the prelitigation -- once a case -- once a claim was transferred 2 to the litigation unit, would you have any discussions with 3 the prelitigation adjustor assigned to the claim? 4 A. There's not really any general rule about that. 5 I have spoken to claims adjustors before, but there's also 6 been instances when I've not done that. 7 Q. As a rule do you speak with the prelitigation 8 claims adjustors? 9 A. Not as a rule. 10 Q. Okay. Would you characterize your communication 11 with prelitigation claims adjustors as being infrequent -- 12 MS. COUSINEAU: Lacks foundation. 13 Object to the form. 14 Q. BY MR. PRINCE: -- concerning the substance of 15 a claim? 16 A. You're talking about someone adjusting claims, 17 not directly reporting to me? 18 Q. Yes. 19 A. I don't know that I'd characterize it as 20 infrequent. 21 Q. What's the frequency, then? 22 MS. COUSINEAU: Calls for speculation. 23 THE WITNESS: Yeah, I don't -- it's -- I 24 don't know. It's -- the bulk of our claims come to us as 25 first notice lawsuits, so the bulk of the matters I work</p> <p style="text-align: right;">Page 115</p>	<p>1 Q. So it looks like you accepted the file into the 2 litigation department, correct? 3 A. Yes. 4 Q. So you accepted that transfer, correct? 5 A. Correct. 6 Q. So then does the entire claim now, is it removed 7 from Mr. Holland and his supervisor, Mr. Karp, and now in 8 your unit once you accept the transfer? 9 MS. COUSINEAU: Object to the form. 10 THE WITNESS: The -- The name of the 11 file handler will be changed to Lisa Henderson. The name 12 of the supervisor will be changed to me. 13 Q. BY MR. PRINCE: So Ms. Henderson replaces 14 Charles Holland as the claims representative assigned to 15 the file and you replace Mr. Karp as the person supervising 16 the file? 17 A. Within that software, yes. 18 Q. So once the matter is referred to the litigation 19 unit, then Mr. Karp and Mr. Holland, they no longer have 20 any file handling responsibilities concerning the claim, 21 correct? 22 A. The day-to-day handling of the file from then on 23 would be Lisa Henderson, with me as her supervisor, yes. 24 Q. Did Mr. Holland or Mr. Karp have any further 25 responsibility concerning the handling of the file after it</p> <p style="text-align: right;">Page 117</p>

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<p>1 was assigned to the litigation unit? 2 MS. COUSINEAU: Calls for speculation. 3 THE WITNESS: I don't know if internal 4 to their group, whether they have any standards about 5 continuing to monitor or anything like that. But 6 day-to-day handling from then on would have been Lisa, with 7 me as the supervisor. 8 Q. BY MR. PRINCE: So Ms. Henderson and you would 9 have made the decisions concerning this claim after it was 10 referred to the litigation unit, right? 11 A. Lisa, with me as her supervisor, would have been 12 the first line of making those decisions, yes. 13 Q. Right. Mr. Holland and Mr. Karp were no longer 14 involved in making any decisions concerning the file 15 handling once it was assigned to Lisa and you as her 16 supervisor -- 17 MS. COUSINEAU: Asked and answered. 18 Q. BY MR. PRINCE: -- correct? 19 A. Yeah, not necessarily. 20 Q. I guess I'm trying to find out, did they remain 21 involved? I guess I'm trying to find out, did they have 22 decision-making responsibility concerning this file after 23 March the 4th, 2011? 24 A. On a claim-by-claim basis, I may go ask Jim a 25 question about it, talk to Charles about it, Lisa may do</p> <p style="text-align: right;">Page 118</p>	<p>1 A. I don't see any notes related to that here. I 2 may have had a conversation of it with her about it, but I 3 just don't recall. 4 Q. Do you recall any specific conversation with 5 Ms. Henderson concerning this claim in connection with your 6 assignment to her? 7 MS. COUSINEAU: Could you read that 8 back, please? 9 (The pending question was read.) 10 THE WITNESS: I don't recall whether I 11 had any conversation with her at the time that I assigned 12 it. 13 MR. PRINCE: Hold on one second. 14 Q. BY MR. PRINCE: And what was Lisa Henderson's 15 obligation -- first obligation once she is assigned the 16 file? What is her duty -- what is she required to do? 17 MS. COUSINEAU: Vague and ambiguous as 18 phrased. 19 THE WITNESS: I mean, she has a number 20 of obligations on any file, but -- 21 Q. BY MR. PRINCE: No. No. No. Did you hear my 22 question? 23 A. You can repeat it. 24 Q. No, I'm asking, did you understand it? Cause 25 you're going down a path that didn't make sense with the</p> <p style="text-align: right;">Page 120</p>
<p>1 the same. But on a day-to-day basis, Lisa would have the 2 responsibility of managing the file from there on, with me 3 supervising it. 4 Q. Right. And so before you made the assignment to 5 Lisa Henderson in this case, did you review the 6 prelitigation claims file? 7 A. I don't remember whether I reviewed all the 8 materials in the file at that time, no. 9 Q. Did you give any direction or instruction to 10 Lisa Henderson as part of your assignment to her concerning 11 this lawsuit? 12 A. Not that I remember. 13 Q. Is there anything documented in a claim note? 14 A. Not that I remember. 15 Q. I'm asking, is there anything documented in a 16 claim note that would -- 17 A. I don't know. I can look at the notes here if 18 you'd like me to. I don't remember there being a note, but 19 if there's something I've forgotten, I don't want to tell 20 you no. 21 Q. Okay. The claim notes are 1B. 22 A. What was the specific question again? 23 Q. I'm sorry? I said, was there -- did you give 24 Ms. Henderson any instruction or direction concerning this 25 claim in connection with assigning it to her?</p> <p style="text-align: right;">Page 119</p>	<p>1 answer. 2 A. I believe so. Okay. 3 Q. What I want to know is, when she was -- first 4 received this assignment from you, what was her -- what was 5 she required to do first? 6 MS. COUSINEAU: Objection. Lacks 7 foundation. Assumes facts not in evidence. 8 THE WITNESS: There's not a specific 9 requirement for something she has to do immediately upon 10 receipt of it. I would imagine that she would review the 11 file. 12 Q. BY MR. PRINCE: Well, is there any specific 13 protocol or practice at Meadowbrook in March of 2011 that 14 when a file is received in the litigation unit, what an 15 adjustor is -- what steps an adjustor's required to follow? 16 MS. COUSINEAU: Objection. Vague and 17 ambiguous as phrased. 18 THE WITNESS: Because every file we get 19 is so different, we don't have a specific list of 20 requirements for what you do, you know, on a step-by-step 21 manner when you receive a file. 22 Q. BY MR. PRINCE: Okay. What are they generally 23 supposed to do when once these files are assigned to them? 24 MS. COUSINEAU: Lacks foundation. 25 Assumes facts not in evidence. Overbroad.</p> <p style="text-align: right;">Page 121</p>

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<p>1 THE WITNESS: Generally, if I assign a 2 claim to Lisa or anyone else in our group, I would expect 3 them to review whatever it is that we have and begin 4 considering whether the claim itself is covered. 5 Q. BY MR. PRINCE: Okay. So their first -- 6 Ms. Henderson was first supposed to look at the file 7 materials and determine whether or not the claim was 8 covered; is that correct? 9 MS. COUSINEAU: Misstates his testimony. 10 THE WITNESS: Well, no, I'd say that's 11 probably once of the first things she would do. I would 12 also expect her to contact the insured, contact anyone else 13 that may have relevant information about it. It's -- each 14 claim is going to have different needs at the outset. 15 Q. BY MR. PRINCE: Okay. Is there a first -- what 16 is one of her first tasks to determine whether there's 17 coverage for the loss? 18 MS. COUSINEAU: Lacks foundation. 19 Assumes facts not in evidence. Incomplete hypothetical. 20 THE WITNESS: I would expect one of the 21 things Lisa would do is consider whether there's coverage 22 for the claim. 23 Q. BY MR. PRINCE: Would you expect her to or 24 would that be required of her? 25 A. That is generally part of the job requirement, Page 122</p>	<p>1 MS. COUSINEAU: Incomplete hypothetical. 2 Lacks foundation. 3 THE WITNESS: Usually there's a deadline 4 to answer a lawsuit. 5 Q. BY MR. PRINCE: Right. So one of the things 6 the first order of business has to determine, whether or 7 not coverage would apply and whether or not the company's 8 going to provide a defense, right? 9 MS. COUSINEAU: Argumentative. 10 Misstates his testimony. 11 THE WITNESS: Like I say, often what 12 we're doing is making a determination about whether there's 13 coverage. That may be the first thing. That may be 14 something later that we do. 15 Q. BY MR. PRINCE: Okay. Well, tell me some of 16 the first things that an adjustor who's receiving a notice 17 of a new lawsuit should do in your department in March of 18 2011. 19 MS. COUSINEAU: Incomplete hypothetical. 20 Lacks foundation. Asked and answered. 21 THE WITNESS: You know, like I said, 22 there's really not a typical claim. They're all so 23 different. I think getting a new claim, you're going to 24 review whatever it is that's been given to you and start 25 from there, figure out what's needed beyond that. Page 124</p>
<p>1 yes. 2 Q. That is generally one of the first things you do 3 in the coverage -- in the litigation department is 4 determine whether or not there's coverage for a particular 5 loss, right? 6 MS. COUSINEAU: Argumentative. Asked 7 and answered. Misstates his testimony. 8 THE WITNESS: It's one of the things we 9 do. I can't say it's always the first thing we do on every 10 claim. 11 Q. BY MR. PRINCE: It's one of the first things 12 you do, right? 13 MS. COUSINEAU: Asked and answered, 14 argumentative. 15 THE WITNESS: Same answer. 16 Q. BY MR. PRINCE: What's that? 17 A. It's one of the first things we do. I can't say 18 that it's always among the first things on every single 19 claim. 20 Q. Well, if you have a lawsuit, which is -- you 21 generally believe it can be time-sensitive? 22 A. Of course they are. 23 Q. There's a specified time period to answer, 24 correct, once upon the service of a complaint, you know 25 that as a lawyer? Page 123</p>	<p>1 Q. BY MR. PRINCE: What sort of needs would a 2 claims attorney need to determine upon receiving a new 3 lawsuit against an insured? 4 MS. COUSINEAU: Could you read that 5 back, please. 6 (The pending question was read.) 7 MS. COUSINEAU: Vague and ambiguous. 8 THE WITNESS: I'm not sure I follow. 9 Q. BY MR. PRINCE: Well, you said that it's to 10 determine what's needed to do. I'm trying to figure out 11 should the claims attorney -- what needs should they 12 determine need to be satisfied or met in order to fulfill 13 their job function? 14 MS. COUSINEAU: Misstates his testimony, 15 incomplete hypothetical. 16 THE WITNESS: We get claims in so many 17 different forms and at so many different stages in their 18 life that, for example, one claim we may have zero facts 19 about it, so we can't even begin to perform a coverage 20 analysis, for example, without determining what the facts 21 of the claim are. 22 Sometimes we're provided with a pleading 23 that is incomplete or that seems to be from the middle of 24 the lawsuit, so we may need to get other pleadings. 25 There's a host of things that may need to be done when we Page 125</p>

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<p>1 first receive a new claim. 2 Q. BY MR. PRINCE: What do you do in a situation 3 where the first pleading you get is the initial filed 4 complaint? There's a prelitigation claims file for which 5 there was an investigation and a coverage determination. 6 In that circumstance, what are the initial needs that need 7 to be addressed by Ms. Henderson as a claims attorney at 8 Meadowbrook in March of 2011? 9 MS. COUSINEAU: Calls for speculation. 10 Lacks foundation. Object to the form. 11 THE WITNESS: I think the specific 12 things that would need to be done are going to vary from 13 claim to claim. Generally you're going to review what you 14 have and determine what information you're not clear on, 15 what information you may be missing, what you need to go 16 get, what your next steps as a claims handler are going to 17 be. 18 Q. BY MR. PRINCE: What are those steps? 19 A. Like I said, they're going to be different from 20 one claim to another. There can't be a set rule because 21 every claim is different. 22 Q. Well, one thing that's not different, right, you 23 have to determine whether there's coverage or not, right? 24 That's every claim -- 25 MS. COUSINEAU: Asked and answered.</p> <p style="text-align: right;">Page 126</p>	<p>1 MS. COUSINEAU: Objection. Lacks 2 foundation. Argumentative. Asked and answered. 3 THE WITNESS: I'm not saying that we 4 don't look at whether there is a duty to defend. I'm 5 saying it's not always a question mark. Sometimes we 6 have -- we're clearly in an excess position and have no 7 duty to defend right off the bat. 8 Q. BY MR. PRINCE: Well, you still have to 9 evaluate -- don't you agree that once a lawsuit comes into 10 the department, you need to, number one, confirm that 11 coverage exists under the policy or not and, two, whether 12 or not the company has an obligation to defend the insured 13 against the allegations in the complaint? 14 MS. COUSINEAU: Incomplete hypothetical. 15 Lacks foundation. Asked and answered. 16 THE WITNESS: Generally part of what we 17 have to do is determine whether a duty to defend is 18 present, whether coverage may be available under the 19 policy. 20 Q. BY MR. PRINCE: Okay. And do you train your 21 adjustors in March of 2011 that you evaluate whether 22 there's coverage under the policy or, i.e., a duty to 23 indemnify, and whether there's a duty to defend an insured? 24 Those are two separate analysis; do you train them that 25 way?</p> <p style="text-align: right;">Page 128</p>
<p>1 Q. BY MR. PRINCE: -- wouldn't you agree? 2 MS. COUSINEAU: Asked and answered. 3 THE WITNESS: Usually you need to make a 4 coverage determination at some point. 5 Q. BY MR. PRINCE: Right. And if there's a 6 lawsuit pending, in your department, in the litigation 7 unit, another thing that happens with every claim is 8 whether or not the company's going to provide a defense, 9 right? 10 MS. COUSINEAU: Objection. Incomplete 11 hypothetical. Lacks foundation. 12 THE WITNESS: Often one of the questions 13 we have is whether we have a duty to defend. 14 Q. BY MR. PRINCE: What do you mean, often? It's 15 every case, right? 16 A. No. 17 Q. Just -- It's not every case? 18 A. No. 19 Q. So you're saying -- 20 A. Not necessarily. 21 Q. So you're saying to me that when a new lawsuit 22 comes to the litigation unit, you're saying the company 23 does not look to determine whether there's an obligation to 24 defend that insured in every case? Some cases it may be 25 resolved quickly, other times it may take some time?</p> <p style="text-align: right;">Page 127</p>	<p>1 MS. COUSINEAU: Objection. Vague and 2 ambiguous as phrased. 3 THE WITNESS: I don't know about with 4 training. It generally is part of the conversations we 5 have and our expectations, that, yes, you're going to make 6 a determination of whether there's a duty to defend, under 7 the understanding that that may be different than whether 8 there's a duty to indemnify. 9 Q. BY MR. PRINCE: You need to make that decision 10 separate in each case, correct? 11 MS. COUSINEAU: Objection. Incomplete 12 hypothetical. 13 THE WITNESS: Yeah, every claim is 14 different so we have to look at the individual 15 circumstances of each claim before we can answer those 16 questions. 17 Q. BY MR. PRINCE: You train your adjustors in 18 March of 2011 that the legal standard for whether you have 19 to indemnify an insured for a loss is different from the 20 legal standard of whether you have to defend an insured in 21 a lawsuit against certain allegations in a complaint -- 22 MS. COUSINEAU: Objection. Lacks 23 foundation. Misstates the law. 24 Q. BY MR. PRINCE: -- correct? 25 A. Well, like we talked about, I don't know that</p> <p style="text-align: right;">Page 129</p>

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<p>1 it's a universal concept everywhere, but generally I make 2 sure that we are operating with the understanding that the 3 duty to defend is a separate analysis from the duty to</p>	<p>1 Q. What is your understanding of what a four 2 corners test is? 3 A. Often that's the term used for when a particular</p>
<p>4 indemnify. 5 Q. Right. And that the legal standards are 6 different in determining whether there's a duty to defend 7 versus a duty to indemnify, correct? 8 MS. COUSINEAU: Objection. Incomplete 9 hypothetical. Lacks foundation. 10 THE WITNESS: Generally, speaking it's 11 my understanding that from one state to another there are 12 different standards for -- applied to the duty to defend 13 versus the duty to indemnify. 14 Q. BY MR. PRINCE: Before March of 2011, had you 15 ever personally handled, as a claims attorney, any 16 litigated claim in the Valley? 17 A. As a claims attorney? 18 Q. Yes. At Meadowbrook, yes. 19 A. I believe so. I can't think of a specific 20 claim, but I believe so. 21 Q. Were you familiar in March of 2011 with the 22 legal standards applicable in Nevada for an insurer's duty 23 to defend? 24 A. I remember what my general understanding was, 25 yes.</p> <p style="text-align: right;">Page 130</p>	<p>4 state's law is that a carrier can look only at the 5 allocations within the complaint itself in determining 6 whether a duty to defend exists. 7 Q. Do you know if Nevada is a four corners state? 8 A. My understanding is that it's not. 9 Q. How do you have that understanding? 10 A. I don't remember exactly how I came to that. 11 Q. Is there any particular law or case that you can 12 refer me to that you have that understanding as a claims 13 attorney for Meadowbrook? 14 A. No, I don't have any recollection of a specific 15 case. 16 Q. What happens -- what is your understanding if 17 there is a question or a dispute whether an insurer should 18 provide a defense to an insured or not? Should that 19 question be resolved in favor of the insured by providing a 20 defense at least under reservation of rights? 21 MS. COUSINEAU: Lacks foundation. 22 Incomplete hypothetical. 23 THE WITNESS: Well, I mean, I think the 24 answer will vary heavily, depending on the circumstances of 25 each particular claim. Often disputes are to be resolved</p> <p style="text-align: right;">Page 132</p>
<p>1 Q. Which was what? 2 A. If there's some potential for coverage under the 3 policy, there's likely a duty to defend. 4 Q. Okay. And how do you -- under Nevada law or 5 applying the standards applicable to the liability insurer, 6 how do you determine if there's a potential for coverage 7 under the policy for which there would be a duty to defend? 8 MS. COUSINEAU: Incomplete hypothetical. 9 Object to the form. 10 THE WITNESS: Generally what I remember 11 understanding is that, given all the facts as we know them, 12 if there remains some potential for coverage for that 13 particular claim, we likely have a duty to defend. 14 Q. BY MR. PRINCE: Okay. And in March of 2011 15 were you aware of Nevada's legal standard, whether 16 initially how an insurer determines whether there is a duty 17 to defend its insured against a lawsuit? 18 MS. COUSINEAU: Vague and ambiguous as 19 phrased. 20 THE WITNESS: I'm not sure what you mean 21 by "initially." I think the answer I just gave is 22 responsive. It's -- 23 Q. BY MR. PRINCE: Have you ever heard of what's 24 called a four corners test? 25 A. Yes.</p> <p style="text-align: right;">Page 131</p>	<p>1 in favor of the insured, but again, I don't know that 2 that's a hard and fast universal rule on every specific 3 claim. 4 Q. BY MR. PRINCE: But are you aware that 5 generally an insurance law that if there's a question about 6 whether the company should provide a defense or not, that 7 you should resolve the question in favor of providing a 8 defense, at least under a reservation of rights? 9 MS. COUSINEAU: Overbroad. Incomplete 10 hypothetical. Vague and ambiguous. 11 THE WITNESS: Generally speaking, 12 disputes like that are often resolved in favor of the 13 insured. 14 MR. PRINCE: Why don't we take -- we can 15 take our lunch break now. 16 MS. COUSINEAU: Okay. 17 (A 58-minute break was taken from 18 11:56 a.m. to 12:58 p.m.) 19 MR. PRINCE: We're going back on the 20 record. 21 Q. BY MR. PRINCE: Mr. Mayer, we're back on the 22 record after our lunch break and video break. 23 We're talking about the standards for an 24 insurer to defend a lawsuit brought against its insureds, 25 and I want to go back a second. Do you recall receiving</p> <p style="text-align: right;">Page 133</p>

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<p>1 any specific training as to Nevada's legal standards for an 2 insurer's obligation to defend an insured?</p> <p>3 A. I don't recall any specific training, no.</p> <p>4 Q. You said you thought Nevada was not a four 5 corners state. I want to know why do you believe Nevada is 6 not a four corners state.</p> <p>7 A. I remember operating under -- with the 8 understanding that it's not a four corners state, but I 9 don't remember how I reached that conclusion.</p> <p>10 Q. So you don't know how you reached the 11 understanding Nevada was not a four corners state?</p> <p>12 A. I don't remember how, right.</p> <p>13 Q. And if the standard in Nevada has been 14 determined whether an insurer owes the duty to defend is 15 accomplished by comparing the allegations in the complaint 16 to the language in the policy, would that suggest to you, 17 if what I'm saying is correct, that it's a four corners 18 state?</p> <p>19 MS. COUSINEAU: Incomplete hypothetical. 20 Lacks foundation.</p> <p>21 THE WITNESS: Sorry, I missed the first 22 part of that. If you could repeat.</p> <p>23 Q. BY MR. PRINCE: If the legal standard in 24 Nevada for determining whether an insurer owes the duty to 25 defend an insured is achieved by comparing the allegations</p> <p style="text-align: right;">Page 134</p>	<p>1 Q. And does this refresh your recollection that you 2 reviewed this letter as part of your -- when you initially 3 received the transfer to the litigation unit?</p> <p>4 A. I still don't remember whether I reviewed it at 5 the time that it was transferred to us.</p> <p>6 Q. And when you got the transfer, would you have, 7 like, for example, reviewed what the available coverage was 8 to the insured?</p> <p>9 MS. COUSINEAU: Objection to the form of 10 the question. Lacks foundation.</p> <p>11 THE WITNESS: I don't remember 12 specifically what I looked at when I first received this 13 matter.</p> <p>14 Q. BY MR. PRINCE: Okay. In my letter it 15 indicates that, "As a result of the catastrophic injuries 16 sustained in the accident, Mr. Pretner has incurred past 17 medical expenses in excess of \$2,600,000." Obviously, 18 that's a significant risk exposure well in excess of the 19 policy limits, correct, assuming there was coverage?</p> <p>20 MS. COUSINEAU: Objection, calls for 21 speculation.</p> <p>22 THE WITNESS: I'd have to look to be 23 sure what the policy had. I believe it was a 24 million-dollar limit so 2.6 million would be more than 25 that, yes.</p> <p style="text-align: right;">Page 136</p>
<p>1 of the complaint with the terms of the policy, does that 2 sound like Nevada's a four corners state, if that's the 3 standard?</p> <p>4 MS. COUSINEAU: It's an incomplete 5 hypothetical and it also calls for a legal conclusion.</p> <p>6 THE WITNESS: My general understanding 7 of when people refer to a state as a four corners state is 8 that you'll usually compare the allegations of the 9 complaint to the coverage available under the policy.</p> <p>10 Q. BY MR. PRINCE: Okay. Now, going back to 1C, 11 Bate No. 97, and it's a two-page letter dated March 3rd 12 from me to Mr. Holland at the time because he was the 13 prelitigation adjustor. Number one, do you recall reading 14 this letter?</p> <p>15 A. At the time we first received the claim, is that 16 what you mean?</p> <p>17 Q. Right.</p> <p>18 A. I don't remember reading it at that time, no.</p> <p>19 Q. As part of your assigning this matter to Lisa 20 Henderson, did you review this letter?</p> <p>21 MS. COUSINEAU: Asked and answered.</p> <p>22 THE WITNESS: I don't remember.</p> <p>23 Q. BY MR. PRINCE: Why don't you take a minute to 24 review it now.</p> <p>25 A. Okay.</p> <p style="text-align: right;">Page 135</p>	<p>1 Q. BY MR. PRINCE: Right. And that's just in 2 medical expenses. Assuming what I said there was accurate, 3 past medical expenses of 2.6 million, obviously, the claim 4 would be substantially in excess of even the 2.6 million, 5 assuming he did suffer catastrophic injuries, right?</p> <p>6 MS. COUSINEAU: Calls for speculation.</p> <p>7 THE WITNESS: It looks like there's a 8 potential that this claim has a value in excess of a 9 million dollars, assuming this to be true.</p> <p>10 Q. BY MR. PRINCE: Okay. Did you, looking at 11 Bate No. 99 through 107, which is the complaint in the 12 State Court action against Vasquez -- your insureds, 13 Vasquez and Blue Streak, do you recall, reading the 14 allegations as you sit here today, when the file was 15 transferred to you from the prelitigation unit?</p> <p>16 MS. COUSINEAU: Vague and ambiguous as 17 phrased.</p> <p>18 THE WITNESS: When I first received the 19 notice to me of the suit, I don't remember whether I 20 reviewed the entire complaint at that time or not.</p> <p>21 Q. BY MR. PRINCE: Okay. Did you attempt to 22 summarize the allegations in the complaint in any way when 23 the suit initially came to you for assignment?</p> <p>24 A. I don't believe I attempted to summarize the 25 complaint, no.</p> <p style="text-align: right;">Page 137</p>

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<p>1 Q. Did you create any log note entries or any CSR 2 entries upon receiving the file from the prelitigation 3 unit?</p>	<p>1 A. I don't remember specifically what I did and 2 didn't review. That said, I likely would have reviewed at 3 least some, if not all, of the log entries.</p>
<p>4 MS. COUSINEAU: Documents speak for 5 themselves. 6 THE WITNESS: I don't remember entering 7 a particular note in the file outside of the note we've 8 already discussed transferring it to Lisa. 9 Q. BY MR. PRINCE: I guess, were you concerned at 10 all that this was a significant risk exposure to the 11 insured substantially in excess of the policy limits -- 12 MS. COUSINEAU: Lacks foundation. Calls 13 for speculation. 14 Q. BY MR. PRINCE: -- when this was given to you? 15 A. I'm not sure what you mean by was I concerned. 16 Q. Were you worried about this being a substantial 17 exposure in excess of the policy limits to the insureds? 18 A. I don't remember the extent to which I reviewed 19 this at the time I transferred it, so I don't remember what 20 I was particularly thinking about at the time. 21 Q. I think we talked about this a moment ago, but I 22 want to make sure I'm not unmistakably clear on this point. 23 Strike that. 24 There's no record of you giving any 25 written directive or instruction to Lisa Henderson as to</p> <p style="text-align: right;">Page 138</p>	<p>4 Q. Okay. Why do you say that it's likely that you 5 reviewed some, if not all, of the log entries before 6 March 30th, 2011? 7 A. It's something I would likely have done in 8 the -- in the course of taking a look at this claim and 9 reviewing the letter that Lisa had given me. 10 Q. Now, when the file comes to the litigation 11 department, is it in the form of a hard file or do you -- 12 in 2011, were all records restored electronically? 13 A. The claims file itself would have been an 14 electronic file. 15 Q. Okay. So there's no hard file, there's like no 16 physical file transfer from the prelitigation department to 17 the litigation department? 18 MS. COUSINEAU: Object to the form. 19 THE WITNESS: There's no paper file. 20 Q. BY MR. PRINCE: I'm saying physical file, 21 paper file. I'm using that synonymously. 22 A. Yes. 23 Q. So there's no physical file or paper file, as 24 you use that term, transferred from the prelitigation 25 department to the litigation department, correct?</p> <p style="text-align: right;">Page 140</p>
<p>1 performing any aspect of a coverage investigation or 2 evaluation? 3 A. I don't believe there are any written 4 instructions from myself to Lisa at the time of transfer. 5 Q. Okay. Then -- and you don't recall any verbal 6 instruction or direction from you to Lisa Henderson as part 7 of the assignment of this claim, correct? 8 A. I don't remember. It's possible we talked, but 9 I don't remember. 10 Q. If you did talk, you don't recall the details, 11 correct? 12 A. Right. That's correct. 13 Q. We'll probably go back to that, but let's look 14 at Exhibit 1B, which are the claim notes and CSR entries. 15 Now, I see that the only entry made by you which is in 16 these notes is a management entry on March 30th, 2011, 17 correct? 18 MS. COUSINEAU: Document speaks for 19 itself. 20 Q. BY MR. PRINCE: It's on Bate No. 1 of 21 Exhibit 1B. 22 A. I only see one entry by me, as well. 23 Q. Okay. Now, at what point -- Strike that. 24 Did you ever review any of the log entries 25 prior to your entry of March 30, 2011?</p> <p style="text-align: right;">Page 139</p>	<p>1 A. Correct. 2 Q. Now, on -- Lisa makes a number of entries -- I 3 think there are eight -- starting on March the 7th, 2011, 4 and when would you have reviewed those entries, if you 5 know? 6 MS. COUSINEAU: Calls for speculation. 7 THE WITNESS: I don't know. 8 Q. BY MR. PRINCE: Now, are you aware that 9 prelitigation the company denied the claim based on no 10 coverage? 11 MS. COUSINEAU: Vague as to time. 12 THE WITNESS: I am aware that we denied 13 coverage prior to the lawsuit being filed. 14 Q. BY MR. PRINCE: When did you first become 15 aware that prelitigation the company denied the claim on 16 the base that there was no coverage? 17 A. I don't know a specific time. From the notes 18 here, it looks like it would have been March 30th or prior 19 that I first became aware of that. 20 Q. And did it become your -- by March 30, 2011, or 21 before, did you learn that the company denied the claim on 22 the basis that the vehicle wasn't being used for business 23 purposes at the time of the loss? 24 MS. COUSINEAU: Objection. Misstate -- 25 may misstate the evidence.</p> <p style="text-align: right;">Page 141</p>

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<p>1 THE WITNESS: Yeah, that's not exactly 2 my understanding of the coverage position. 3 Q. BY MR. PRINCE: What is your understanding of 4 the coverage position taken prelitigation? 5 A. My understanding -- 6 MS. COUSINEAU: Document speaks for 7 itself. 8 Go ahead. 9 THE WITNESS: As I recall, my 10 understanding was that we had determined that the 11 vehicle -- or the accident itself was not the result of 12 garage operations. 13 Q. BY MR. PRINCE: And did you understand that to 14 mean that since he wasn't using it for business purposes, 15 therefore there was no coverage? 16 A. No. 17 Q. That wasn't your understanding? 18 A. No. 19 Q. What are garage operations? 20 A. They're defined by the policy. 21 Q. Okay. Let's look at that. I'll direct you 22 where I want you to go. 23 A. Sure. 24 Q. You can look at 1B -- excuse me, 1A, Bate 25 No. 173.</p> <p style="text-align: right;">Page 142</p>	<p>1 insured, Mr. Vasquez, and ask how and where he conducted 2 his business? 3 A. I don't remember having done that. 4 Q. Okay. Why didn't you do it? 5 A. I didn't say I didn't do it. I said I don't 6 remember whether I did or not. 7 Q. Well, how would anybody know whether you did or 8 didn't? 9 MS. COUSINEAU: Objection. 10 Argumentative. 11 THE WITNESS: I can just tell you I 12 don't remember. 13 Q. BY MR. PRINCE: Okay. And the term -- now, 14 you agree that this language means -- "the ownership, 15 maintenance, or use of locations for garage business and 16 that portion of the roads or other accesses that adjoin 17 those locations," that's talking about like a brick and 18 mortar or some type of physical location for the garage 19 operation, correct? Don't you agree? 20 MS. COUSINEAU: Calls for speculation. 21 Calls for a legal conclusion. Lacks foundation. 22 THE WITNESS: I don't know that that's 23 necessarily always the case. It says "locations." 24 Q. BY MR. PRINCE: Right. But it's talking about 25 a physical location, right? Don't you agree that's what</p> <p style="text-align: right;">Page 144</p>
<p>1 And you can look at H there, "garage 2 operations." Do you see that, the definition there? 3 A. Yes. 4 Q. It says, "'Garage operations' means the 5 ownership, maintenance, or use of locations for garage 6 business and that portion of the roads or other accesses 7 that adjoin these locations." 8 Do you see that? 9 A. Yes. 10 Q. And what locations did the insured have for this 11 mobile detail company, if any? 12 A. I don't recall. 13 Q. And would -- were you aware -- are you aware -- 14 Were you aware in March of 2011 that it 15 was a mobile detail business with no fixed location? 16 MS. COUSINEAU: Objection, may misstate 17 the evidence. 18 THE WITNESS: I don't remember whether 19 that's something I understood or not. 20 Q. BY MR. PRINCE: Did you ask Lisa Henderson to 21 clarify the nature of the insured's business before sending 22 out the disclaimer on March 30th, 2011? 23 A. I don't remember whether we had any conversation 24 about that. 25 Q. For example, did you ask her to call the</p> <p style="text-align: right;">Page 143</p>	<p>1 the language the policy suggests, that it's a physical 2 location for the garage business? 3 MS. COUSINEAU: Lacks foundation. Calls 4 for speculation. May call for a legal conclusion. 5 THE WITNESS: Yeah, I don't know for 6 sure, but, I mean, "location" is what it is. 7 Q. BY MR. PRINCE: Well, it's talking about roads 8 and other accesses that adjoin the location. Doesn't that 9 language suggest to you that that's a physical location for 10 a garage operation? 11 MS. COUSINEAU: Lacks foundation. Calls 12 for a legal conclusion. 13 THE WITNESS: The word "location" itself 14 is -- I mean, I don't know how else to define it further 15 than what's here. It doesn't talk about brick and mortar 16 or buildings or anything like that. It says just 17 "locations." 18 Q. BY MR. PRINCE: Do you know where the insured 19 operated the business out of? 20 A. I don't remember. 21 Q. Now, assuming what I'm saying is correct, that 22 based on the underwriting file, I am correct that the 23 insured operated a mobile detail business and it was solely 24 owned by Mr. Vasquez, and do you think that a mobile detail 25 business is some part of a garage operation --</p> <p style="text-align: right;">Page 145</p>

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<p>1 MS. COUSINEAU: Lacks foundation. 2 Q. BY MR. PRINCE: -- since there's no garage and 3 he goes to customers' facilities or locations to do the 4 washing and the waxing of cars? 5 MS. COUSINEAU: Argumentative. Lacks 6 foundation. 7 Q. BY MR. PRINCE: Go ahead and answer. 8 A. My general understanding would be that a -- even 9 a mobile detailing business can qualify as garage 10 operations, yes. 11 Q. Well, how would it qualify for garage operations 12 if it doesn't have a garage business -- or a physical 13 location to conduct garage business? 14 MS. COUSINEAU: Incomplete hypothetical, 15 calls for a legal conclusion. 16 THE WITNESS: I think we're looking at 17 half the definition right now. The remainder of the 18 definition says "garage operations includes ownership, 19 maintenance, or use of the autos indicated in section one 20 of this coverage form as covered autos. Garage operations 21 also include all operations necessary or incidental to a 22 garage business." 23 Q. BY MR. PRINCE: Okay. And what -- how is a 24 "garage business" defined? 25 A. It's not a defined term in the policy.</p> <p style="text-align: right;">Page 146</p>	<p>1 understand it, can include a mobile detailing business. 2 Q. BY MR. PRINCE: Right. Well, I'm saying what 3 did you rule -- how did you rule out the insured's engaging 4 in any garage business at the time of the accident? 5 MS. COUSINEAU: Objection. Incomplete 6 hypothetical. Lacks foundation. Assumes facts not in 7 evidence. 8 THE WITNESS: I don't think we talked 9 about whether I ruled anything out. 10 Q. BY MR. PRINCE: Did you ask Lisa Henderson to 11 rule it out? 12 A. No. I'm confused. Can you restate the 13 question? 14 Q. Did you ask Lisa Henderson to rule out that the 15 insured was engaged in any garage business of any kind at 16 the time of the accident? 17 A. I don't know that I specifically asked her to 18 rule that out. 19 Q. Why didn't you? 20 A. I didn't say I didn't. I said I don't remember 21 whether I did. 22 Q. And was Lisa's part of her duty and 23 responsibility to confirm, separate and apart from what the 24 prelitigation department did, whether coverage existed -- 25 or potential for coverage existed under the policy?</p> <p style="text-align: right;">Page 148</p>
<p>1 Q. Well, how did you define "garage business" as it 2 relates to Blue Streak's mobile detailing business when you 3 approved the disclaimer letter? 4 MS. COUSINEAU: Assumes facts not in 5 evidence. 6 THE WITNESS: I didn't define any terms 7 when I approved the letter. 8 Q. BY MR. PRINCE: Well, how do you know -- well, 9 "garage operation" includes all operations necessary and 10 incidental to a garage business, right? 11 A. That's what it says. 12 Q. "Garage business," that term is part of a 13 definition of a garage operation, right? 14 MS. COUSINEAU: Document speaks for 15 itself. 16 THE WITNESS: It's -- I -- 17 Q. BY MR. PRINCE: Correct? 18 A. Those words are within the definition -- 19 Q. I'm trying to find out what steps you undertook 20 to determine if the insured was engaged in any garage 21 business before issuing the March 30th, 2011, coverage 22 denial letter. 23 MS. COUSINEAU: Asked and answered. 24 THE WITNESS: Yeah, I mean, I think we 25 already went through that. This definition, as I</p> <p style="text-align: right;">Page 147</p>	<p>1 MS. COUSINEAU: Could you read that 2 back, please. 3 (The pending question was read.) 4 MS. COUSINEAU: Vague and ambiguous as 5 phrased. Lacks foundation. 6 THE WITNESS: Part of what Lisa would 7 have done is review the information available to determine 8 whether coverage was available for this claim. 9 Q. BY MR. PRINCE: Was she -- part of her duty 10 and responsibility, as someone you supervised, to conduct a 11 separate coverage investigation and make it a separate 12 coverage determination once the matter got to the 13 litigation department? 14 MS. COUSINEAU: Vague and ambiguous. 15 THE WITNESS: She is -- Lisa would not 16 be required to reinvent the wheel, so to speak. If further 17 investigation were required, then that may have been 18 something she would have initiated, but we also would have 19 had available to us the evidence that we gained from the 20 investigation that had already taken place to that point, 21 as well. 22 Q. BY MR. PRINCE: Were you satisfied with the 23 investigation that had already taken place in the 24 prelitigation department once the lawsuit was filed and the 25 claim was transferred to the litigation department?</p> <p style="text-align: right;">Page 149</p>

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<p>1 MS. COUSINEAU: Lacks foundation. Vague 2 and ambiguous. 3 THE WITNESS: I don't remember my 4 impressions of that investigation at the time. From the 5 note that we already talked about that I placed in the 6 file, I can see and recall that I was comfortable that we 7 had confirmed that some of the evidence that had been 8 developed through the investigation appeared to be correct. 9 Q. BY MR. PRINCE: So it was your conclusion, as 10 Ms. Henderson's supervisor, that the insured was not 11 engaged in any garage business at the time of the accident? 12 MS. COUSINEAU: Could you read that 13 back, please. 14 (The pending question was read.) 15 MS. COUSINEAU: Lacks foundation. Calls 16 for speculation. 17 THE WITNESS: Based on the note I placed 18 in the file and very general recollection, I remember being 19 comfortable that we had confirmed that the insured was 20 engaged in a personal errand at the time of the accident. 21 Q. BY MR. PRINCE: Okay. Did you ask 22 Ms. Henderson to determine how the insured advertises his 23 business as a mobile detailer? 24 A. I don't remember having that conversation. 25 Q. Did you ask her to determine if there was any</p> <p style="text-align: right;">Page 150</p>	<p>1 hypothetically say the insured was going to -- driving from 2 home to his uncle's house -- that's where he was going, 3 according to the claim information -- for something purely 4 personal, but on the way to the uncle's house, and just 5 moments before the impact, he received a call from a 6 customer related to the mobile detail business asking a 7 question or arranging for an appointment for a wash and a 8 detail. Would that change the coverage analysis and put 9 him in the connection with the garage business at the point 10 of impact? 11 MS. COUSINEAU: Incomplete hypothetical. 12 Lacks foundation. 13 THE WITNESS: I don't know whether that 14 would make a difference. I haven't addressed that issue. 15 Q. BY MR. PRINCE: Well, I'm asking you to 16 address it. 17 A. I'm -- 18 MS. COUSINEAU: Objection. Incomplete 19 hypothetical. Calls for a legal conclusion. Lacks 20 foundation. 21 THE WITNESS: Yeah, I don't know. 22 Q. BY MR. PRINCE: For example, if the insured 23 was -- before going to his uncle's house, left home, 24 stopped and ate dinner at a local restaurant or 25 establishment, and while there was talking to somebody he</p> <p style="text-align: right;">Page 152</p>
<p>1 signage on the truck that he was driving at the time of the 2 accident related to the garage business? 3 A. I don't remember having a conversation about 4 that. 5 Q. Are you aware that the truck had personalized 6 plates "Just Detailed" as its moniker or license moniker? 7 MS. COUSINEAU: Objection, assumes facts 8 not in evidence. 9 THE WITNESS: I don't remember having 10 any conversation about that. 11 MR. PRINCE: Is that Charles Holland 12 right there? 13 (An off-the-record discussion was held.) 14 Q. BY MR. PRINCE: Did you ask Lisa to confirm 15 whether or not the insured would have been using his cell 16 phone for any business purpose while driving that day? 17 A. I don't remember having any conversation -- 18 Q. If, for example -- 19 MS. COUSINEAU: Can you let him finish 20 his answer, please. 21 MR. PRINCE: Oh, sure. 22 I'm sorry. Go ahead. 23 THE WITNESS: I don't remember having 24 any conversation about that. 25 Q. BY MR. PRINCE: If the insured -- Well, let's</p> <p style="text-align: right;">Page 151</p>	<p>1 just met and told him he was in the mobile detail business 2 and passed out business cards, and then got in the truck 3 and started driving, would that be enough to put him in the 4 scope of garage business at the time of the accident? 5 MS. COUSINEAU: Incomplete hypothetical. 6 Calls for a legal conclusion. 7 THE WITNESS: I don't know. 8 Q. BY MR. PRINCE: Why weren't those type of 9 detailed questions asked -- 10 MS. COUSINEAU: Calls for speculation. 11 Lacks foundation. 12 Q. BY MR. PRINCE: -- by your -- by Ms. Henderson 13 or someone else? 14 A. As I said, I don't know whether they were asked 15 or not, and I don't recall having conversations about those 16 details. 17 Q. Now, let's go back to Exhibit 1C, page No. 99 18 through 107. And in the complaint I'm going to refer you 19 to several allegations -- portions of the complaint, but 20 first I want to direct you to the fourth claim for 21 relief -- Strike that. 22 What I want you to do, I'd like you to 23 read the complaint now. Take a minute to read it. 24 MR. PRINCE: I'm going to use the 25 restroom while you do that.</p> <p style="text-align: right;">Page 153</p>

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<p>1 MS. COUSINEAU: Off the record, then? 2 MR. PRINCE: Yeah, we can go off the 3 record. I want him to read the complaint. 4 (A 6-minute break was taken from 1:27 p.m. 5 to 1:33 p.m.) 6 Q. BY MR. PRINCE: Okay. Now, you've had the 7 chance to review the complaint which accompanied my 8 March 30th, 2011, letter; is that correct? 9 A. Yes. 10 Q. You read that both Mr. Vasquez and Blue Streak 11 Auto Detailing, LLC, were named as defendants, correct? 12 A. Yes. 13 Q. You read in the complaint where there were 14 allegations that Mr. Vasquez was in the course and scope of 15 his employment or agency of Blue Streak at the time of the 16 accident, correct? 17 A. Yes. 18 Q. You also reviewed that Vasquez was not only in 19 the course and scope of his employment or agency, but in 20 the scope of business with Blue Streak at the time of the 21 accident, correct? 22 MS. COUSINEAU: Document speaks for 23 itself. 24 Q. BY MR. PRINCE: That's in paragraph eight. 25 A. Paragraph eight does say that Vasquez was in the</p> <p style="text-align: right;">Page 154</p>	<p>1 excuse me, of its employee if the employee is acting in the 2 course and scope of employment or agency related to the 3 business of the employer, correct? 4 MS. COUSINEAU: Lacks foundation. May 5 misstate the law. 6 THE WITNESS: Generally I understand 7 that one form of respondeat superior could be an employee 8 acting negligently while in the course and scope of his 9 employment and thereby making his employer liable. 10 Q. BY MR. PRINCE: Okay. Now, you agree that if 11 these allegations in the complaint are proven as true, that 12 that would -- that that would trigger the potential for 13 coverage under the Century policy, correct? 14 MS. COUSINEAU: Lacks foundation. 15 Incomplete hypothetical. Calls for a legal conclusion. 16 Q. BY MR. PRINCE: Go ahead. 17 A. Not necessarily. 18 Q. Why? Why not necessarily? 19 A. The -- The policy is -- The portions 20 particularly that we were talking about focus on garage 21 operations as opposed to any of the terms used in the 22 complaint so the inquiry may be different. 23 Q. Well, "garage operations" relates to operating a 24 garage business, right? That's -- The term "garage 25 business" is part of the definition of "garage operations,"</p> <p style="text-align: right;">Page 156</p>
<p>1 course and scope of his business with Blue Streak, yes. 2 Q. Okay. Now, you also note in the review of the 3 complaint that there's a claim for respondeat superior, 4 correct? 5 A. Yes. 6 Q. And you -- by reason of your education and 7 training and experience as a lawyer and as a claims 8 handler, you understand that that claim would be directed 9 at Blue Streak? 10 MS. COUSINEAU: Calls for a legal 11 conclusion. 12 Q. BY MR. PRINCE: Correct? 13 A. Given the context, it seemed it would be likely 14 directed at Blue Streak, yes. 15 Q. And generally describe for me what is your 16 understanding of a respondeat superior claim. 17 MS. COUSINEAU: Lacks foundation. 18 THE WITNESS: Generally respondeat 19 superior is a concept by which one party is held liable for 20 the actions of another. 21 Q. BY MR. PRINCE: Typically -- or commonly in 22 the employee-employer context, correct? 23 A. It does arise in that context, yes. 24 Q. Right. And it's where liability is imputed to 25 the employer for the negligence of its insured if the in --</p> <p style="text-align: right;">Page 155</p>	<p>1 right? 2 MS. COUSINEAU: Document speaks for 3 itself, incomplete hypothetical. 4 Q. BY MR. PRINCE: Go ahead. 5 A. That term is included in the definition, 6 correct. 7 Q. Okay. In this particular case this insured 8 operated a mobile detail business, which would be his 9 garage business if that's, in fact, what it was, right? 10 MS. COUSINEAU: Incomplete hypothetical. 11 Lacks foundation. 12 THE WITNESS: My understanding is that 13 he had a mobile detailing business. 14 Q. BY MR. PRINCE: Okay. 15 A. Where is the policy? Do you mind if I take a 16 look at that? 17 Q. You can. It's in multiple places, but I -- I 18 was showing you Exhibit 1A, and the policy starts for the 19 garage coverage form at 154. 20 A. Okay. 21 Q. Do you remember the question? 22 A. No. 23 MR. PRINCE: Go ahead and read it back. 24 (The pending question was read.) 25 MS. COUSINEAU: Objection. Vague and</p> <p style="text-align: right;">Page 157</p>

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<p>1 ambiguous. 2 Q. BY MR. PRINCE: Right? Is that correct? 3 A. My recollection is that he operated a mobile 4 detailing business. I can see the policy has a business 5 description of auto detailing and wash. 6 Q. Okay. In the underwriting documents, it does -- 7 the company knew it was underwriting a mobile detail 8 business, correct? 9 MS. COUSINEAU: Lacks foundation. 10 THE WITNESS: I don't know what the 11 company thought it was writing. 12 Q. BY MR. PRINCE: Well, I can show you the 13 documents, but they describe a mobile detail business. And 14 that was your understanding, anyway, correct? 15 A. My recollection is that Mr. Vasquez was 16 operating a mobile detailing business. 17 Q. So his garage business was a mobile detail 18 business, correct? 19 MS. COUSINEAU: Calls for a legal 20 conclusion. 21 THE WITNESS: My understanding is that 22 his business was a mobile detail business. 23 Q. BY MR. PRINCE: Which was his garage business 24 as that term is used in the policy, correct? 25 A. Well, we read the definition of "garage Page 158</p>	<p>1 employment -- if these facts are proven as true, that at 2 the time of the accident he was driving the vehicle owned 3 and/or maintained by Blue Streak in the course of his -- of 4 Blue Streak's business, if those allegations are true, 5 there is at least the potential for coverage under the 6 policy, correct? 7 MS. COUSINEAU: Incomplete hypothetical. 8 Lacks foundation. 9 THE WITNESS: Sorry. Can you read that 10 back. 11 (The pending question was read.) 12 THE WITNESS: I'm -- I'm not sure that 13 that's true. 14 Q. BY MR. PRINCE: Why aren't you sure? 15 A. Well, the -- initially you indicated if it was a 16 vehicle owned by Blue Streak, I believe that's what your 17 question was asking. And I'm not sure that that would fall 18 within the -- 19 Q. Okay. The truck, according to the police 20 report, was owned by Mr. Vasquez individually, correct? 21 MS. COUSINEAU: Document speaks for 22 itself. 23 THE WITNESS: Yeah, I'm not sure. I'd 24 have to look at the report to refresh my recollection. 25 Q. BY MR. PRINCE: Let me find it for you. Let Page 160</p>
<p>1 operations" already, and we endorsed the policy to indicate 2 that included within that definition is auto detailing and 3 wash. 4 Q. So anything related to auto detailing and wash 5 would be part of the definition of "garage operations," 6 correct? 7 MS. COUSINEAU: Incomplete hypothetical. 8 Lacks foundation. Calls for a legal conclusion. 9 THE WITNESS: I don't know that I'd go 10 so far as to say anything related, but the policy says what 11 it says, and "garage operations" includes auto detailing 12 and wash. 13 Q. BY MR. PRINCE: So when the complaint alleges 14 that Mr. Vasquez was in the course and scope of his 15 business with Blue Streak at the time of the loss, that 16 would be part of the "garage operations" as that term is 17 defined by the policy, correct? 18 MS. COUSINEAU: Lacks foundation. 19 Incomplete hypothetical. Calls for a legal conclusion. 20 THE WITNESS: I don't know that the 21 complaint alone is -- is enough to reach a conclusion that 22 he was acting within the policy's definition of "garage 23 operations." 24 Q. BY MR. PRINCE: All right. And so if it was 25 demonstrated that he was in the course and scope of his Page 159</p>	<p>1 me see if I can find it. 2 If you look at Exhibit 1D, Bate No. 10 -- 3 excuse me, Bate No. 11, which is a -- one page of the State 4 of Nevada traffic accident report -- 5 MS. COUSINEAU: 1D? 6 MR. PRINCE: Yes. 7 MS. COUSINEAU: Mine starts with 31. 8 THE WITNESS: Yeah, mine, too. 9 MR. PRINCE: Then I go on to -- yeah, in 10 the middle of it there's -- 11 THE WITNESS: It starts over. 12 MR. PRINCE: Yeah, just kind of like 13 it -- 14 MS. COUSINEAU: So it's not in 15 numerical -- 16 MR. PRINCE: No, I kind of redid the 17 file a little bit. I reorganized the claim file for the 18 purposes of my binder. 19 MS. COUSINEAU: Looks like the policy is 20 in between. 21 THE WITNESS: Yeah. 22 Okay. I think I've got it here. 23 Q. BY MR. PRINCE: And then it says there the 24 driver is Michael Anthony Vasquez and it says "registered 25 owner" on there, owner's name. Page 161</p>

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<p>1 MS. COUSINEAU: Objection. 2 Q. BY MR. PRINCE: It says, "registered owner's 3 name, Vasquez, Michael Anthony."</p>	<p>1 Incomplete hypothetical. Calls for a legal conclusion. 2 THE WITNESS: If it was Mr. Vasquez's 3 personal auto and it was being driven for his garage</p>
<p>4 A. I can't quite read it. It may say that. I 5 can't tell if it says "registered driver" or "registered 6 owner." 7 Q. Well, the driver is listed at the top, so let me 8 see if there's a different copy where you can see it 9 better. You can go to the Exhibit 2, and then go to Bate 10 No. 3, Exhibit 2. 11 A. Okay. 12 Q. That's the same page, just clearer. 13 A. Okay. 14 What was the question? 15 Q. The question is that Mr. Vasquez is the owner of 16 that truck? 17 A. It appears. According to the police report, 18 they have him listed as the owner. 19 Q. In fact, that was confirmed also, isn't it your 20 understanding, by the independent adjustor that -- hired by 21 Mr. Holland? 22 A. I don't remember specifically, but I seem to 23 have a recollection of that generally. 24 Q. Okay. And that under symbol 29 for non-owned 25 autos or with recovered autos, as a member of the L.L.C.,</p> <p style="text-align: right;">Page 162</p>	<p>4 operations at the time of the accident, it could qualify as 5 a covered auto. 6 Q. BY MR. PRINCE: Okay. So the question is, 7 going back to the allegations of the complaint, accepting 8 the allegations as true that Vasquez was driving the truck 9 -- Strike that. 10 Going back to the allegation of the 11 complaint is true that Vasquez was the owner of the truck 12 at the time of the accident and was driving the truck in 13 the scope of Blue Streak's business at the time, that would 14 trigger the potential for coverage under the policy if 15 those allegations are proven as true, correct? 16 MS. COUSINEAU: Lacks foundation. 17 Miscites the evidence even. 18 THE WITNESS: It appears to me that the 19 complaint seems to indicate that Vasquez owned it, but also 20 that Blue Streak owned it, so ... 21 Q. BY MR. PRINCE: If it's proven that Vasquez 22 owned it and was driving the truck at the time of the 23 accident in the scope -- in the scope of Blue Streak's 24 business, that would trigger the potential for coverage, 25 correct?</p> <p style="text-align: right;">Page 164</p>
<p>1 Mr. Vasquez's truck would qualify as a covered auto if it 2 was used in the garage business, correct? 3 MS. COUSINEAU: Calls for a legal 4 conclusion, incomplete hypothetical. 5 THE WITNESS: There could be coverage if 6 it was an accident resulting from garage operations -- 7 Q. BY MR. PRINCE: I'm asking about it being a 8 covered auto. Remember, we talked about before if it was 9 owned by the company, it may not be covered because it was 10 only covered for non-owned autos? 11 A. Yes, if it was not owned by Blue Streak and it 12 was used for garage operations, it could qualify as a 13 covered auto. 14 Q. Right. And then the definition of a non-owned 15 auto, for it being a covered auto, includes a member's 16 vehicle of a limited liability company while used in the 17 garage business, correct? 18 MS. COUSINEAU: Document speaks for 19 itself. 20 THE WITNESS: And that's what it says. 21 Q. BY MR. PRINCE: Okay. So Mr. -- if the truck 22 was being used for the garage business, meaning the mobile 23 detail business, at the time of the accident by 24 Mr. Vasquez, it would qualify as a covered auto, correct? 25 MS. COUSINEAU: Lacks foundation.</p> <p style="text-align: right;">Page 163</p>	<p>1 MS. COUSINEAU: Incomplete hypothetical. 2 Calls for a legal conclusion. 3 THE WITNESS: The accident would have to 4 be a result of garage operations. 5 Q. BY MR. PRINCE: Right. That's what the 6 allegations in the complaint say, that at the time of the 7 accident he was engaged in the scope of Blue Streak's 8 business, which was not a garage operation but which 9 included auto detail business, that would trigger the 10 potential for coverage under the policy, correct? 11 MS. COUSINEAU: Argumentative. Lacks 12 foundation. Miscites the evidence. 13 THE WITNESS: I don't read the complaint 14 as saying a lot of those things you just said. The inquiry 15 remains: Was the accident the result of garage operations? 16 Q. BY MR. PRINCE: Well, the complaint says that 17 "Vasquez, while in the course and scope of his business 18 with Blue Streak was driving the 2007 Ford F150 eastbound 19 St. Rose Parkway. At all relevant times to these 20 proceedings, Blue Streak and Vasquez operated the mobile 21 detailing business and traveled upon the streets of Clark 22 County, Nevada," it also alleges that Vasquez was 23 negligent. 24 What more allegations would there need to 25 be in order to trigger at least the potential for coverage</p> <p style="text-align: right;">Page 165</p>

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<p>1 under the Century policy? 2 MS. COUSINEAU: Objection. 3 Argumentative. Lacks foundation. Incomplete hypothetical. 4 THE WITNESS: With just these 5 allegations, I would want to do further inquiry to 6 determine whether the accident was a result of garage 7 operations as that's defined in the policy still. 8 Q. BY MR. PRINCE: Okay. Well, then how do you 9 resolve -- because you knew, at least according to the 10 prelawsuit investigation, it was the company's position 11 that he was not engaged in garage business at the time of 12 the accident, correct? 13 MS. COUSINEAU: Could you read that 14 back, please. 15 (The pending question was read.) 16 THE WITNESS: I remember being aware 17 that we had -- that our investigation had initially 18 concluded that he was operating the vehicle for personal 19 purposes. 20 Q. BY MR. PRINCE: And not business, correct? 21 A. Not business, right. 22 Q. Well, the allegations in the complaints allege 23 that he was operating the vehicle for business purposes at 24 the time of the accident. So the question to you is, how 25 did you resolve that conflict? The allegations in the</p> <p style="text-align: right;">Page 166</p>	<p>1 for Blue Streak or any business-related -- or any of Blue 2 Streak's business at the time that this accident happened. 3 We had it confirmed multiple times that he was running a 4 personal errand. 5 Q. BY MR. PRINCE: Okay. So then based upon the 6 information that you had gathered prelitigation, did you 7 believe there was a conflict between that information and 8 allegations in the complaint that he was operating the 9 truck for business purposes? 10 MS. COUSINEAU: Vague and ambiguous, 11 assumes facts not in evidence. 12 THE WITNESS: The complaint alleges he 13 was operating the vehicle for Blue Streak as a part of the 14 mobile detailing business at the time. As I said, we 15 investigated to determine whether that was true and 16 confirmed multiple times that it was not. 17 Q. BY MR. PRINCE: Okay. And since you confirmed 18 that it was not -- well, I'm not asking that. Accept what 19 you have to say is true. Okay. That's the information you 20 had. 21 Did you believe that the factual 22 information that you -- that you had in your possession at 23 the time the lawsuit came in, that he was not driving the 24 truck in the course of Blue Streak's business, did you 25 think that information was in conflict with the allegations</p> <p style="text-align: right;">Page 168</p>
<p>1 complaint, if accepted and proven as true, suggest that 2 he's driving the vehicle at the time of the accident for 3 business purposes and your investigation before the lawsuit 4 says he wasn't. How did you resolve that in terms of 5 providing your insured a defense? 6 MS. COUSINEAU: Lacks foundation. 7 Assumes facts not in evidence. 8 THE WITNESS: I don't recall all the 9 specifics of the way that we reached the position that we 10 did. I do remember, and I can see from my note here, that 11 we confirmed that the insured had advised us and the police 12 report indicated that he was not doing anything related to 13 Blue Streak's business at the time of the accident. He was 14 running a personal errand. 15 Q. BY MR. PRINCE: I understand that. But then 16 the allegations in the complaint allege that he was doing 17 something related to the mobile detail business at the time 18 of the accident. He was driving the truck for business 19 purposes at the time of the accident. How did you resolve 20 that conflict in terms of providing the insureds a defense 21 to the lawsuit? 22 MS. COUSINEAU: Lacks foundation. 23 THE WITNESS: Yeah, same answer. We had 24 already determined at that point, and then confirmed again 25 through the insured, that he was not operating the vehicle</p> <p style="text-align: right;">Page 167</p>	<p>1 in the complaint, that he was driving the truck for 2 business purposes at the time of the accident? 3 MS. COUSINEAU: Calls for speculation. 4 THE WITNESS: I don't remember what I -- 5 whether I recognized that or considered that at the time 6 that I first received the complaint. 7 Q. BY MR. PRINCE: Okay. At any time before the 8 company issued its denial on June 30, 2011, that it was not 9 going to provide coverage or provide a defense, did you 10 consider whether there was a conflict between the facts and 11 information that you had in your possession that he was not 12 operating the truck as part of the business at the time of 13 the accident versus the allegations in the complaint that 14 he was driving the truck for business purposes at the time 15 of the accident? 16 MS. COUSINEAU: Vague and ambiguous, 17 lacks foundation. 18 THE WITNESS: I'm not clear on the -- 19 part of the premise. Did we issue a June 30th letter? 20 Q. BY MR. PRINCE: March 30th letter. 21 A. March 30? 22 Q. Yes. 23 A. Yeah. Can you read that back to me one more 24 time. 25 (The pending question was read.)</p> <p style="text-align: right;">Page 169</p>

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<p>1 Q. BY MR. PRINCE: Let me restate the question 2 because you're correct. Thank you for that clarification. 3 At any time before the company issues its 4 March 30, 2011, disclaimer of coverage that it was not 5 going to cover this claim or provide Blue Streak or Vasquez 6 a defense, did you recognize that there was a conflict 7 between the information that you had in your possession 8 that Vasquez was not operating the truck for business 9 purposes at the time of the accident versus the allegations 10 in the complaint that he was operating the truck for 11 business purposes at the time of the accident? 12 MS. COUSINEAU: Calls for speculation. 13 THE WITNESS: I remember being aware 14 that all of our investigation indicated he was running a 15 personal errand at the time, but that this complaint was 16 alleging that he was performing business for Blue Streak. 17 Q. BY MR. PRINCE: And, obviously, those two 18 positions are in conflict, right? 19 MS. COUSINEAU: Lacks foundation. 20 Assumes facts not in evidence. 21 THE WITNESS: I don't know that they're 22 necessarily in conflict, but it was a question at the time, 23 yes. 24 Q. BY MR. PRINCE: As it relates to providing the 25 insureds with a defense, how did you resolve that question <p style="text-align: right;">Page 170</p></p>	<p>1 THE WITNESS: Yeah, I don't -- I'm not 2 sure how that's different than the other times you've asked 3 it. It's our investigation, which we then confirmed prior 4 to issuing a letter, indicated that he had told not only us 5 but the police on multiple occasions that he was operating 6 the vehicle for personal purposes only. 7 Q. BY MR. PRINCE: And so my question -- that's 8 not my question. My question is, he's saying he's not 9 using it for business purposes. The allegations in the 10 complaint allege that he is using it for business purposes. 11 In terms of providing a defense to the insureds, how did 12 you resolve that conflict? 13 MS. COUSINEAU: Lacks foundation. 14 Assumes facts not in evidence. 15 THE WITNESS: I'm not sure how else to 16 give you the answer other than we confirmed that the actual 17 facts, notwithstanding allegations, were that he was 18 operating the vehicle for personal purposes at the time. 19 Q. BY MR. PRINCE: And, therefore, the company 20 elected -- chose not to provide Mr. Vasquez or Blue Streak 21 a defense, correct? 22 MS. COUSINEAU: Argumentative. 23 THE WITNESS: It appeared, based on 24 that, based on those facts, that there was no duty to 25 provide a defense. <p style="text-align: right;">Page 172</p></p>
<p>1 whether he was operating the truck for business purposes at 2 the time of the accident versus not operating the truck for 3 business purposes at the time of the accident? 4 A. I remember wanting to confirm what our 5 investigation had indicated, namely that the insured was 6 running a personal errand at the time and not performing 7 any business-related duties. 8 Q. Okay. And so do you know what information that 9 Ms. Henderson actually confirmed with the insured, 10 Mr. Vasquez? 11 A. I don't recall specific details, but I do 12 remember discussing with her that Mr. Vasquez had told her, 13 again, that he was running a personal errand and not doing 14 any work-related business at the time. 15 Q. Okay. Okay. So once she contacts Mr. Vasquez 16 and confirms that he was reportedly on a personal errand at 17 the time of the accident, how did you -- in terms of 18 whether to provide a defense for either insured, 19 Mr. Vasquez or Blue Streak, how did you resolve the 20 conflict between the information that you had in your 21 possession that he was doing something not business-related 22 versus the allegations in the complaint that he was doing 23 something business-related? 24 MS. COUSINEAU: Asked and answered, but 25 it also assumes facts not in evidence. <p style="text-align: right;">Page 171</p></p>	<p>1 Q. BY MR. PRINCE: Correct. So that decision was 2 made by you, correct? 3 MS. COUSINEAU: Vague and ambiguous. 4 THE WITNESS: Lisa would have been the 5 first line of coverage analysis. And as I recall, we 6 discussed it and it appeared to me that her conclusion was 7 correct, yes. 8 Q. BY MR. PRINCE: Okay. And so you ultimately 9 made the decision, on behalf of Century, not to provide a 10 defense to Vasquez and/or Blue Streak, correct? 11 A. I remember coming to the conclusion that there 12 was no duty to provide a defense. 13 Q. BY MR. PRINCE: Okay. And so, therefore, you 14 approved the disclaimer letter of March 30, 2011, 15 indicating that not only was the claim not covered, but the 16 company was not going to provide a defense? 17 MS. COUSINEAU: Document speaks for 18 itself. 19 THE WITNESS: I recall approving that 20 letter, yes. 21 Q. BY MR. PRINCE: Okay. Now, at any point 22 before the complaint -- Sorry, strike that. 23 At any time before the March 30, 2011, 24 disclaimer letter was approved and sent, did you ever 25 direct Miss Henderson to find out whether Progressive was <p style="text-align: right;">Page 173</p></p>

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<p>1 going to provide a defense to Vasquez or Blue Streak or 2 both? 3 MS. COUSINEAU: Lacks foundation.</p>	<p>1 Q. BY MR. PRINCE: Do you have any evidence or 2 information in the file that you looked at where you 3 directed Miss Henderson to monitor the litigation?</p>
<p>4 Misstates the evidence. 5 THE WITNESS: I don't remember directing 6 Lisa to do anything in particular. I do recall being aware 7 of the fact that Progressive had told us that they had 8 accepted the claim and would be providing a defense. And I 9 seem to recall that the insured had told us he was under 10 the impression that Progressive was at least involved. I 11 don't know if he knew whether they were providing a defense 12 or not. 13 Q. BY MR. PRINCE: Okay. At any point before you 14 issued the -- the company issued and sent the March 30, 15 2011, disclaimer letter, did you verify whether Progressive 16 was going to provide a defense to either Vasquez, Blue 17 Streak, or both under its policy of insurance? 18 A. I don't remember. 19 Q. Of course, there's no information -- Strike 20 that. 21 Did you ever request Ms. Henderson or 22 anyone else at Century to obtain a copy of the Progressive 23 policy? 24 A. I don't remember if I asked for anything like 25 that.</p> <p style="text-align: right;">Page 174</p>	<p>4 A. I don't recall any. 5 Q. And if you look at Exhibit 1B, it's the logged 6 entry 5/16/2011 -- 7 A. Okay. 8 Q. -- it says, "The insured understands no coverage 9 and has defense provided by auto carrier Progressive. 10 Closing claim." Did you ever verify that Progressive was 11 going to provide a defense to Vasquez, Blue Streak, or 12 both? 13 A. Like I said, I have a recollection that 14 Progressive was providing a defense. I don't recall 15 conversations about the details of that defense. 16 Q. Okay. Or to whom it was going to be provided? 17 A. Right, yeah, I don't remember. 18 Q. Do you know if Lisa Henderson ever got any 19 information from Progressive as to who they were going to 20 defend? 21 A. I don't know. 22 Q. Were you -- were you comfortable with her 23 closing the file as of May 16th, 2011? 24 MS. COUSINEAU: Vague and ambiguous. 25 THE WITNESS: I vaguely remember having</p> <p style="text-align: right;">Page 176</p>
<p>1 Q. Okay. Do you recall if Ms. Henderson asked for 2 any information like that? 3 A. I don't know if she did. 4 Q. Did you ever ask Ms. Henderson to engage in any 5 independent analysis whether Progressive had a duty to 6 defend Vasquez, Blue Streak, or both in the lawsuit? 7 A. I don't remember whether we discussed that. 8 Q. Okay. And did you ever request Ms. Henderson 9 undertake any analysis, assuming there was coverage under 10 the Century policy, to determine who had primary versus 11 excess coverage between Progressive and Century? 12 MS. COUSINEAU: Objection. Lacks 13 foundation. Incomplete hypothetical. 14 THE WITNESS: I don't remember any 15 conversations about primary versus excess. 16 Q. BY MR. PRINCE: And after -- so March 30, 17 2011, the company issued its disclaimer to Vasquez and Blue 18 Streak disclaiming coverage and informed them they're not 19 going to provide a defense. After that time, did you 20 instruct Ms. Henderson to monitor the litigation? 21 MS. COUSINEAU: The foundational 22 statement to that question misstates the evidence. 23 Go ahead. 24 THE WITNESS: I don't remember whether 25 we had conversations about monitoring the case.</p> <p style="text-align: right;">Page 175</p>	<p>1 the impression at the time that not only was Progressive 2 defending, but the insured was -- well, as she says here, 3 "understood our position and had reiterated that he was 4 using the vehicle for personal use." And so I don't 5 remember having any particular questions at the time of 6 closing. 7 Q. BY MR. PRINCE: The question is: You had no 8 problem with her closing the file at that point, correct? 9 MS. COUSINEAU: Vague and ambiguous. 10 THE WITNESS: I don't remember having 11 any particular questions or problems with her -- 12 Q. BY MR. PRINCE: As you look at it right now, 13 do you have any problems with her closing the file at that 14 point? 15 MS. COUSINEAU: Vague and ambiguous. 16 THE WITNESS: Based on what I see here, 17 that we confirmed our investigation and the insured 18 understood our position, it seemed like that would be the 19 right time to close the file. 20 Q. BY MR. PRINCE: At that point did -- as of 21 May 16, 2011, did Century have any interest in the outcome 22 of the litigation since it had denied coverage and chose 23 not to provide a defense to either insured? 24 MS. COUSINEAU: Objection. Vague and 25 ambiguous. May call for a legal conclusion.</p> <p style="text-align: right;">Page 177</p>

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<p>1 THE WITNESS: As I recall, there was no 2 financial interest in the outcome of the litigation at the 3 time. 4 Q. BY MR. PRINCE: Okay. Now, on June 27, 5 2011 -- 6 I'm at Exhibit 1C. 7 MS. COUSINEAU: Do you have a particular 8 page? 9 MR. PRINCE: Oh, I'm sorry, 205. I'm 10 sorry. 11 Q. BY MR. PRINCE: And in this letter, it's a 12 letter to Lisa Henderson, and it's enclosing -- it's 13 informing her that defaults were entered against Blue 14 Streak Auto Detailing and Michael Vasquez and attached are 15 complaints of the defaults. 16 MS. COUSINEAU: Is that a question? 17 MR. PRINCE: No. I'm just directing 18 him. 19 Q. BY MR. PRINCE: Were you made aware that 20 defaults were entered against both Vasquez and Blue Streak? 21 A. I have a general recollection of being made 22 aware of that. 23 Q. And how were you made aware of that? 24 A. I don't know for sure. 25 Q. If you can look at Exhibit 1A, Bate No. 211 --</p> <p style="text-align: right;">Page 178</p>	<p>1 MS. COUSINEAU: Calls for speculation. 2 Lacks foundation. 3 THE WITNESS: I honestly don't know what 4 impressions I had when I received this e-mail. I don't 5 remember. 6 Q. BY MR. PRINCE: Did you ask her any questions 7 whether Progressive was going to defend Blue Streak after 8 you received this e-mail? 9 A. I don't remember if I had any discussion about 10 that. 11 Q. Did you request that she clarify whether 12 Progressive was going to defend Blue Streak in the 13 litigation and seek to set aside a default as to it? 14 A. I don't remember having any conversations about 15 that. 16 Q. And the question is, "Should I advise PC that we 17 have no coverage?" PC means plaintiff's counsel, right? 18 A. Typically that's an abbreviation we use for 19 them. 20 Q. Well, that's what you understood it to mean, 21 right? 22 MS. COUSINEAU: Calls for speculation. 23 THE WITNESS: I don't remember at the 24 time, but likely. We typically used PC as plaintiff's 25 counsel.</p> <p style="text-align: right;">Page 180</p>
<p>1 A. Okay. 2 Q. -- it's an e-mail from Lisa Henderson to you 3 June 27, 2011, at 3:33 p.m. And she attaches the defaults 4 that the company received by reason of my letter. And the 5 question is -- it says -- statement -- it says in her 6 e-mail, "I was told by Progressive, the driver's auto 7 carrier, that it was defending the driver. The defaults 8 state it is against Vasquez and Century's insured." 9 When she says "Century's insured," she's 10 referring to Blue Streak, correct? 11 MS. COUSINEAU: Calls for speculation. 12 THE WITNESS: I don't know what 13 specifically she intended by that. 14 Q. BY MR. PRINCE: Well, that's how you -- that 15 was your impression, right? That Century's insured, which 16 would be Blue Streak, right? 17 MS. COUSINEAU: Lacks foundation. 18 THE WITNESS: I don't remember receiving 19 this particular e-mail specifically. I mean, Blue Streak 20 was the insured on this file. 21 Q. BY MR. PRINCE: Okay. So if it was Vasquez 22 and Century's insured, that would leave you with the 23 impression that it's Vasquez and Blue Streak? That's 24 how -- that's how you'd interpret Century's insured 25 meaning -- as to being Blue Streak?</p> <p style="text-align: right;">Page 179</p>	<p>1 Q. BY MR. PRINCE: Okay. And in this context, 2 what would PC mean, other than plaintiff's counsel? 3 MS. COUSINEAU: Calls for speculation. 4 THE WITNESS: I don't know. 5 Q. BY MR. PRINCE: Who did you understand it to 6 mean? 7 A. Like I say, we typically use "PC" as plaintiff's 8 counsel so, as I'm reading it right now, that's what I'm 9 understanding. I don't remember receiving this e-mail so I 10 can't tell you what I understood then. 11 Q. Did you respond to the e-mail in writing? 12 A. I don't remember. 13 Q. Did you speak with Ms. Henderson after receiving 14 this e-mail? 15 A. I don't remember. 16 Q. Do you recall having any discussions with her 17 about there being default entered against the insureds? 18 A. I recall being aware that defaults were entered. 19 I don't recall whether we had conversations or what they 20 may have been about. 21 Q. I mean, because you know as a -- based on your 22 education and training as a lawyer, that in the event the 23 defaults are not set aside, the next step would be for the 24 plaintiff to file an application for default judgment, 25 correct?</p> <p style="text-align: right;">Page 181</p>

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<p>1 MS. COUSINEAU: Lacks foundation. Calls 2 for speculation.</p>	<p>1 Q. BY MR. PRINCE: All right. So the company 2 maintained its position that it was not going to provide a</p>
<p>3 THE WITNESS: I know typically a default 4 notice can be followed by an application for a default 5 judgment.</p>	<p>3 defense to the insureds after receiving the defaults, 4 correct?</p>
<p>6 Q. BY MR. PRINCE: And typically, assuming the 7 company is going to provide a defense, most insurers, they 8 act with -- fairly quickly when there is a fault because 9 there's the risk of a potential default judgment being 10 entered, correct?</p>	<p>5 A. I don't remember there being any change in 6 position. 7 Q. Okay. Forty-five minutes later, there's -- on 8 the next page of Exhibit 1A, Bate No. 225, there's an 9 e-mail from Lisa Henderson to me stating, "Please be 10 advised that Century has no coverage for this matter. It 11 is my understanding that this matter is being handled by 12 Progressive Insurance, and I'm copying the adjustor, Pam 13 Torres, on this e-mail and forwarding the defaults you sent 14 to Progressive."</p>
<p>11 MS. COUSINEAU: Lacks foundation. 12 Incomplete hypothetical.</p>	<p>11 Did you approve this e-mail before it went 12 out?</p>
<p>13 THE WITNESS: I don't know.</p>	<p>13 A. I don't remember.</p>
<p>14 Q. BY MR. PRINCE: Do you think receiving a 15 default against the insured, that the companies typically 16 act with some level of urgency if it is their desire to 17 provide the defense by seeking to have it set aside almost 18 immediately?</p>	<p>14 Q. And so after receiving the defaults, obviously 15 Century maintained its position -- Strike that. 16 Obviously, after receiving the defaults, 17 you maintained the position that the company was not going 18 to provide a defense to either Blue Streak or Vasquez, 19 correct?</p>
<p>19 MS. COUSINEAU: Incomplete hypothetical. 20 Calls for speculation.</p>	<p>20 MS. COUSINEAU: Lacks foundation. 21 THE WITNESS: I don't remember there</p>
<p>21 THE WITNESS: I don't know what most 22 companies do.</p>	<p>21 Page 182</p>
<p>23 Q. BY MR. PRINCE: Okay. What do you do at 24 Meadowbrook or Century?</p>	<p>22 Page 184</p>
<p>25 MS. COUSINEAU: Incomplete hypothetical. Page 182</p>	<p>23</p>
<p>1 THE WITNESS: It depends on the 2 particular circumstances of the claim.</p>	<p>1 being any change in our coverage position at that time. 2 Q. BY MR. PRINCE: And since there was no change 3 in coverage position, the company elected not to provide a 4 defense to Blue Streak and Vasquez and seek to set aside 5 the defaults, correct?</p>
<p>3 Q. BY MR. PRINCE: If you're going to provide a 4 defense and then there's a default against the insured, you 5 typically move with some level of urgency to have it set 6 aside, right?</p>	<p>6 MS. COUSINEAU: Argumentative. Asked 7 and answered. 8 THE WITNESS: I don't recall having any 9 change in our coverage position, and I don't recall 10 retaining counsel.</p>
<p>7 MS. COUSINEAU: Vague and ambiguous. 8 THE WITNESS: If we're providing a 9 defense for an insured, an application for default is filed 10 or a notice of default, I would expect that defense counsel 11 would usually take steps to counter that.</p>	<p>11 Q. BY MR. PRINCE: Okay. And so at -- before 12 issuing this e-mail to me on June 27, 2011, did you 13 instruct Ms. Henderson to clarify with Progressive if it 14 was going to provide a defense to either Vasquez, Blue 15 Streak, or both?</p>
<p>12 Q. BY MR. PRINCE: Okay. Now, do you recall 13 informing Ms. Henderson that Century was not going to 14 provide a defense after receiving the defaults?</p>	<p>16 A. I don't remember having any conversations about 17 that. 18 Q. Okay. Do you know based upon your review of the 19 claim file and materials, whether Ms. Henderson clarified 20 whether Progressive was going to provide a defense to 21 either Vasquez, Blue Streak, or both in the litigation?</p>
<p>15 MS. COUSINEAU: Asked and answered.</p>	<p>22 A. I don't know whether she clarified that.</p>
<p>16 THE WITNESS: I don't recall whether we 17 discussed that.</p>	<p>23 Q. Okay. Now, after the defaults were forwarded to 24 Progressive on June 27, 2011, did you instruct 25 Ms. Henderson or anyone else at Century to monitor the</p>
<p>18 Q. BY MR. PRINCE: Okay. You obviously did not 19 approve of hiring defense counsel on Century or Blue 20 Streak's behalf so as to take the necessary steps to set 21 the defaults aside, correct?</p>	<p>22 Page 183</p>
<p>22 MS. COUSINEAU: Lacks foundation. 23 Incomplete hypothetical.</p>	<p>23 Page 185</p>
<p>24 THE WITNESS: As I recall, we didn't 25 retain counsel to represent the insured. Page 183</p>	<p>24</p>

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<p>1 litigation? 2 A. I don't remember any conversations about 3 monitoring.</p>	<p>1 said, I don't remember that we changed our coverage 2 position at all, which was that we had no duty to defend or 3 indemnify. And I don't recall us discussing any reasons to</p>
<p>4 Q. And you obviously would have understood as a 5 lawyer and as a -- as the manager for the litigation unit, 6 that unless those defaults were set aside, the insureds 7 were at risk of having a default judgment entered against 8 them? 9 MS. COUSINEAU: Incomplete hypothetical. 10 Lacks foundation, vague and ambiguous. 11 THE WITNESS: I know, generally 12 speaking, if a notice of default is filed, it can be 13 followed by an application for default judgment if there's 14 no response. 15 Q. BY MR. PRINCE: Okay. And after Century 16 forwarded the defaults to Progressive and Ms. Henderson 17 states in her June 27, 2011, activity log note that Century 18 had no coverage and cannot defend the insured against the 19 same, did Century have any financial interest in the 20 outcome of the litigation as of -- at that point in time? 21 MS. COUSINEAU: Vague and ambiguous, 22 lacks foundation. 23 THE WITNESS: Because there was no duty 24 to defend or indemnify, it's my understanding there 25 wouldn't have been a financial interest for Century in the Page 186</p>	<p>4 continue monitoring the file. 5 MR. PRINCE: Let's take a break. 6 (An 11-minute break was taken from 7 2:23 p.m. to 2:34 p.m.) 8 Q. BY MR. PRINCE: Mr. Mayer, at any point before 9 June 30, 2011, did you seek the input from anyone in the 10 coverage unit at Meadowbrook, including Vicki Roberts? 11 A. I don't remember discussing with any of our 12 coverage attorneys. 13 Q. Let me be more specific with my question. At 14 any time before March 30, 2011, the date that you approved 15 issuing the disclaimer letter informing the insureds, no, 16 you're not going to indemnify them for the loss, but also 17 not going to provide the defense, did you seek input from 18 anyone in the coverage unit, including Vicki Roberts, 19 whether there was a duty to defend the insureds against the 20 allegations in the complaint? 21 MS. COUSINEAU: Vague and ambiguous as 22 phrased. 23 THE WITNESS: I don't believe I 24 discussed this case with anyone in our coverage unit prior 25 to March 30th. Page 188</p>
<p>1 outcome of the litigation. 2 Q. BY MR. PRINCE: Okay. And after June 27, 3 2011, do you know if Ms. Henderson herself undertook any 4 steps to monitor the litigation? 5 MS. COUSINEAU: Could you read that 6 back, please. 7 (The pending question was read.) 8 THE WITNESS: I don't remember whether 9 she did or not. 10 Q. BY MR. PRINCE: Would there have been any 11 reason for Ms. Henderson or anyone else at Century to 12 monitor the litigation after June 27, 2011? 13 MS. COUSINEAU: Calls for speculation. 14 THE WITNESS: I don't know. 15 Q. BY MR. PRINCE: Can you think of any as you 16 sit here? 17 A. It's a hypothetical. If somebody called with a 18 question about it or wanted information about it, there may 19 have been reason to look into it. 20 Q. But other than somebody calling with a specific 21 question or request for information, other than that, I 22 mean, would there be any reason for Century monitoring the 23 litigation after June 27, 2011? 24 MS. COUSINEAU: Calls for speculation. 25 THE WITNESS: I know at the time -- as I Page 187</p>	<p>1 Q. BY MR. PRINCE: Prior to March 30th, 2011, did 2 you retain coverage counsel in the state of Nevada to 3 provide you with any coverage opinion or analysis whether 4 there was any duty to defend the insureds in the lawsuit? 5 A. I don't believe I retained any counsel in 6 Nevada. 7 Q. And you didn't request that Ms. Henderson retain 8 coverage counsel in Nevada to advise the company whether it 9 had a duty to defend the insureds in connection with the 10 lawsuit? 11 A. Not that I remember. 12 Q. Anytime after the company received the defaults 13 on or about June 27, 2011, did you seek the input from 14 anyone in the coverage unit at Meadowbrook, including Vicki 15 Roberts, whether the company had a duty to defend the 16 insureds against the allegations in the lawsuit? 17 A. Not that I remember. 18 Q. Now, there's nothing documented in that regard, 19 correct? 20 A. Not that I remember. 21 Q. Also, did you retain coverage counsel in the 22 state of Nevada to provide the company with a coverage 23 opinion or analysis whether the company owed a duty to 24 defend the insureds against the allegations in the lawsuit? 25 A. I'm sorry. Can you read that back, please? Page 189</p>

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<p>1 (The pending question was read.) 2 MS. COUSINEAU: Asked and answered. 3 THE WITNESS: Yeah, I think that's -- 4 sounds like the same question. I don't remember having 5 retained any counsel in Nevada. 6 Q. BY MR. PRINCE: This is just a different time 7 period. That was the difference in the question, just the 8 time period. 9 A. Oh. I'm sorry. What was the time period? 10 Q. After you received the defaults, did you receive 11 coverage counsel in the state of Nevada to provide a -- get 12 a coverage opinion whether the company owed a defense to 13 the insureds? 14 A. I don't remember having retained counsel at that 15 time, no. 16 Q. When did you first become aware of this bad 17 faith lawsuit against the company? 18 A. I don't remember. 19 Q. Was it before you met Ria Cousineau? 20 MS. COUSINEAU: Calls for speculation. 21 THE WITNESS: I don't remember. 22 Q. BY MR. PRINCE: How were you made aware of 23 this bad faith lawsuit? 24 MS. COUSINEAU: Asked and answered. 25 THE WITNESS: Yeah, I don't recall.</p> <p style="text-align: right;">Page 190</p>	<p>1 foundation. Incomplete hypothetical. Calls for 2 speculation. 3 THE WITNESS: I don't know. 4 Q. BY MR. PRINCE: All right. Can you think of 5 any? 6 MS. COUSINEAU: Of any prejudice, is 7 that what you asked? 8 MR. PRINCE: I'm sorry? 9 MS. COUSINEAU: Did you -- is the word 10 "prejudice" to the company? 11 MR. PRINCE: Right. Let me restate the 12 question. 13 Q. BY MR. PRINCE: What prejudice can you think 14 of there would be to the company by providing a defense to 15 the insured under a reservation of rights and then 16 initiating a declaratory relief action to address the 17 coverage issues? 18 MS. COUSINEAU: Calls for speculation. 19 Incomplete hypothetical. Lacks foundation. May call for a 20 legal conclusion. 21 THE WITNESS: Yeah, I don't know what 22 prejudice could have possibly resulted, if any. 23 Q. BY MR. PRINCE: Okay. Now, have you ever 24 elected to provide a defense under a reservation of rights 25 and then referred the matter to the coverage unit or to</p> <p style="text-align: right;">Page 192</p>
<p>1 Q. BY MR. PRINCE: Have you ever had any 2 discussions with any -- your supervisor or any other 3 company representatives concerning your decision to not 4 provide defense to either insured in this case? 5 MS. COUSINEAU: I will ask you to 6 exclude from that -- your answer any conversations in which 7 I was involved. 8 THE WITNESS: I don't believe I've had 9 any conversations outside of Ria's presence. 10 Q. BY MR. PRINCE: Have you ever had any 11 conversations with Ms. Roberts concerning your decision 12 making not to provide a defense to the insured in this case 13 outside the presence of Ria? 14 A. No. 15 Q. Okay. Based on everything you know today, I 16 mean about this case, would you choose to do anything 17 differently? 18 MS. COUSINEAU: Incomplete hypothetical. 19 Calls for speculation. 20 THE WITNESS: I don't believe so. 21 Q. BY MR. PRINCE: Okay. What prejudice would 22 there have been to the company to defend the insureds under 23 a reservation of rights and issue a separate declaratory 24 relief action to litigate the coverage issues? 25 MS. COUSINEAU: Objection. Lacks</p> <p style="text-align: right;">Page 191</p>	<p>1 coverage counsel to initiate a declaratory relief action to 2 address the coverage issues? 3 MS. COUSINEAU: Objection. Compound. 4 Vague and ambiguous. 5 THE WITNESS: I have worked on files 6 that we are -- in which we're providing a defense under 7 reservation while a declaratory coverage action was running 8 concurrently. 9 Q. BY MR. PRINCE: So you've seen that since 10 you've been an employee of Meadowbrook, where they'll 11 provide -- the company is providing a defense under 12 reservation of rights and then separately pursuing a 13 concurrent declaratory relief action? 14 A. I have, yes. 15 Q. Okay. In fact, that's not uncommon to see that, 16 is it? 17 MS. COUSINEAU: Vague and ambiguous. 18 THE WITNESS: I guess that depends how 19 you're going to define "uncommon." It's not frequent. 20 Q. BY MR. PRINCE: Now, you understand that 21 initiating a declaratory relief action, that's one way an 22 insurer has the ability to adjudicate the coverage issues 23 while at the same time providing some defense to its 24 insured under reservation of rights, correct? 25 MS. COUSINEAU: Lacks foundation.</p> <p style="text-align: right;">Page 193</p>

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<p>1 Misstates the law. 2 THE WITNESS: I understand the 3 declaratory judgment action to be a means of resolving a 4 coverage dispute or obtaining an order from the Court 5 regarding coverage position. 6 Q. BY MR. PRINCE: Now, would a declaratory 7 relief action which is initiated by the company against an 8 insured and potential claimants, is that something that 9 would be within the scope of the litigation unit's duties 10 and responsibilities? 11 MS. COUSINEAU: Vague and ambiguous as 12 phrased. 13 THE WITNESS: The -- we don't handle 14 declaratory judgment actions. 15 Q. BY MR. PRINCE: Who would do that? 16 A. Our coverage counsel will typically handle that. 17 Q. All right. I mean, do you split the file when 18 you do that? Like there's going to be one file that 19 there's a defense file under reservation of rights and 20 there's a split coverage file? 21 MS. COUSINEAU: Vague and ambiguous. 22 Incomplete hypothetical. 23 THE WITNESS: There's no hard and fast 24 rule. 25 Q. BY MR. PRINCE: Is that generally your Page 194</p>	<p>1 Q. BY MR. PRINCE: Did you consult with Dave 2 Gervers or anyone else at Meadowbrook about whether to 3 provide a defense to the insureds in this case or not? 4 MS. COUSINEAU: Vague as to time. 5 THE WITNESS: During which time period? 6 Q. BY MR. PRINCE: June of 2011. 7 A. Not that I recall. 8 Q. How about in March of 2011? 9 A. Not that I remember. 10 Q. So you didn't elect to seek the approval of your 11 supervisor or anyone else within Meadowbrook to not provide 12 a defense in this case? 13 MS. COUSINEAU: Objection. 14 Argumentative. 15 THE WITNESS: I don't recall having 16 discussed it with them, no. 17 Q. BY MR. PRINCE: Were you required to seek 18 anyone else's approval to disclaim coverage and not provide 19 a defense? 20 A. No. 21 Q. Are you familiar with the law in the state of 22 Nevada as it relates to respondeat superior claims? 23 MS. COUSINEAU: Vague and ambiguous and 24 overbroad. 25 THE WITNESS: I'm sure there's plenty Page 196</p>
<p>1 experience, that if there's a coverage dispute and you're 2 going to provide a defense under reservation of rights and 3 the company's interested in adjudicating the coverage 4 issues, the coverage file would be split to a separate 5 adjustor, and then that adjustor and/or attorney will 6 pursue the declaratory relief action? 7 MS. COUSINEAU: Incomplete hypothetical. 8 Lacks foundation. 9 THE WITNESS: If there is separate 10 coverage litigation ongoing, regardless of who initiated 11 it, sometimes there will be a separate file for handling 12 that, but I can't give you a hard and fast rule about that. 13 Q. BY MR. PRINCE: Isn't that the general 14 practice, that you split the defense file from the coverage 15 file? 16 MS. COUSINEAU: Calls for speculation. 17 THE WITNESS: Well, as I said, that 18 happens sometimes. Sometimes it doesn't. I can't give you 19 a hard and fast rule about that. 20 Q. BY MR. PRINCE: All right. What does it 21 depend upon? 22 MS. COUSINEAU: Calls for speculation. 23 THE WITNESS: Yeah, it's not within my 24 control completely, so there could be any number of 25 factors, a lot of which I wouldn't even know. Page 195</p>	<p>1 about Nevada respondeat superior that I'm not familiar 2 with. 3 Q. BY MR. PRINCE: But I'm asking, did you do any 4 research concerning Nevada law regarding respondeat 5 superior claims? 6 MS. COUSINEAU: In conjunction with this 7 file or any -- 8 MR. PRINCE: Yes, in conjunction with 9 this file. 10 THE WITNESS: I don't recall having done 11 any research. 12 Q. BY MR. PRINCE: Do you recall doing any 13 research at any time concerning Nevada law regarding 14 respondeat superior claims? 15 A. I don't remember. 16 Q. Did you direct Ms. Henderson, who is also a 17 lawyer, to conduct any research on Nevada law concerning 18 respondeat superior claims? 19 A. I don't remember having done so. 20 Q. Do you recall making any -- Strike that. 21 In preparing for the deposition, did you 22 review the CRS [sic] notes? 23 MS. COUSINEAU: Oh, historical? 24 MR. PRINCE: Right. The historical CRS 25 notes. Page 197</p>

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<p>1 THE WITNESS: I reviewed -- 2 MS. ROBERTS: You mean CSR? 3 THE WITNESS: Oh, the CSR notes? Yeah. 4 MR. PRINCE: Oh, it's called CSR? 5 MS. ROBERTS: Yes. 6 MR. PRINCE: Thank you. 7 THE WITNESS: I reviewed some of the 8 these -- some of what I understand to be the disclosed 9 documents yesterday. I don't know whether I reviewed all 10 the historical ones or not. 11 Q. BY MR. PRINCE: Well, I guess I'm trying to 12 find out is did you have any historical CSR notes? 13 A. Did I have any? 14 Q. Yes, did you review any of them that belonged to 15 you? 16 A. I don't remember reviewing any of the historical 17 notes. 18 Q. Okay. Did you review any indictments that were 19 not produced for litigation? 20 MS. COUSINEAU: Calls for speculation. 21 But I will represent to you that everything that he looked 22 at had Bates numbers and they were produced to you. 23 Q. Okay. 24 Q. BY MR. PRINCE: Go ahead and answer the 25 question.</p> <p style="text-align: right;">Page 198</p>	<p>1 MS. COUSINEAU: I apologize. 2 THE WITNESS: No problem. 3 Yeah, typically if a claim number is 4 assigned to something while there's no lawsuit, a lawsuit 5 comes in on that claim. It's not given a new claim number. 6 It will be the same claims file. 7 Q. BY MR. PRINCE: Are you aware of any other 8 claims file maintained concerning the underlying State 9 Court litigation? 10 A. The lawsuit against the insured? 11 Q. Yes. Is there a separate claims file maintained 12 separate and apart from the prelitigation claim file 13 maintained by the company? 14 MS. COUSINEAU: Misstates his testimony. 15 Lacks foundation. 16 THE WITNESS: As I understand it, the 17 claim has one claim number which -- it was the same claim 18 number before suit was filed as after suit was filed. 19 Q. BY MR. PRINCE: I guess I'm trying to insure 20 that there's no separate claims file maintained by the 21 litigation unit as it relates to the underlying Blue Streak 22 litigation. 23 A. Not that I'm aware of. As far as I understand, 24 there's one -- one claim file for this. 25 Q. In your department, do you handle any first-party litigation? A. I can't think of any instances in which we have. Q. For example, if there's any litigation against the company for breach of contract or breach of implied -- covering good faith and fair dealing or any other duties, is that ever something you would monitor or supervise? A. I don't directly handle the defense of suits against the company. Q. Okay. Let me say that a different way. Do you handle any extracontractual litigation asserted against the company? MS. COUSINEAU: Vague and ambiguous as phrased. THE WITNESS: If there's an extracontractual claim against the company on an active claim that we have, I'll likely remain involved in that active claim against the insured, but I will not be directly handling the suit against the company itself. Q. BY MR. PRINCE: Okay. Do you handle any claims yourself or do you just supervise the other -- the claims attorneys in your department? MS. COUSINEAU: Currently? MR. PRINCE: Currently is fine. A. Currently. I have just a few claims that I'm still handling directly myself that are close to resolving,</p> <p style="text-align: right;">Page 200</p>
<p>1 A. My understanding is that the only things I 2 reviewed were documents that have been produced in the 3 litigation. 4 Q. Now, once the file goes to the litigation unit, 5 do you maintain a -- is there a separate claims file opened 6 within the company? 7 MS. COUSINEAU: Vague and ambiguous as 8 phrased. 9 THE WITNESS: I'm not sure I follow. 10 Q. BY MR. PRINCE: All right. For example, is 11 there a prelitigation claims file and a postlitigation 12 claims file? I mean two separate ones. 13 A. I suppose there potentially could be, but 14 typically just because a lawsuit is received, it's not 15 assigned a new claim number. 16 Q. So as long as it maintains the same claim number 17 once it goes to litigation, it will just be one claims file 18 which includes prelitigation activity and postlitigation 19 activity? 20 MS. COUSINEAU: Just for point of 21 clarification, the litigation you're referring to is the 22 litigation against the insured as opposed to this bad faith 23 litigation? 24 MR. PRINCE: Yes, correct. That's 25 correct.</p> <p style="text-align: right;">Page 199</p>	<p>1 first-party litigation? A. I can't think of any instances in which we have. Q. For example, if there's any litigation against the company for breach of contract or breach of implied -- covering good faith and fair dealing or any other duties, is that ever something you would monitor or supervise? A. I don't directly handle the defense of suits against the company. Q. Okay. Let me say that a different way. Do you handle any extracontractual litigation asserted against the company? MS. COUSINEAU: Vague and ambiguous as phrased. THE WITNESS: If there's an extracontractual claim against the company on an active claim that we have, I'll likely remain involved in that active claim against the insured, but I will not be directly handling the suit against the company itself. Q. BY MR. PRINCE: Okay. Do you handle any claims yourself or do you just supervise the other -- the claims attorneys in your department? MS. COUSINEAU: Currently? MR. PRINCE: Currently is fine. A. Currently. I have just a few claims that I'm still handling directly myself that are close to resolving,</p> <p style="text-align: right;">Page 201</p>

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<p>1 but generally I supervise the claims handlers. 2 Q. Was that the same in 2011? 3 A. I think so, yeah. 4 Q. Have you received any -- Strike that. 5 In your position at Meadowbrook, do you 6 receive annual reviews for your performance? 7 A. We typically do annual performance appraisals, 8 yes. 9 Q. All right. Who would do your performance 10 appraisal? 11 A. My supervisor, Dave Gervers. 12 Q. Do you do the annual performance appraisal of 13 Ms. Henderson? 14 A. I would be involved in her appraisal process. 15 Q. Who else would be involved in her appraisal 16 process? 17 A. Well, I would do the initial appraisal, and it 18 would be passed up the line. If my supervisor feels 19 there's any need for any further discussion about it, he 20 can say so, but typically it's me doing the appraisal. 21 Q. Okay. Are these in writing, these appraisals? 22 A. There are portions in writing, but the appraisal 23 itself is just time for us to sit down and discuss. 24 Q. And have you ever had to put Ms. Henderson on 25 any kind of action plan or any sort of discipline against</p> <p style="text-align: right;">Page 202</p>	<p>1 attorney at Meadowbrook, have you ever had to put her on 2 any sort of action plan or discipline in any way for any 3 claim handling? 4 MS. COUSINEAU: Compound. 5 THE WITNESS: I don't recall having to 6 take any disciplinary action with Lisa since I've been her 7 supervisor. 8 Q. BY MR. PRINCE: All right. You recall having 9 to take any actions against her or concerning her job 10 performance? 11 MS. COUSINEAU: Objection. Vague and 12 ambiguous. Asked and answered. 13 THE WITNESS: I don't recall having to 14 take any particular disciplinary action with her. 15 Q. BY MR. PRINCE: Has she ever been on any sort 16 of employment action plan imposed by you or anyone else at 17 Century, to your knowledge? 18 MS. COUSINEAU: Vague and ambiguous. 19 Lack of foundation. 20 THE WITNESS: I have not had to place 21 her on an action plan. 22 Q. BY MR. PRINCE: Has anybody -- Are you aware of 23 anyone else at Century or Meadowbrook who's disciplined her 24 for any action related to job performance? 25 MS. COUSINEAU: Calls for speculation.</p> <p style="text-align: right;">Page 204</p>
<p>1 her? 2 MS. COUSINEAU: I'm going to object. It 3 may invade her right of privacy and limit it solely to this 4 lawsuit -- this claim handling. 5 Q. BY MR. PRINCE: Go ahead and answer. 6 A. With regard to this particular claim, I don't 7 remember having to take any disciplinary kind of action 8 with her. 9 Q. How about any other claims? 10 MS. COUSINEAU: Same objection. 11 Q. BY MR. PRINCE: You can go ahead and answer. 12 MS. COUSINEAU: I'm going to instruct 13 him not to. It's private -- 14 MR. PRINCE: I'm asking about her 15 performance, not any personal information regarding her 16 Social Security Number or income or anything like that. I 17 think my experience is that if it's related to her job 18 performance and performance of job duties, that that's not 19 considered exempt from discovery or privileged in any way. 20 MS. COUSINEAU: Your question was not 21 phrased that way, so based on the way it was asked, I'm 22 going to instruct him had not to invade her personal 23 privacy. 24 Q. BY MR. PRINCE: What I'm asking about is in 25 connection with her performing her job duties as a claims</p> <p style="text-align: right;">Page 203</p>	<p>1 THE WITNESS: I don't know. I'm not 2 aware of any, but I don't know of any. 3 Q. BY MR. PRINCE: Have you heard of any? 4 MS. COUSINEAU: Calls for speculation. 5 THE WITNESS: I'm not aware of any. 6 Q. BY MR. PRINCE: Are you aware of anyone else 7 in the company putting her on any sort of action plan 8 related to job performance? 9 MS. COUSINEAU: It's the same question 10 you just asked and he just answered. 11 THE WITNESS: I'm not aware of any. 12 Q. BY MR. PRINCE: All right. Have you ever been 13 put on any sort of action plan at Meadowbrook since you've 14 been there? 15 A. I have not, no. 16 Q. Have you ever been disciplined in any way since 17 you've been there? 18 A. I have not. 19 MR. PRINCE: I have no additional 20 questions. 21 MS. COUSINEAU: All right. Thanks. 22 We'll handle his transcript the same way 23 as the others? 24 MR. PRINCE: Yes, that's fine. 25 You need some direction on that?</p> <p style="text-align: right;">Page 205</p>

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	<p>THE REPORTER: Read and sign, right? MR. PRINCE: She's going to read and sign. She's obviously ordering a copy. MS. COUSINEAU: Yes. MR. PRINCE: So send the original to me and she'll handle the signature page and get that back to you. THE REPORTER: Thank you. MS. COUSINEAU: Get that back to? MR. PRINCE: To the court reporter. And then she'll send that to me. MS. COUSINEAU: Yeah, as long as you're doing them, yes. MR. PRINCE: Yeah, I would like mine a week from today for this deposition also. THE REPORTER: And, Ms. Cousineau, do you also want it a week from today? MS. COUSINEAU: Yes. (The deposition was concluded at 3:00 p.m.) (Signature was not waived.)</p>	<p style="text-align: center;">DEPOSITION SIGNATURE PAGE</p> <p>DANA ANDREW, as Legal Guardian of Case No. 2:12-cv-00978 RYAN T. PRETNER, and RYAN PRETNER, individually, Plaintiffs, v. CENTURY SURETY COMPANY, a foreign corporation; and DOES 1-10 inclusive, Defendants.</p> <p>_____ Assignment No. 286580</p> <p style="text-align: center;">DECLARATION UNDER PENALTY OF PERJURY I declare under penalty of perjury that I have read the entire transcript of my deposition taken in the above-captioned matter or the same has been read to me, and the same is true and accurate, save and except for changes and/or corrections, if any, as indicated by me on the DEPOSITION ERRATA SHEET hereof, with the understanding that I offer these changes as if still under oath.</p> <p style="text-align: center;">Signed on the _____ day of _____, 20____.</p> <p>_____ DANIEL MAYER</p>
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	<p style="text-align: center;">REPORTER'S CERTIFICATION</p> <p>STATE OF ARIZONA)) ss. COUNTY OF MARICOPA)</p> <p>I, Sandra Marruffo, Certified Reporter in and for the State of Arizona, do hereby certify: That the foregoing witness, DANIEL MAYER, was duly sworn by me on November 13, 2012; that the deposition was taken before me at the time and place herein set forth; that the testimony and proceedings were reported stenographically by me and later transcribed into typewriting under my direction; that the witness requested transcript review and signature; that the foregoing is a full, true, and accurate record of the testimony and proceedings taken at that time, all done to the best of my skill and ability. IN WITNESS WHEREOF, I have subscribed my name this 20th day of November 2012.</p> <p style="text-align: center;"><i>Sandra Marruffo</i> Sandra Marruffo, AZ C.R.</p> <p style="text-align: center;"></p> <p>Assignment No. 286580</p>	<p style="text-align: center;">DEPOSITION ERRATA SHEET OF DANIEL MAYER Assignment No. 286580</p> <p>Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____ Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____ Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____ Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____ Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____ Page No. _____ Line No. _____ Change to: _____</p> <p>Reason for change: _____ Page No. _____ Line No. _____ Change to: _____</p> <p>SIGNATURE: _____ DATE _____ DANIEL MAYER</p>
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<p>DEPOSITION ERRATA SHEET OF DANIEL MAYER Assignment No. 286580</p>	
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EXHIBIT "30"

EXHIBIT "30"

LEE PRETNER
ANDREW vs. CENTURY

November 06, 2012
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9	Defendants.	9	
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6	3230 South Buffalo Drive, Suite 108	6	
7	Las Vegas, Nevada 89117	7	-oOo-
8	(702) 228-6800	8	
9	(702) 228-0443	9	
10	dprince@princekeating.com	10	
11		11	
12		12	
13		13	
14		14	
15	FOR THE DEFENDANTS:	15	
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23		23	
24		24	
25		25	
15	ALSO PRESENT:		
16	DANA ANDREW		
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LEE PRETNER
ANDREW vs. CENTURY

November 06, 2012
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<p style="text-align: right;">Page 5</p> <p>1 DEPOSITION OF LEE PRETNER</p> <p>2 NOVEMBER 6, 2012</p> <p>3 (Prior to the commencement of the deposition, all of</p> <p>4 the parties present agreed to waive statements by</p> <p>5 the court reporter,</p> <p>6 pursuant to Rule 30(5)(A) of FRCP.)</p> <p>7</p> <p>8 LEE PRETNER,</p> <p>9 having been first duly sworn to testify to the</p> <p>10 truth, the whole truth, and nothing but the truth,</p> <p>11 was examined and testified as follows:</p> <p>12</p> <p>13 EXAMINATION</p> <p>14 BY MR. DAVIS:</p> <p>15 Q. Good afternoon, Mr. Pretner. My name is</p> <p>16 Joshua Davis. I'm an attorney. I represent Century</p> <p>17 Surety.</p> <p>18 Q. Could you state your name for the record and</p> <p>19 spell it, please.</p> <p>20 A. Lee Pretner, L-E-E, P-R-E-T-N-E-R.</p> <p>21 Q. Have you ever been deposed before today?</p> <p>22 A. About this case or generally?</p> <p>23 Q. Any case.</p> <p>24 A. Yes.</p> <p>25 Q. Okay. About how many times?</p>	<p style="text-align: right;">Page 7</p> <p>1 Q. Do you understand that?</p> <p>2 A. Yes.</p> <p>3 Q. Have you ever testified at a trial before?</p> <p>4 A. Yes.</p> <p>5 Q. How many times?</p> <p>6 A. Once.</p> <p>7 Q. Were you a party?</p> <p>8 A. Yes.</p> <p>9 Q. Was that a civil trial?</p> <p>10 A. Yes.</p> <p>11 Q. Ever been convicted of a felony?</p> <p>12 A. No.</p> <p>13 Q. Has a judgment ever been entered against you</p> <p>14 for fraud?</p> <p>15 A. No.</p> <p>16 Q. What's the date of your birth?</p> <p>17 A. 6-6-1935.</p> <p>18 Q. Before we go any further, is there any</p> <p>19 reason why you can't give your best testimony today?</p> <p>20 A. I'll do the best I can.</p> <p>21 Q. Are you on any medication or anything that</p> <p>22 could interfere with your ability to give truthful</p> <p>23 testimony?</p> <p>24 A. Well, I will give truthful testimony. Yes.</p> <p>25 Q. Are you on any medication, or is there</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Twice.</p> <p>2 Q. Okay. So you're familiar with deposition</p> <p>3 procedures and how a deposition is conducted. Is</p> <p>4 that true?</p> <p>5 A. Generally.</p> <p>6 Q. Okay. Do you need me to explain a</p> <p>7 deposition to you?</p> <p>8 A. Well, at this point, I don't need any</p> <p>9 explanations.</p> <p>10 Right?</p> <p>11 Q. Okay. So you understand that a deposition</p> <p>12 is testimony under oath, just like you were</p> <p>13 testifying in a trial?</p> <p>14 A. Yes.</p> <p>15 Q. And you understand that we're trying to get</p> <p>16 a clear record today, and so if you say "uh-huh" or</p> <p>17 you nod your head, the court reporter can't type</p> <p>18 that. So if I ask you a question, you can answer</p> <p>19 verbally, "yes" or "no."</p> <p>20 You understand that?</p> <p>21 A. Yes.</p> <p>22 Q. And you understand that I don't want you to</p> <p>23 guess. If you don't know an answer, say, "I don't</p> <p>24 know."</p> <p>25 A. (Witness nods head.)</p>	<p style="text-align: right;">Page 8</p> <p>1 anything else that could interfere with your ability</p> <p>2 to give truthful testimony?</p> <p>3 A. Just my age.</p> <p>4 Q. Do you have memory problems?</p> <p>5 A. A little bit.</p> <p>6 Q. Do you have any medical conditions that</p> <p>7 interfere with your memory?</p> <p>8 A. No, but my memory is not as good as it was</p> <p>9 50 years ago.</p> <p>10 Q. Where do you live?</p> <p>11 A. 101 Luna Way, No. 156, Las Vegas, Nevada</p> <p>12 89145.</p> <p>13 Q. Are you married?</p> <p>14 A. No.</p> <p>15 Q. Are you divorced?</p> <p>16 A. Yes.</p> <p>17 Q. When were you divorced?</p> <p>18 A. 1977.</p> <p>19 Q. Okay. And have you only been married once?</p> <p>20 A. Twice.</p> <p>21 Q. Twice. That was the second divorce?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And your son, Ryan Pretner, is he</p> <p>24 from the second or the first marriage?</p> <p>25 A. Second.</p>



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LEE PRETNER
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9-12

<p style="text-align: right;">Page 9</p> <p>1 Q. Okay. And what is the name of your ex-wife?</p> <p>2 A. Mary Pretner.</p> <p>3 Q. And is she still alive?</p> <p>4 A. No.</p> <p>5 Q. Okay. When did she pass?</p> <p>6 A. Approximately four or five years ago, six</p> <p>7 years ago.</p> <p>8 Q. Do you have any other children?</p> <p>9 A. Yes.</p> <p>10 Q. Who?</p> <p>11 A. Dana from the second marriage and Gary</p> <p>12 Pretner from the first marriage. Also Mitchell</p> <p>13 Pretner from the first marriage, who is deceased.</p> <p>14 Q. When you said Dana, you mean Dana Andrew?</p> <p>15 A. Yes.</p> <p>16 Q. Who is sitting in this room today?</p> <p>17 A. Yes.</p> <p>18 Q. What's the highest level of education that</p> <p>19 you've attained?</p> <p>20 A. College.</p> <p>21 Q. Where did you go to college?</p> <p>22 A. Last one would have been Riverside in</p> <p>23 Las Vegas -- in Los Angeles, California.</p> <p>24 Q. UC Riverside?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 11</p> <p>1 estate.</p> <p>2 Q. What do you mean by entertainment?</p> <p>3 A. Well, I had a website which I developed a</p> <p>4 comic strip, and I was a writer. I wrote some</p> <p>5 books, articles, screenplays.</p> <p>6 Q. How long did you do that for?</p> <p>7 A. Twenty-five years.</p> <p>8 Q. Okay. That was your exclusive employment at</p> <p>9 that 25-year period?</p> <p>10 A. I was also supplemented by my real estate</p> <p>11 business.</p> <p>12 Q. What about your appraisal business?</p> <p>13 A. Only a very few times. I used it only when</p> <p>14 necessary.</p> <p>15 Q. And before you were doing the entertainment</p> <p>16 and a little bit of real estate, what were you</p> <p>17 doing?</p> <p>18 A. A lot of real estate.</p> <p>19 Q. Just real estate before then?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And you're a real estate broker?</p> <p>22 A. Correct.</p> <p>23 Q. Did you ever practice as a general</p> <p>24 contractor?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 10</p> <p>1 Q. And when did you graduate?</p> <p>2 A. Well, I -- they have special courses. The</p> <p>3 real estate brokers course and entertainment</p> <p>4 courses.</p> <p>5 Q. Do you have a bachelor's?</p> <p>6 A. No.</p> <p>7 Q. So you would take courses in areas that</p> <p>8 interest you?</p> <p>9 A. Well, I have a real estate brokers license,</p> <p>10 which is equivalent to a bachelor's -- it's four</p> <p>11 years -- and an appraisal license and a general</p> <p>12 contractors license from the State of California.</p> <p>13 Q. Why don't you tell me about your employment</p> <p>14 history starting from the most recent. Well, first</p> <p>15 of all, you're retired?</p> <p>16 A. Yes, but I do charity work for Catholic</p> <p>17 Charities.</p> <p>18 Q. When did you retire?</p> <p>19 A. Retired, you need an exact date. Right?</p> <p>20 MR. PRINCE: Just give an approximation.</p> <p>21 THE WITNESS: Approximately? About eight</p> <p>22 years ago.</p> <p>23 BY MR. DAVIS:</p> <p>24 Q. And what were you doing before you retired?</p> <p>25 A. I was doing entertainment and plus real</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. When was that?</p> <p>2 A. That was in the '60s, '70s in California.</p> <p>3 Q. So you're not licensed as a general</p> <p>4 contractor in Nevada?</p> <p>5 A. Correct. Yes.</p> <p>6 MR. PRINCE: That's Nevada. It's just a</p> <p>7 clarification.</p> <p>8 BY MR. DAVIS:</p> <p>9 Q. When did you move to Nevada?</p> <p>10 A. 19- -- 1997.</p> <p>11 Q. And prior to moving to Nevada, you lived in</p> <p>12 Riverside?</p> <p>13 A. No. I lived in -- at that time I was living</p> <p>14 in San Clemente, California.</p> <p>15 Q. For how many years were you in San Clemente?</p> <p>16 A. Approximately four.</p> <p>17 Q. Before then, where did you live?</p> <p>18 A. Los Angeles, California.</p> <p>19 Q. Where in Los Angeles?</p> <p>20 A. I was living in West Los Angeles.</p> <p>21 Q. Did your contracting business have a name?</p> <p>22 A. It was just Lee Pretner Brokerage.</p> <p>23 Q. That was your real estate or your</p> <p>24 contracting business?</p> <p>25 A. No, that was my brokerage business.</p>



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1 Q. Okay. When you were in California and you
2 did general contracting work, did you have a
3 business name?
4 A. Summit Builders.
5 Q. Ever gone by any names other than Lee
6 Pretner?
7 A. Eli Lee Pretner.
8 Q. Is Eli --
9 A. E-L-I, L-E-E.
10 Q. Is Eli your first name?
11 A. Yes.
12 Q. And Lee is your middle name?
13 A. Well, it's one name, Eli Lee. Middle name
14 is Lee.
15 Q. Okay. So your legal name is Eli Lee
16 Pretner?
17 A. Yeah.
18 Q. Now, you are Ryan Pretner's father; correct?
19 A. Yes.
20 Q. And you are also Ryan Pretner's guardian?
21 A. Correct. Yes.
22 Q. Are you still his guardian today?
23 A. Yes.
24 MR. PRINCE: Co-guardian.
25 THE WITNESS: Co-guardian.

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1 BY MR. DAVIS:
2 Q. And you became his guardian on approximately
3 February 4, 2009?
4 A. I can't give you the exact date. I don't
5 remember, but it was soon after the accident.
6 Q. Within a month after the accident?
7 A. Could be. I don't remember.
8 Q. And your daughter Dana Andrew is also a
9 guardian of Ryan Pretner?
10 A. Correct. Yes.
11 Q. When did she become his guardian?
12 A. She became guardian sometime after.
13 Q. Do you remember how long after?
14 A. I don't recall exactly. I would say two to
15 three months after maybe.
16 Q. Now, your son was involved in the accident
17 which is the subject of this litigation in January
18 of 2009; is that correct?
19 A. Yes.
20 Q. Okay. And do you recall maybe two months
21 afterwards, you spoke on the phone with a claims
22 person from Progressive Insurance?
23 A. I think I remember the call. Yes.
24 Q. Okay. And his name was Vincent Johnson;
25 correct?

Page 15

1 A. I don't remember his name.
2 Q. Do you remember telling Mr. Johnson in a
3 phone conversation that you had heard that
4 Mr. Vasquez was returning from a job as a mobile car
5 washing service at the time of the accident?
6 A. Yes.
7 Q. And then Mr. Johnson called you several days
8 later, and he told you that he had spoken to
9 Mr. Vasquez, and Mr. Vasquez had told him that he
10 was running a personal errand and had been off work
11 for several hours prior to the accident.
12 Do you remember that happening?
13 A. I don't remember that.
14 Q. And then you told Mr. Johnson that you
15 weren't interested in whether Mr. Pretner told him
16 -- Mr. Vasquez said he was driving in the course and
17 scope of his employment, and you just wanted to get
18 a copy of his business insurance.
19 MR. PRINCE: Object to the form of the
20 question to the extent it mischaracterizes or
21 misstates any statements Mr. Pretner may have made
22 to anyone, including any representative of
23 Progressive.
24 You can answer the question if you
25 understand it.

Page 16

1 THE WITNESS: I don't understand the
2 question, sir.
3 Say it again?
4 BY MR. DAVIS:
5 Q. You told the claims --
6 MR. PRINCE: Well, hang on a second. I'm
7 going to lodge an objection, because I looked at the
8 Progressive documents, and to the -- there are no
9 claim notes in the documents that you've produced.
10 I specifically looked through every document. They
11 were un-Bate-numbered, the documents that you
12 produced as part of your 26(f) supplement, and there
13 are no claim notes. And I know what the Progressive
14 claim notes look like, because they're a client of
15 mine, and so I was specifically looking for those.
16 So to the extent you're asking him now to --
17 my problem with the questioning is that you have the
18 documents that we don't have access to. You're now
19 trying to confirm statements and/or quotations made
20 by Mr. Pretner without our advantage to even look
21 and review them and me discuss it with my client,
22 not that I think it has any bearing on the outcome,
23 but I think you should have given this to us.
24 MR. DAVIS: I don't want to get into a
25 discovery battle on the record here.



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17-20

<p style="text-align: right;">Page 17</p> <p>1 MR. PRINCE: I do. 2 (Parties speaking all at once.) 3 THE REPORTER: I can't take you both at the 4 same time. 5 MR. PRINCE: I don't want to go off the 6 record. 7 MR. DAVIS: I'm on the record. I'm just 8 saying this. I don't want to get into a discovery 9 battle with you here. I dispute that we didn't give 10 you those documents. We did. We gave you the 11 Bates-stamped ones twice, once with a letter and 12 once with the disclosures. 13 MR. PRINCE: No. 14 MR. DAVIS: So -- 15 MS. ANDREW: He's referring to -- 16 MR. DAVIS: But if you want to call me after 17 the deposition and meet and confer or send me a 18 letter, I'd be happy to discuss it with you. 19 I'm asking the witness about his 20 recollection of conversations. I'm not asking about 21 notes that he didn't actually take anyway, so -- 22 MR. PRINCE: Well, no. It doesn't matter 23 about -- 24 MR. DAVIS: You can lodge your objection. 25 I'm going to ask my questions.</p>	<p style="text-align: right;">Page 19</p> <p>1 MR. PRINCE: If you feel you need to, I 2 don't think you need to, but you can do whatever you 3 need to do. 4 BY MR. DAVIS: 5 Q. You told the Progressive claims person that 6 you wanted a copy of Mr. Vasquez's business 7 insurance policy; isn't that true? 8 MR. PRINCE: Answer that question. Go 9 ahead. 10 THE WITNESS: I don't remember. 11 BY MR. DAVIS: 12 Q. Just to clarify how a deposition works, 13 unless your attorney instructs you not to answer a 14 question, you're supposed to answer the question. 15 MR. PRINCE: He knows that. 16 BY MR. DAVIS: 17 Q. You understand that? 18 A. I did. 19 MR. PRINCE: And he knows that. 20 BY MR. DAVIS: 21 Q. Isn't it true that you demanded that 22 Progressive contact Michael Vasquez and demand to 23 make a claim on his business insurer? 24 A. No. 25 Q. Now, you spoke also to a -- actually, I'll</p>
<p style="text-align: right;">Page 18</p> <p>1 MR. PRINCE: Well, you didn't give us -- 2 there are other documents, and I have a number of 3 other problems with your disclosures. You've never 4 given us documents that you received in response to 5 subpoena so that we can adequately prepare for 6 depositions, including preparing my client for a 7 deposition. 8 MR. DAVIS: That's not true, but -- 9 MR. PRINCE: It is true. 10 MR. DAVIS: You're welcome to lodge your 11 objection, and it's noted. 12 MR. PRINCE: I am. And I can see the claim 13 notes, the Progressive claim notes, in front of you. 14 They're not numbered, and I don't have those, 15 because I was specifically looking for those, 16 specifically. 17 MR. DAVIS: Well, you should look a little 18 closer at your file, sir. 19 MR. PRINCE: I did look at my file very 20 closely. And since Progressive is a client of mine, 21 I was looking -- I know exactly what they look like. 22 MR. DAVIS: You're interfering with my 23 deposition, and I only have a couple hours because 24 we're starting late. If you'd like me to seek court 25 intervention so I ask my questions, I'll do that.</p>	<p style="text-align: right;">Page 20</p> <p>1 introduce as Exhibit 1 the depo notice. 2 Here's an extra copy for you. 3 (Exhibit 1 marked for identification.) 4 MR. PRINCE: Okay. 5 BY MR. DAVIS: 6 Q. Would you take a look at the exhibit. Have 7 you seen this document before today? 8 MR. PRINCE: I'm going to object to the form 9 of the document. It's an incomplete document. It 10 doesn't contain other documents which may accompany 11 certain aspects of it. 12 BY MR. DAVIS: 13 Q. Have you seen the document before today? 14 MR. PRINCE: Go ahead and answer. Go ahead 15 and answer. Have you ever seen this before? He's 16 asking if you've ever seen this before? That's the 17 question. 18 THE WITNESS: That's the deposition that I 19 was served with. Yes. 20 BY MR. DAVIS: 21 Q. Okay. If you go to Page 5 of the 22 attachment, you'll see there is, about halfway down 23 the page, there is several document requests? 24 A. Repeat the question? 25 Q. About halfway down the page, you see several</p>



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<p style="text-align: right;">Page 21</p> <p>1 document requests.</p> <p>2 MR. PRINCE: Right in here (indicating).</p> <p>3 BY MR. DAVIS:</p> <p>4 Q. Do you see those there?</p> <p>5 A. Yes. Okay.</p> <p>6 Q. Did you bring any documents in response to</p> <p>7 those document requests today?</p> <p>8 A. I have no documents from that time. And you</p> <p>9 must remember at that time, our family was in real</p> <p>10 distress with the accident. So everything was up in</p> <p>11 the air, and I was dealing with a son that almost</p> <p>12 died, so things were not easy to remember.</p> <p>13 Q. Move to strike that answer as nonresponsive</p> <p>14 after "has no documents."</p> <p>15 MR. PRINCE: As his counsel, he has no</p> <p>16 documents responsive to the requests.</p> <p>17 BY MR. DAVIS:</p> <p>18 Q. I'm going to introduce as Exhibit 2 an</p> <p>19 e-mail from Vincent Johnson to Lee Pretner. It's</p> <p>20 dated March 24, 2009.</p> <p>21 MR. PRINCE: Let the court reporter mark it.</p> <p>22 MR. DAVIS: I have extra copies for you.</p> <p>23 MR. PRINCE: I know. That's fine, but I</p> <p>24 want the court reporter to mark it.</p> <p>25 (Exhibit 2 marked for identification.)</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Okay. Does that paragraph refresh your</p> <p>2 recollection that you asked Progressive to contact</p> <p>3 Michael Vasquez and have him contact his business</p> <p>4 insurer?</p> <p>5 A. No.</p> <p>6 Q. Okay. Do you have any reason to doubt that</p> <p>7 this e-mail was untruthful?</p> <p>8 MR. PRINCE: That it's what? I guess</p> <p>9 objection to the form of the question. It's vague</p> <p>10 and ambiguous.</p> <p>11 You can answer the question if you</p> <p>12 understand it.</p> <p>13 THE WITNESS: I don't understand the</p> <p>14 question.</p> <p>15 BY MR. DAVIS:</p> <p>16 Q. Any reason to doubt Mr. Johnson's statement</p> <p>17 that that's what happened in the conversation?</p> <p>18 A. I don't remember the statement, so I can't</p> <p>19 reply.</p> <p>20 Q. Do you remember receiving this e-mail from</p> <p>21 Mr. Johnson?</p> <p>22 A. No.</p> <p>23 Q. Okay. Do you remember receiving any e-mails</p> <p>24 from Mr. Johnson?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 22</p> <p>1 MR. PRINCE: And before we go any further,</p> <p>2 I'm going to lodge an objection to the document just</p> <p>3 to the extent it may not have been produced.</p> <p>4 But go ahead and answer the questions.</p> <p>5 BY MR. DAVIS:</p> <p>6 Q. Is that your e-mail address at the top where</p> <p>7 it says to lpretner@yahoo.com?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And does this e-mail refresh your</p> <p>10 recollection that the claims representative from</p> <p>11 Progressive that you spoke to on the phone was</p> <p>12 Vincent Johnson?</p> <p>13 A. Yes.</p> <p>14 Q. And does this e-mail refresh your</p> <p>15 recollection that you asked Progressive to contact</p> <p>16 Mr. Vasquez and asked him to contact his business</p> <p>17 insurer regarding the accident?</p> <p>18 A. I don't remember.</p> <p>19 Q. You see in the first paragraph, it says,</p> <p>20 "Per our conversation, we have asked our insured to</p> <p>21 contact his business insurer and turn in a claim for</p> <p>22 them to investigate coverage for the accident of</p> <p>23 1-12-09 involving your son Ryan."</p> <p>24 Do you see that paragraph?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Okay. Now, you spoke to a claims</p> <p>2 professional at Century Surety as well; correct?</p> <p>3 A. I don't understand that question.</p> <p>4 Q. Do you remember talking to any persons at</p> <p>5 Century Surety regarding the accident?</p> <p>6 A. I don't remember talking to anyone there.</p> <p>7 Q. Do you remember speaking to a person named</p> <p>8 Charles Holland at Century Surety?</p> <p>9 A. I don't remember.</p> <p>10 Q. Okay. Now, you do know that Century Surety</p> <p>11 is the business insurer for Michael Vasquez for Blue</p> <p>12 Streak?</p> <p>13 A. No, I don't know that.</p> <p>14 Q. Okay. Do you remember speaking to a claims</p> <p>15 person at the business insurer for Michael Vasquez?</p> <p>16 A. I don't understand that question.</p> <p>17 Q. Okay. Do you remember -- you've testified</p> <p>18 that you recall speaking to Mr. Johnson at</p> <p>19 Progressive Insurance, which is Mr. Vasquez's</p> <p>20 personal car insurer. And so now I'm asking if you</p> <p>21 remember also speaking to a different person for a</p> <p>22 different insurance company that was the business</p> <p>23 insurer?</p> <p>24 A. Well, you're not giving me a name, so I</p> <p>25 can't remember.</p>



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1 Q. I'm trying to see if you remember first.
 2 A. No, I don't.
 3 Q. Does the name Charles Holland ring any bells
 4 with you?
 5 A. That name might be familiar.
 6 Q. Okay. Do you remember a Charles Holland
 7 that worked for Century Surety?
 8 A. No.
 9 Q. Do you remember the Charles Holland that
 10 worked for the business insurer for Michael Vasquez?
 11 A. No.
 12 Q. You know who Michael Vasquez is; right?
 13 A. Yes.
 14 Q. As Exhibit 3, I'll introduce an e-mail from
 15 Charles Holland to Lee Pretner dated April 8, 2009.
 16 (Exhibit 3 marked for identification.)
 17 BY MR. DAVIS:
 18 Q. Let's go to the bottom of the -- take your
 19 time. When you're ready to answer questions about
 20 the document, I'll ask you questions. I'll wait for
 21 you to take a look at it first.
 22 (Brief pause in proceedings.)
 23 BY MR. DAVIS:
 24 Q. Are you ready to answer questions?
 25 A. Yes.

1 conversation today, you mentioned that our insured
 2 had just left a car wash when this accident
 3 happened, according to a friend of his. When I
 4 asked for the name, repeatedly, you wife came on the
 5 phone and said that you didn't know that, you didn't
 6 know who said that, or if it was even said."
 7 Did you recall telling Mr. Holland that a
 8 friend of Mr. Vasquez's had told you that
 9 Mr. Vasquez had just left a car wash when the
 10 accident happened?
 11 A. I recall that a friend of Ryan was at the
 12 dog park, and some woman told her that Vasquez had
 13 done something about filling up gas or water.
 14 That's all I remember about that.
 15 Q. What's the name of the friend of Ryan?
 16 A. The friend of Ryan was Marilyn.
 17 Q. What's her last name?
 18 A. I'd have to look it up. I don't remember.
 19 Q. What was the name of the friend of
 20 Mr. Vasquez?
 21 A. I don't know that.
 22 Q. Do you recall telling that to Mr. Holland,
 23 that a friend of Mr. Vasquez's had told you that he
 24 had just left a car wash when the accident happened?
 25 A. No.

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Page 28

1 Q. Look at the very bottom of the document.
 2 You'll see there is an e-mail dated April 8, 2009,
 3 9:24 a.m. from Charles Holland to you, copied to
 4 Vincent Johnson. And it says, "Mr. Pretner, we have
 5 recently discussed your son Ryan and the commercial
 6 policy on Blue Streak. I have advised you that we
 7 are conducting an investigation, which should be
 8 through in about 30 days. Please send me a mailing
 9 address, and I will copy you on any coverage letter
 10 we write. Charles C. Holland, Senior Claims
 11 Examiner, Century Insurance Group."
 12 Does that e-mail -- do you remember
 13 receiving this e-mail?
 14 A. I don't remember.
 15 Q. Okay. Does the e-mail refresh your
 16 recollection that you spoke to Charles Holland at
 17 Century Surety regarding the accident?
 18 A. I don't remember.
 19 Q. Let's go to the e-mail at the very top of
 20 the e-mail chain. That is from Charles Holland,
 21 sent to you April 8, 2009, at 10:22 a.m., and it's
 22 copied to someone named Michael Chorak.
 23 Do you recall receiving this e-mail?
 24 A. I don't remember.
 25 Q. This e-mail says, "Mr. Pretner, in our

1 Q. Okay. Now, your wife was not alive at that
 2 time -- is that correct? -- your ex-wife?
 3 A. Correct. Yes.
 4 Q. Okay. Was there another woman who was
 5 living with you at the time?
 6 A. No.
 7 Q. When you had conversations with the
 8 insurance companies, was there a woman in the room
 9 with you who was not your wife, ex-wife?
 10 A. I don't have anyone that I live with, so I
 11 don't know the scope of the question.
 12 Q. Would Dana Andrew have been on the phone
 13 with you at the time?
 14 A. It's possible.
 15 Q. It's possible? You don't really know?
 16 A. I don't remember.
 17 Q. Okay. Do you recall being on the phone with
 18 the insurance company and someone else in the
 19 background said, regarding the friend who said
 20 Mr. Vasquez just left a car wash, said that you
 21 didn't know, that you don't know who said that, or
 22 if it was even said?
 23 MR. PRINCE: I'm going to object to the
 24 form.
 25 I'll ask that the court reporter read back



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1 the question.

2 (The requested portion of the

3 record was read by the reporter.)

4 BY MR. DAVIS:

5 Q. I'll rephrase the question. I'll rephrase

6 the -- can you answer the question?

7 MR. PRINCE: No, no, no. You're going to

8 rephrase it, you said. So go ahead. He wanted to

9 ask me something. I told him it's okay.

10 BY MR. DAVIS:

11 Q. So do you recall having a --

12 (Counsel and deponent conferring.)

13 MR. PRINCE: No, it's okay.

14 Go ahead. Ask your question, counsel.

15 BY MR. DAVIS:

16 Q. Do you recall you were having a conversation

17 with someone from one of the insurance companies

18 telling them about you heard a friend of Michael

19 Vasquez had said he was leaving a car wash, and then

20 someone else who was with you in the room piped in

21 on the conversation and said that you didn't know

22 that, and you don't know who said it, or if it was

23 even said?

24 A. I don't recall that conversation.

25 Q. Do you recall something to the effect of

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1 that, not necessarily those exact words, but

2 something like that?

3 A. No.

4 Q. The rest of the e-mail says, "As we are

5 conducting an investigation into this accident, we

6 believe you need to be forthright with us concerning

7 this alleged witness so we may conduct the most

8 thorough investigation and arrive at the correct

9 determination of coverage as a result of that

10 investigation. I am asking Michael Chorak, the

11 investigator we have hired, to visit with both you

12 and your wife regarding this statement to make sure

13 we are clear on your position and recording your

14 statement."

15 You never provided the insurance companies

16 with the name of a person, friend of Michael

17 Vasquez, who said that Michael Vasquez was leaving a

18 car wash prior to the accident; correct?

19 A. I didn't have any name to give them. Yes.

20 Q. And you have no knowledge as to whether a

21 friend of Michael Vasquez did say that Mr. Vasquez

22 was leaving a car wash at the time of the accident;

23 correct?

24 A. Repeat the question?

25 Q. You yourself have no personal knowledge as

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1 to whether Mr. Vasquez was leaving a car wash prior

2 to the accident; correct?

3 A. Yes.

4 Q. And you have no personal knowledge whether a

5 friend said that Mr. Vasquez was leaving a car wash

6 at the time of the accident; correct?

7 A. A friend of Ryan, the lady Marilyn, which I

8 told you was the one that told me about Vasquez

9 leaving, and that's the only knowledge I have.

10 Q. And you didn't give the name of the Marilyn

11 person to either of the insurance companies,

12 Progressive or Century Surety; correct?

13 A. They didn't ask for it. Yes.

14 Q. Well, if you look at Exhibit 3, they asked

15 you for the name of the person repeatedly. It says

16 that in the e-mail. And you never provided that to

17 them, did you?

18 A. They asked for the person of Vasquez's

19 friend. They didn't ask for the person of Ryan's

20 friend.

21 Q. But they asked you to be forthright to help

22 them with their investigation, didn't they, sir?

23 A. Yes.

24 Q. And to be forthright, shouldn't you have

25 given them that name so they could have contacted

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1 her?

2 MR. PRINCE: I'm going to object to your

3 characterization of being forthright and whether he

4 was forthright or not and just the form of the

5 question.

6 You can answer the question if you

7 understand it.

8 THE WITNESS: Well, I don't understand it.

9 MR. DAVIS: Read back the question, please.

10 MR. PRINCE: He said he doesn't understand

11 the question.

12 MR. DAVIS: I'm asking her to read it back.

13 MR. PRINCE: Well, the objection stands, and

14 he said he wanted you to rephrase it.

15 (The requested portion of the

16 record was read by the reporter.)

17 THE WITNESS: They never asked me for that

18 name.

19 BY MR. DAVIS:

20 Q. But wouldn't it have been forthright for you

21 to have volunteered that information so they could

22 have contacted her and found out whether what you

23 heard was accurate?

24 MR. PRINCE: I'm going to object to the form

25 of the question and your usage of the term



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1 "forthright" and the implication, your suggestion
2 that he somehow wasn't being forthright.
3 But answer the question if you understand
4 it.
5 THE WITNESS: At the time of this
6 questioning, you have to understand that I was going
7 through severe trauma. And so for me to remember
8 exact things that were going on at this point is
9 academic.
10 What I do remember was I had told him that a
11 friend of Ryan at the dog park had told me that he
12 had stopped for something to do with gas or water,
13 and that was the end of the conversation. No one
14 asked me for the name of the person that I -- that
15 was told to me.
16 BY MR. DAVIS:
17 Q. Do you recall speaking to someone named
18 Michael Chorak?
19 A. No.
20 Q. Do you remember having -- receiving
21 telephone calls from someone named Michael Chorak?
22 A. No.
23 Q. Do you remember receiving telephone calls
24 from the insurance company asking you to call them
25 back to discuss the accident?

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1 A. I don't remember.
2 Q. You never returned his phone calls, did you?
3 MR. PRINCE: Well, hang on. Object to the
4 form of the question. Assumes facts not in
5 evidence.
6 Go ahead and answer the question if you
7 understand it.
8 THE WITNESS: I never received anything to
9 call back, so --
10 BY MR. DAVIS:
11 Q. You never received a phone call, or you
12 don't remember whether you received a phone call?
13 A. I don't remember receiving a phone call, and
14 I didn't call back.
15 Q. You retained a lawyer named Sylvia Esparza
16 to represent you and Ryan Pretner in regards to the
17 accident; correct?
18 A. Yes.
19 Q. Okay. And you retained Ms. Esparza
20 approximately a month after the accident; is that
21 accurate?
22 A. Yes.
23 Q. Okay. And she represented yourself, Ryan,
24 as well as Dana Andrew; correct?
25 A. Correct.

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1 Q. Okay. Do you recall Ms. Esparza trying to
2 negotiate a settlement with Progressive regarding
3 the accident?
4 A. No, I don't recall. You must remember that
5 I left to go to Denver with my son in April, so
6 after that, I was out of the loop, and I know
7 nothing more about what's going on with this
8 litigation.
9 Q. April what year?
10 A. That year.
11 Q. 2009?
12 A. 2009.
13 Q. So in April 2009, you left with Ryan to go
14 to Denver for medical treatment?
15 A. Correct.
16 Q. Okay. And is it your testimony that after
17 that point, you were not involved with the claim
18 against the insurance companies or against
19 Mr. Vasquez or against Blue Streak?
20 A. I don't understand the question. I -- say
21 it again?
22 Q. You just said that after you went to Denver,
23 you weren't involved anymore, and I'm trying to find
24 out what you mean by not involved anymore.
25 A. Well, I was not in the loop at that point.

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1 I might have had conversations with her, but I
2 didn't receive any more calls or anybody asking me
3 anything about the case.
4 Q. But you weren't divorcing yourself from the
5 claim?
6 A. No.
7 Q. Okay. She was still your lawyer; correct?
8 A. Yes.
9 Q. Okay. And she still communicated with you
10 as your lawyer; correct?
11 A. Yes.
12 Q. And she told you what was going on; correct?
13 A. Yes.
14 Q. And I assume she sent you copies of
15 documents that she was sending to third parties?
16 MR. PRINCE: Answer that question.
17 THE WITNESS: No.
18 BY MR. DAVIS:
19 Q. So she wasn't sending documents to you,
20 giving you copies of documents?
21 A. Yes. She was not.
22 Q. I'll introduce as Exhibit 4 a letter dated
23 May 26, 2009, from Sylvia Esparza to Vincent Johnson
24 at Progressive.
25 (Exhibit 4 marked for identification.)

