

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

**Ferrellgas, Inc.,** a foreign  
corporation, **Mario Gonzalez and**  
**Carl Kleisner,**

Petitioners,  
vs.

**The Eighth Judicial District Court**  
**of the State of Nevada ex rel the**  
**County of Clark and the**  
**Honorable Joanna S. Kishner,**

Respondents.

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**Joshua Green,** an individual

Real Party in Interest.

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Supreme Court No.: 82670

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District Court No. 19-00038100  
Elizabeth A. Brown  
Clerk of Supreme Court

**APPENDIX VOLUME III**

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2016	10.	Brigge, Alexis M., Mark J. 2 Hilsenroth, Francine Conway, Christopher Muran, and Jonathan M. Jackson. “Patient Comfort With Audio or Video	ANS BRIEF 292–302

Recording of Their  
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5/19/2020	11.	Deposition transcript of 2 Plaintiff, Joshua Green, Volume I	ANS BRIEF 303-372
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# **EXHIBIT “15”**

**In the Matter Of:**

A-9-795381-C

JOSHUA GREEN

VS

FERRELLGAS

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**Deposition Of:**

*ROBERT VICORY*

*August 07, 2020*

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702-805-4800

scheduling@envision.legal

**ANS BRIEF 491**

DISTRICT COURT  
CLARK COUNTY, NEVADA

JOSHUA GREEN, an individual,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.: A-9-795381-C
	)	Dept. No.: XXXI
FERRELLGAS, INC., a foreign	)	
corporation; MARIO S.	)	
GONZALES, an individual, CARL	)	
J. KLEISNER, an individual;	)	
DOES I through XXX, inclusive	)	
and ROES Business Entities I	)	
through XXX, inclusive,	)	
	)	
Defendants.	)	
_____	)	

DEPOSITION OF ROBERT VICORY  
LAS VEGAS, NEVADA  
FRIDAY, AUGUST 7, 2020

REPORTED BY:  
CARRE LEWIS, CCR NO. 497, CSR NO. 13337

JOB NO. 4495



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DEPOSITION OF ROBERT VICORY,  
taken at 8950 West Tropicana, Suite 1, Las Vegas,  
Nevada, on Friday, August 7, 2020, at 9:00 a.m.,  
before Carre Lewis, Certified Court Reporter, in and  
for the State of Nevada.

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LAS VEGAS, NEVADA; FRIDAY, AUGUST 7, 2020;  
9:00 A.M.  
-oOo-  
Whereupon --  
ROBERT VICORY,  
having been first duly sworn to testify to the  
truth, was examined and testified as follows:  
EXAMINATION  
BY MR. PFAU:  
Q. You are Robert Vicory, right?  
A. Correct.  
Q. Can you just spell your name for the record  
please.  
A. Last name?  
Q. Full name.  
A. Full name is R-O-B-E-R-T, V-I-C-O-R-Y.  
Q. All right. Thank you. I think when I  
first heard your name, I was calling you Robert  
Victory.  
A. Victory, yeah.  
Q. Which is -- you know, it's a nice name.  
A. It's common. It's common, yeah.  
Q. My name is Matt Pfau. I represent the  
plaintiff in this case. And we are here just to ask  
you a few questions about the incidents, you know,

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I N D E X  
WITNESS: ROBERT VICORY  
EXAMINATION  
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the events leading up to the incident and some  
things after as well.  
Is that your understanding of why we are  
here?  
A. Correct.  
Q. And we are talking about an incident that  
occurred on 6/18/18 in the backyard of the Gonzalez  
home. Is that --  
A. As far as dates, I mean, I'm going to say  
yes, I believe there was an incident.  
Q. Okay. All right. Do you have an  
independent recollection? I mean do you remember  
this incident occurring?  
A. Bits and pieces, so . . .  
Q. Have you ever been deposed before?  
A. Yes.  
Q. All right. How long ago was that?  
A. 20 years ago.  
Q. It was?  
A. Yeah.  
Q. What was it for?  
A. It was a death on the job.  
Q. Okay. It was work related?  
A. Yes.  
Q. Were you a witness?

Page 5

<p style="text-align: right;">Page 6</p> <p>1 A. Not to the incident.</p> <p>2 Q. Okay.</p> <p>3 A. So I was involved in the tank setting,</p> <p>4 so -- but I was not there at the time of the</p> <p>5 incident.</p> <p>6 Q. Was it a death related to an explosion?</p> <p>7 A. No.</p> <p>8 Q. Okay. Well, it's been a long time so I'm</p> <p>9 going to go through some basic ground rules with you</p> <p>10 if that's okay.</p> <p>11 A. Yes.</p> <p>12 Q. All right. So as you can tell, we have a</p> <p>13 video camera recording this. We also have a court</p> <p>14 reporter who is writing everything down. So this is</p> <p>15 a question/answer session where I'm going to be</p> <p>16 asking questions and you will, you know, have an</p> <p>17 opportunity to answer them, and it's really</p> <p>18 important that the court reporter can write</p> <p>19 everything down that everybody says. And because of</p> <p>20 that we have to follow certain rules, and one of</p> <p>21 them is that we don't speak over each other. It's</p> <p>22 common -- and it will probably happen today, but</p> <p>23 it's common that when I'm asking a question, that</p> <p>24 you will already know where I'm going with my</p> <p>25 question and you will start answering it. But that</p>	<p style="text-align: right;">Page 8</p> <p>1 instructs you not to answer. All right? And there</p> <p>2 is a few occasions where that might come up, but</p> <p>3 it's more likely that your attorney or other</p> <p>4 attorneys in the room might have objections to the</p> <p>5 questions I ask. And those are somewhat common.</p> <p>6 Okay? The objections are so that they can preserve</p> <p>7 a right later on to potentially challenge the</p> <p>8 question that I asked. But it's important that you</p> <p>9 just -- after the objection is done, you go ahead</p> <p>10 and just answer, unless you are instructed not to</p> <p>11 answer by your attorney. Okay?</p> <p>12 A. Okay.</p> <p>13 Q. Okay. And it becomes a little awkward at</p> <p>14 the beginning because I will be asking you a</p> <p>15 question and you will hear some objections and then</p> <p>16 you won't know exactly what to do and you may even</p> <p>17 forget the question that I asked you, but we will</p> <p>18 try to help you through this process. Okay?</p> <p>19 A. (No audible answer.)</p> <p>20 Q. And because of that, we want to make sure</p> <p>21 that you. After I ask a question, take a pause or</p> <p>22 two just in case there is an objection that needs to</p> <p>23 come out. Okay?</p> <p>24 A. Yes.</p> <p>25 Q. If you don't understand what I'm asking,</p>
<p style="text-align: right;">Page 7</p> <p>1 doesn't work well for depositions because our court</p> <p>2 reporter can't write everything down. So if you do</p> <p>3 interrupt me while I'm asking a question, which, you</p> <p>4 know, in normal conversation that's totally fine</p> <p>5 usually, but if you do interrupt me while I'm asking</p> <p>6 a question I will ask you to stop your answer so I</p> <p>7 can finish my question and then you can restart your</p> <p>8 answer.</p> <p>9 Does that sound okay?</p> <p>10 A. Yes.</p> <p>11 Q. And then I'll also do the same for you. If</p> <p>12 I happen to interrupt you in the middle of your</p> <p>13 answer, if I think you're done and you aren't done,</p> <p>14 I will also try to stop and make sure you can</p> <p>15 finish. Okay?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. You do understand you are here to</p> <p>18 testify under penalty of perjury, correct?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. So that you have to give us your</p> <p>21 best, most truthful answers to every question that's</p> <p>22 asked?</p> <p>23 A. Correct.</p> <p>24 Q. Okay. And you do have to answer the</p> <p>25 questions that I ask you unless your attorney</p>	<p style="text-align: right;">Page 9</p> <p>1 ask me to clarify. Happy to do that.</p> <p>2 A. Okay.</p> <p>3 Q. I don't always ask perfect questions, so if</p> <p>4 I'm asking a confusing question just ask me to</p> <p>5 clarify. Okay?</p> <p>6 A. Yes.</p> <p>7 Q. It is okay for you to estimate answers but</p> <p>8 not guess on answers. Okay? The difference between</p> <p>9 an estimate and a guess is a guess is if you have no</p> <p>10 basis or understanding of the answer -- or the</p> <p>11 question that I'm asking, for example, if you -- if</p> <p>12 I ask you to estimate how many square feet my house</p> <p>13 is you wouldn't have any idea, right?</p> <p>14 A. Correct.</p> <p>15 Q. But if I were to ask you to estimate how</p> <p>16 many square feet your mother-in-law's house is, if</p> <p>17 you have been there you might be able to give us a</p> <p>18 good estimate, correct?</p> <p>19 A. I'm going to disagree, so -- because I'm</p> <p>20 not a -- I can't look at things and tell you how big</p> <p>21 things are and how small things are.</p> <p>22 Q. Well, when it comes to distance and time</p> <p>23 and measurements, if you have a basis of</p> <p>24 understanding of what those are -- because you know</p> <p>25 what a square foot is, correct?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. Correct.</p> <p>2 Q. If I were to ask you -- you have been to</p> <p>3 your mother-in-law's house?</p> <p>4 A. No.</p> <p>5 Q. Okay. Have you been to your mother's</p> <p>6 house?</p> <p>7 A. No.</p> <p>8 Q. Have you been to your friend's house?</p> <p>9 A. Yes.</p> <p>10 Q. Let's pick one of your friends. You don't</p> <p>11 know exactly how many square feet your friend's</p> <p>12 house is, correct?</p> <p>13 A. That is correct.</p> <p>14 Q. Okay. But you might be able to estimate</p> <p>15 for us about how big that how is, correct?</p> <p>16 A. Again, I'm going to disagree because I'm</p> <p>17 not a builder. I'm not -- I understand what you are</p> <p>18 asking. However, I'm going to disagree. Their</p> <p>19 house is large or small, you know, or average.</p> <p>20 Q. Do you know what a 6,000-square foot house</p> <p>21 looks like generally?</p> <p>22 A. Quite big.</p> <p>23 Q. Do you know what a 1,000-square foot house</p> <p>24 looks like?</p> <p>25 A. Quite small.</p>	<p style="text-align: right;">Page 12</p> <p>1 asked to estimate we'll work through and try to</p> <p>2 figure out what your estimate would be. Does that</p> <p>3 make sense?</p> <p>4 A. Okay. Yes.</p> <p>5 Q. Okay. It's important that you also answer</p> <p>6 in verbal responses only.</p> <p>7 A. Yes.</p> <p>8 Q. Okay?</p> <p>9 So no "uh-huhs" or "huh-uhs." Yeses and</p> <p>10 noes are what we need because, again, that doesn't</p> <p>11 really turn out well in our transcript.</p> <p>12 A. Right.</p> <p>13 Q. So if you do happen to answer with</p> <p>14 "uh-huhs" or "huh-uhs," which, again, is kind of a</p> <p>15 common thing, if you do happen to do that we might</p> <p>16 ask you to clarify if that's a yes or no. The</p> <p>17 intent is not to be rude or try to cut you off, but</p> <p>18 we just want to make sure we get a clear record.</p> <p>19 Okay?</p> <p>20 A. Understood.</p> <p>21 Q. All right. We are happy to take breaks if</p> <p>22 you need to take a break. I'm not certain how long</p> <p>23 this will go today, but if we need a break at any</p> <p>24 point we can do that. Okay?</p> <p>25 A. Okay.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. So based on your understanding of how big a</p> <p>2 1,000- versus 6,000-square-foot house is, you might</p> <p>3 be able to estimate that it is between a certain</p> <p>4 number of square feet, correct?</p> <p>5 A. I'm still -- not trying to be difficult,</p> <p>6 but I still disagree. I mean an estimate is simply</p> <p>7 that, just an estimate, so I --</p> <p>8 MR. McMULLEN: I think he is saying if you</p> <p>9 are able to estimate then that's you would be asked</p> <p>10 to do, and if you are not, then just say you can't.</p> <p>11 Fair enough?</p> <p>12 THE WITNESS: I'm going to say correct,</p> <p>13 yes. Yes.</p> <p>14 BY MR. PFAU:</p> <p>15 Q. And if I ask you to estimate something, I</p> <p>16 might do exactly what I just did in that scenario.</p> <p>17 A. Okay.</p> <p>18 Q. Say, "Do you know how big a</p> <p>19 6,000-square-foot house is," you say, "Yeah," "Is it</p> <p>20 bigger than a 6,000-square-foot house," "No," and</p> <p>21 then so we will get somewhere into an estimate where</p> <p>22 that might be. Does that make sense?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And so you will be asked to</p> <p>25 estimate, potentially, in this deposition, and if</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. Have you taken any prescription medications</p> <p>2 in the last 24 hours?</p> <p>3 A. No.</p> <p>4 Q. All right. Have you consumed any alcohol</p> <p>5 or other drugs prior to this deposition in the last</p> <p>6 24 hours?</p> <p>7 A. No.</p> <p>8 Q. Okay. Do you feel like you are prepared</p> <p>9 and able to testify and give your best testimony</p> <p>10 today?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. About how long ago did you learn</p> <p>13 about this deposition?</p> <p>14 A. I -- I don't recall. It's been a short</p> <p>15 time, probably the last 30 days or 60 days maybe.</p> <p>16 Q. So this would be a good example of an</p> <p>17 estimate. You don't know exactly how many days but</p> <p>18 you would estimate somewhere about 30 days; is that</p> <p>19 right?</p> <p>20 A. Between 30 and 60.</p> <p>21 Q. Okay. And how did you learn about it?</p> <p>22 A. I was contacted by Mr. McMullen.</p> <p>23 Q. It's my understanding that Mr. McMullen is</p> <p>24 representing you here today. Is that correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. Okay. So I don't want to ask any questions</p> <p>2 about communications you had with Mr. McMullen --</p> <p>3 A. Correct.</p> <p>4 Q. -- because that would be privileged.</p> <p>5 A. Correct.</p> <p>6 Q. All right?</p> <p>7 But I'm going to ask you some more general</p> <p>8 questions about your preparation for today. Okay?</p> <p>9 A. Okay.</p> <p>10 Q. Did you review any documents in preparation</p> <p>11 for today?</p> <p>12 A. Yes.</p> <p>13 Q. What did you review?</p> <p>14 A. My -- the safety poli- -- or the -- the</p> <p>15 systems test procedures for Ferrellgas.</p> <p>16 Q. Anything else?</p> <p>17 A. And the red-tag policy for Ferrellgas. And</p> <p>18 I don't remember which module, but a CETP module.</p> <p>19 Q. If you were to see that CETP module, would</p> <p>20 you be able to recall what it is?</p> <p>21 A. Yes.</p> <p>22 Q. Anything else?</p> <p>23 A. Not to my recollection.</p> <p>24 Q. Any pictures of the scene?</p> <p>25 A. A picture, yes. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Yes.</p> <p>2 Q. Where do you work?</p> <p>3 A. Suburban Propane.</p> <p>4 Q. Now, you used to work for Ferrellgas,</p> <p>5 correct?</p> <p>6 A. Correct.</p> <p>7 Q. What years did you work for Ferrellgas?</p> <p>8 A. I believe from 2013 to 2019.</p> <p>9 Q. In 2019, did you end up working for another</p> <p>10 place?</p> <p>11 A. Correct. Yes.</p> <p>12 Q. Where did you end up going?</p> <p>13 A. Suburban.</p> <p>14 Q. Okay. What month did you leave Ferrellgas?</p> <p>15 A. December.</p> <p>16 Q. Okay. What month did you start at Suburban</p> <p>17 Propane?</p> <p>18 A. December.</p> <p>19 Q. Did you go from one job straight to the</p> <p>20 other job?</p> <p>21 A. Correct.</p> <p>22 Q. Have you always worked in the propane</p> <p>23 business?</p> <p>24 A. No.</p> <p>25 Q. What did you do before Ferrellgas?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. What was the picture of?</p> <p>2 A. The, in general, barbecue area of</p> <p>3 Mr. Gonzalez.</p> <p>4 Q. Did you recognize that barbecue?</p> <p>5 A. Yes.</p> <p>6 Q. Did you review any incident reports or --</p> <p>7 A. What was that?</p> <p>8 Q. Did you review any incident reports or call</p> <p>9 logs or anything else related to this incident?</p> <p>10 A. No.</p> <p>11 Q. So then it would be these four things, the</p> <p>12 systems test procedures, red tag policy; a CETP</p> <p>13 module, not sure which one right now --</p> <p>14 A. Right.</p> <p>15 Q. -- and one picture of the barbecue?</p> <p>16 A. I believe there was two. There was one --</p> <p>17 there was a general picture of the barbecue and a</p> <p>18 picture of the pipe with the shut-off valve.</p> <p>19 Q. Did you speak with anybody other than</p> <p>20 Mr. McMullen about your deposition today?</p> <p>21 A. No.</p> <p>22 Q. Can you give us your home address?</p> <p>23 A. It's 3955 Rio Ridge Court, Las Vegas,</p> <p>24 Nevada.</p> <p>25 Q. Are you currently employed?</p>	<p style="text-align: right;">Page 17</p> <p>1 A. Well, I worked for AmeriGas before</p> <p>2 Ferrellgas.</p> <p>3 Q. What years?</p> <p>4 A. From '97 to 2012.</p> <p>5 Q. Did you work for another gas company before</p> <p>6 AmeriGas?</p> <p>7 A. No.</p> <p>8 Q. That was your first gas job?</p> <p>9 A. Correct.</p> <p>10 Q. What was your role at AmeriGas?</p> <p>11 A. Several. Start at the beginning?</p> <p>12 Q. Sure.</p> <p>13 A. Originally came on as a cylinder delivery</p> <p>14 representative, a bulk delivery representative,</p> <p>15 service technician.</p> <p>16 Q. What's the difference between those three</p> <p>17 different jobs?</p> <p>18 A. The very first one is -- delivers</p> <p>19 cylinders. It was a division with 20-pound propane</p> <p>20 tanks. The second one is actually deliver --</p> <p>21 delivering of the propane, the product, to bulk</p> <p>22 tanks, larger tanks. And then the other one is the</p> <p>23 service tech; general installs, repairs,</p> <p>24 conversions, things technicians -- service</p> <p>25 technicians do.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q. Were you a service technician at 2 Ferrellgas? 3 A. Yes. 4 Q. Was that the exact title? 5 A. I'm not quite clear on the exact title. 6 It -- the generalization is a service tech. They 7 might have called it something else as far as -- as 8 far as how they name things, so the -- each company 9 is different. So, like I said, with the original 10 job it was a delivery representative. It's not a 11 delivery driver. So as far as difference, I mean 12 service tech at Ferrellgas, yes. 13 Q. Was that -- were you a service tech the 14 whole time from 2013 to 2019? 15 A. No, I was originally hired as the delivery 16 driver. 17 Q. What year did you become a service tech for 18 Ferrellgas? 19 A. I want to say 2013, towards the end of it, 20 the end of 2013. 21 Q. So near the beginning of your employment? 22 A. Yeah. 23 Q. Were you a service technician from 2013 24 through to 2019? 25 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. What do you do for Suburban Propane right 2 now? 3 A. I'm a service tech level two. 4 Q. And what are your responsibilities as a 5 service tech level two? 6 A. Installing/maintaining propane systems, 7 tanks, repairs, maintenance. That's pretty much it. 8 Q. Did you do inspections? 9 A. Yes. 10 Q. Okay. I'm going to talk to you more about 11 what your responsibilities were as a service 12 technician at Ferrellgas, but I want to clarify -- I 13 will represent you to that this explosion that we 14 are here to talk about today, that involved my 15 client Josh Green, happened in June of 2018, June 18 16 of 2018. 17 A. Okay. 18 Q. Okay? 19 And you do confirm that you were working 20 for Ferrellgas at that time, correct? 21 A. Correct. 22 Q. Okay. Were you the service technician that 23 was assigned to the Green home? 24 MR. MCMULLEN: Object to form. 25 THE WITNESS: No.</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. All right. Are there different ranks or 2 levels of service technicians? 3 A. I'm not -- again, I'm not quite clear on -- 4 on the actual levels. I believe there is a 5 difference amongst service techs. Which one I 6 exactly was, I'm not sure. 7 Q. Just so I can kind of understand how it 8 works, when you start off as a service tech, is 9 there like level one, two, three, or do you know? 10 A. Not quite -- not quite clear. I'm not 11 sure. 12 Q. Okay. 13 A. I have seen different things on different 14 papers with different titles, so that's why I say 15 I'm -- I'm not quite clear on exactly what my title 16 was other than a service tech. 17 Q. Were you ever given a promotion as you were 18 a service tech? 19 A. No. 20 Q. Okay. So from 2013 -- end of 2013 through 21 2019, were you ever given a raise as a service tech 22 for Ferrellgas? 23 A. Yes. 24 Q. But that didn't include a promotion? 25 A. Not as far as title, I don't believe.</p>	<p style="text-align: right;">Page 21</p> <p>1 BY MR. PFAU: 2 Q. Are there -- are service technicians 3 assigned to specific homes? 4 A. No. 5 Q. So if you receive a call for -- let me just 6 ask this. I'm just trying to understand how you 7 might respond to one call versus another. 8 Are you assigned to a specific geographic 9 area of town? 10 A. No. I'm not designed -- I'm not -- I'm not 11 assigned to a specific geographical area of town, 12 but a geographical area as it breaks down to our 13 districts. We have different offices in different 14 areas and we work out of those offices and take care 15 of those areas. 16 Q. So you are assigned to a specific 17 geographic area? 18 A. Yes. Yes. 19 Q. What was the geographic area that you were 20 assigned to on June 18, 2018? 21 A. The Las Vegas, Henderson, a large portion 22 of Southern Nevada, as well as parts of California 23 so . . . 24 Q. So you could travel to any of those areas? 25 A. Correct.</p>

<p style="text-align: right;">Page 22</p> <p>1 Q. Were there other service technicians also 2 assigned to that area?</p> <p>3 A. No.</p> <p>4 Q. So again, just trying to understand. The 5 area that you described, Las Vegas, Henderson, some 6 parts of California, if a call were to occur within 7 that geographic area that you described for us, then 8 you would be the only service technician that would 9 show up; is that correct?</p> <p>10 A. If I was available, yes.</p> <p>11 Q. If you weren't available, who would show 12 up?</p> <p>13 A. They would dispatch somebody else.</p> <p>14 Q. Okay. And that would be somebody else who 15 was assigned to a different geographical area?</p> <p>16 A. Possibly, yes.</p> <p>17 Q. Again, I'm just trying to understand 18 because you said you were the only one assigned to 19 this geographical area --</p> <p>20 A. Correct.</p> <p>21 Q. -- so wouldn't it have to come from 22 somebody from a different geographical area?</p> <p>23 A. It all depends on who is available. It 24 could be a driver that is able to get to it. It 25 could be another employee. As far as service tech</p>	<p style="text-align: right;">Page 24</p> <p>1 A. More training, more detailed work.</p> <p>2 Q. Could you be more specific about what it 3 means to have more detailed work?</p> <p>4 A. Drivers -- delivery drivers rarely actually 5 set tanks or hook tanks up. They don't make any 6 repairs, or they repair things that they are trained 7 for or familiar with. They deliver gas, they 8 deliver product. Service techs are like the 9 mechanics of the industry so they keep things 10 running.</p> <p>11 Q. So the service techs would be, like, a 12 troubleshooter if a customer was having a problem, 13 for example?</p> <p>14 A. Correct.</p> <p>15 Q. And the service tech does inspections?</p> <p>16 A. Correct.</p> <p>17 Q. Does a driver do inspections?</p> <p>18 A. Yes.</p> <p>19 Q. What do they inspect?</p> <p>20 A. Tank, regulators, generalization of the 21 tank and its area.</p> <p>22 Q. So inspection specifically related to the 23 tank and anything directly attached to the tank?</p> <p>24 A. Correct.</p> <p>25 Q. And so a service tech would be responsible</p>
<p style="text-align: right;">Page 23</p> <p>1 I'm the only -- I was the only service tech for the 2 area, but it doesn't mean that I'm the only one that 3 responds to things.</p> <p>4 Q. Understood.</p> <p>5 I guess that helps me understand. I 6 appreciate that.</p> <p>7 A. Yeah.</p> <p>8 Q. I want to talk to you a little bit about 9 your role as a service tech and how it might be 10 different from the other types of jobs that you just 11 listed, okay, like a driver or any other employees.</p> <p>12 A. Uh-huh.</p> <p>13 Q. As a service tech what were your duties at 14 Ferrellgas?</p> <p>15 A. To set tanks, service and maintain propane 16 systems, maintenance on those systems. I would say 17 that's it. I mean a service tech is a well-rounded 18 individual that handles a lot of things, so . . .</p> <p>19 Q. Okay.</p> <p>20 A. But specific duties, I mean I do have an 21 actual list of specific duties for Ferrellgas, so 22 that's -- that's pretty much it as far as what a 23 service tech does at Ferrellgas.</p> <p>24 Q. What -- how is a service tech different 25 from a driver, for example?</p>	<p style="text-align: right;">Page 25</p> <p>1 for inspecting, also, that, potentially, correct?</p> <p>2 A. Correct.</p> <p>3 Q. But then also the other parts of the gas 4 system?</p> <p>5 A. Correct.</p> <p>6 Q. Okay. Is there anybody else for Ferrellgas 7 that is responsible for inspecting other parts of 8 the gas system?</p> <p>9 MR. MCMULLEN: Object to form. You mean 10 position? I'm not clear.</p> <p>11 MR. PFAU: Yes. I thank you for asking 12 that.</p> <p>13 BY MR. PFAU:</p> <p>14 Q. I am asking are there any other positions 15 inside Ferrellgas that are responsible for 16 inspecting other parts or the entire gas system 17 other than the service tech?</p> <p>18 A. Ask the question again, if you would.</p> <p>19 MR. PFAU: We will just reread it.</p> <p>20 (Thereupon, the record was read by the 21 court reporter as follows: "Q. I am asking 22 are there any other positions inside 23 Ferrellgas that are responsible for 24 inspecting other parts or the entire gas 25 system other than the service tech?" )</p>

<p style="text-align: right;">Page 26</p> <p>1 MR. MCMULLEN: Do you understand the</p> <p>2 question?</p> <p>3 THE WITNESS: I do understand the question.</p> <p>4 The answer is going to have to be yes.</p> <p>5 BY MR. PFAU:</p> <p>6 Q. Who would that be or what position would</p> <p>7 that be?</p> <p>8 A. Depending on the training of the person, it</p> <p>9 could be somebody in safety, it could be a</p> <p>10 supervisor or particular management that is trained</p> <p>11 in it. Service techs are not the only ones is what</p> <p>12 I'm trying to say.</p> <p>13 Q. Understood.</p> <p>14 So the person over safety or a supervisor</p> <p>15 could potentially do an inspection of the gas</p> <p>16 system. But it's my understanding that they aren't</p> <p>17 the people normally called out to do that. Is that</p> <p>18 correct?</p> <p>19 A. That is correct.</p> <p>20 Q. Now let's -- I want to talk to you a little</p> <p>21 bit about these people, safety and supervisor. On</p> <p>22 June 18, 2018, do you remember who your safety</p> <p>23 person was?</p> <p>24 A. No.</p> <p>25 Q. Did you have a safety person?</p>	<p style="text-align: right;">Page 28</p> <p>1 BY MR. PFAU:</p> <p>2 Q. Did this area or regional safety person</p> <p>3 ever look at your work, make sure you were complying</p> <p>4 with safety procedures?</p> <p>5 A. I don't know.</p> <p>6 Q. Would they have interacted with you</p> <p>7 personally to do that?</p> <p>8 MR. MCMULLEN: Object to form. If he</p> <p>9 doesn't know if they oversaw his work, how could he</p> <p>10 answer that question? Maybe you could rephrase it.</p> <p>11 BY MR. PFAU:</p> <p>12 Q. Stick with the question as it is.</p> <p>13 A. I'm going to say no to interaction.</p> <p>14 Q. So you don't remember having any personal</p> <p>15 one-on-one interaction with a regional or safety</p> <p>16 person?</p> <p>17 A. Not with an actual safety person, no.</p> <p>18 Q. Does -- does the regional or area safety</p> <p>19 person -- do you know what their responsibilities</p> <p>20 and roles would be as it relates to you as the</p> <p>21 service tech?</p> <p>22 A. I would imagine compliance with procedures</p> <p>23 and training.</p> <p>24 Q. Did you ever get any reports from an area</p> <p>25 or regional safety person that you were or were not</p>
<p style="text-align: right;">Page 27</p> <p>1 A. I believe we did. I believe Ferrellgas</p> <p>2 did.</p> <p>3 Q. Do you know that person's title?</p> <p>4 A. It would have been either regional safety</p> <p>5 or area safety.</p> <p>6 Q. What was that person's responsibility as</p> <p>7 regional or area safety manager?</p> <p>8 MR. MCMULLEN: Object to form.</p> <p>9 THE WITNESS: I don't know their exact</p> <p>10 duties.</p> <p>11 BY MR. PFAU:</p> <p>12 Q. Did you ever interact with that person?</p> <p>13 A. Not -- not knowing specifically who it was,</p> <p>14 no. I mean I interact with a lot of different</p> <p>15 people, but not knowing exactly what their titles</p> <p>16 are or what their exact roles are, I mean, so no, as</p> <p>17 far as interaction, no.</p> <p>18 Q. Did you ever receive any training from a</p> <p>19 regional or area safety person?</p> <p>20 A. No.</p> <p>21 Q. Was there ever any oversight by this</p> <p>22 regional or area safety person?</p> <p>23 MR. MCMULLEN: Object to form.</p> <p>24 THE WITNESS: I don't understand the</p> <p>25 question.</p>	<p style="text-align: right;">Page 29</p> <p>1 complying with safety procedures at Ferrellgas as</p> <p>2 you were a service technician for them?</p> <p>3 A. No.</p> <p>4 Q. So based on your recollection, you don't</p> <p>5 recall having any personal interaction with the area</p> <p>6 or regional safety manager and you don't recall</p> <p>7 getting any written feedback from an area or</p> <p>8 regional safety manager, correct?</p> <p>9 A. No.</p> <p>10 Q. Were you ever told by anybody at Ferrellgas</p> <p>11 that you should expect contact from an area or</p> <p>12 regional safety manager?</p> <p>13 A. No. The reason I'm saying no to a</p> <p>14 interaction with an actual safety manager is because</p> <p>15 everything that I interacted and did was with my</p> <p>16 regional manager. He is an area regional manager.</p> <p>17 He is not -- his title is not safety. So that's the</p> <p>18 reason that I'm saying no to an actual safety</p> <p>19 manager, because I believe there was two or three</p> <p>20 safety managers that that's -- I had heard of and --</p> <p>21 but I didn't have any interaction with them.</p> <p>22 Q. And those people were different than your</p> <p>23 regional manager?</p> <p>24 A. Correct.</p> <p>25 Q. Who was your regional manager at the time?</p>

<p style="text-align: right;">Page 30</p> <p>1 A. Kelly Kite.</p> <p>2 Q. We are going to pull up various documents</p> <p>3 and just kind of look at them today.</p> <p>4 MR. PFAU: We'll mark this one as</p> <p>5 Exhibit 1.</p> <p>6 (Exhibit 1 marked.)</p> <p>7 BY MR. PFAU:</p> <p>8 Q. I will have you look at this. I want to</p> <p>9 have you focus your attention to -- if you look at</p> <p>10 the bottom here, you see there is little numbers,</p> <p>11 letters and numbers?</p> <p>12 A. Correct.</p> <p>13 Q. So we will refer to most documents that</p> <p>14 way.</p> <p>15 The one that says FG001037. Have you seen</p> <p>16 this document before? Do you know what this is?</p> <p>17 A. No.</p> <p>18 Q. This was provided to us by your attorney.</p> <p>19 It's my understanding that this is a matrix that's</p> <p>20 used to detail the types of trainings that should be</p> <p>21 done by various roles in the company. Does that</p> <p>22 make sense based on what you are seeing?</p> <p>23 A. Yes.</p> <p>24 Q. Now, the page that I'm pointing your</p> <p>25 attention, to this FG1037 says "non-management</p>	<p style="text-align: right;">Page 32</p> <p>1 MS. WINSPEAR: Did we start at 1?</p> <p>2 MR. PFAU: Yeah.</p> <p>3 MS. WINSPEAR: Thank you.</p> <p>4 MR. GOLDSTEIN: Is the whole package 1 or</p> <p>5 just this page 1?</p> <p>6 MR. PFAU: The whole package.</p> <p>7 MR. GOLDSTEIN: Okay.</p> <p>8 BY MR. PFAU:</p> <p>9 Q. So let's -- we are going to get now to the</p> <p>10 facts of this situation. Okay?</p> <p>11 A. Okay.</p> <p>12 Q. Do you know who Mario Gonzalez is?</p> <p>13 A. Yes.</p> <p>14 Q. Is that somebody you had interactions with</p> <p>15 before?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. Have you been to his house?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Do you remember what his house looks</p> <p>20 like?</p> <p>21 A. Yes.</p> <p>22 Q. Have you been in his backyard?</p> <p>23 A. Yes.</p> <p>24 Q. Did you get a call from Mario Gonzalez</p> <p>25 related to a potential electrical issue in his</p>
<p style="text-align: right;">Page 31</p> <p>1 employee." Were you a non-management employee?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. And I understand you don't recall</p> <p>4 what the company called your title, but maybe if you</p> <p>5 look at these different little slanted columns here,</p> <p>6 if you can look at those and maybe help us</p> <p>7 understand which one of those you would have been,</p> <p>8 if you can tell.</p> <p>9 A. My very first title would have been "driver</p> <p>10 bulk and cylinder" with Ferrellgas.</p> <p>11 Q. Okay.</p> <p>12 A. And based off this chart, the next title</p> <p>13 would have been "field install</p> <p>14 specialist-Ferrellgas."</p> <p>15 Q. Okay. Thanks for helping us understand</p> <p>16 that.</p> <p>17 So it's your understanding that the</p> <p>18 Ferrellgas definition of service tech would have</p> <p>19 been "field install specialist-Ferrellgas," correct?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Thanks for helping us understand</p> <p>22 that. You can set that to the side for now.</p> <p>23 All these documents we give you, those will</p> <p>24 probably just pile up. We might refer back and</p> <p>25 forth to them, but --</p>	<p style="text-align: right;">Page 33</p> <p>1 backyard?</p> <p>2 A. I don't believe I got a call from</p> <p>3 Mr. Gonzalez about it in the beginning.</p> <p>4 Q. Okay. Did you get a call from anybody</p> <p>5 about an electrical issue --</p> <p>6 A. Yes.</p> <p>7 Q. -- and Mr. Gonzalez?</p> <p>8 It was one of those?</p> <p>9 A. Yeah.</p> <p>10 Q. Yeah.</p> <p>11 Did you ever get a call from anybody about</p> <p>12 an electrical issue in the Gonzalez home?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. Who was that from?</p> <p>15 A. I believe my office.</p> <p>16 Q. Okay.</p> <p>17 A. A specific person, I do not remember.</p> <p>18 Q. Okay. And we will just look at some -- I</p> <p>19 don't want you to have to guess on anything, so we</p> <p>20 have got some documents from Ferrellgas's own system</p> <p>21 that hopefully will help you remember some of the</p> <p>22 facts. Okay?</p> <p>23 MR. PFAU: So we will mark this as</p> <p>24 Exhibit 2.</p> <p>25 (Exhibit 2 marked.)</p>



<p style="text-align: right;">Page 34</p> <p>1 BY MR. PFAU:</p> <p>2 Q. Have you ever seen a form like this before?</p> <p>3 A. No.</p> <p>4 Q. Okay. This is not a form that you are</p> <p>5 familiar with?</p> <p>6 A. No.</p> <p>7 Q. Okay. So I will represent to you that this</p> <p>8 is a printout from Ferrellgas's internal customer</p> <p>9 management system.</p> <p>10 A. Okay.</p> <p>11 Q. And in this are some descriptions of what</p> <p>12 occurred. If you look at specifically the first</p> <p>13 page, FG112, there is a little box that says</p> <p>14 "description."</p> <p>15 A. Okay.</p> <p>16 Q. Can you just review that really quick?</p> <p>17 A. Okay.</p> <p>18 Q. Does that help you remember some of the</p> <p>19 facts of the case?</p> <p>20 A. Yes.</p> <p>21 Q. So you testified earlier that you received</p> <p>22 a call from somebody at Ferrellgas related to an</p> <p>23 electrical issue in the Gonzalez home, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Does this help you remember when you would</p>	<p style="text-align: right;">Page 36</p> <p>1 Q. And do you recall the date of that?</p> <p>2 A. It would have been the same day that he</p> <p>3 called in.</p> <p>4 Q. Okay. So the first call that you made to</p> <p>5 Mario Gonzalez related to the electrical issue would</p> <p>6 have been on 6/13/18?</p> <p>7 A. Correct.</p> <p>8 Q. In your conversation with Mr. Gonzalez,</p> <p>9 what do you recall him telling you or describing to</p> <p>10 you?</p> <p>11 A. I believe he relayed the same information</p> <p>12 to me as he did our on-call center.</p> <p>13 Q. So then on that third page, FG114, it says</p> <p>14 "service tech" -- this is in the "details" box</p> <p>15 there: "Service tech spoke with the customer and</p> <p>16 was able to determine customer had an electrical</p> <p>17 issue."</p> <p>18 How did you determine that the customer had</p> <p>19 an electrical issue?</p> <p>20 A. I don't recall if I determined it was an</p> <p>21 electrical issue on that day or that evening.</p> <p>22 Q. So you don't recall if you did it on</p> <p>23 6/13/18. Did you go out to the Gonzalez residence</p> <p>24 on the next day?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 35</p> <p>1 have received that call?</p> <p>2 A. I would imagine sometime after the call</p> <p>3 came in. I don't recall if I was the on-call</p> <p>4 driver. And I'm -- I believe the on-call driver,</p> <p>5 this was reported to them, and I believe they called</p> <p>6 me for -- because they were unsure on how to handle</p> <p>7 this particular situation.</p> <p>8 Q. Okay. So they reached out to you because</p> <p>9 you had the training and knowledge on how to</p> <p>10 potentially handle this issue, correct?</p> <p>11 A. Correct.</p> <p>12 Q. If you look at the third page -- there is a</p> <p>13 blank page, the second one is blank, but if you look</p> <p>14 at the third page, it's marked FG114. There is</p> <p>15 another little "details" section there. Can you</p> <p>16 review that?</p> <p>17 A. Okay.</p> <p>18 Q. Refers to a service tech who spoke with a</p> <p>19 customer. Would that service tech be you?</p> <p>20 A. Correct.</p> <p>21 Q. Do you remember speaking with Mario</p> <p>22 Gonzalez?</p> <p>23 A. Yes.</p> <p>24 Q. Was that over the phone or in person?</p> <p>25 A. Over the phone.</p>	<p style="text-align: right;">Page 37</p> <p>1 Q. Okay. Do you remember if that was morning</p> <p>2 or afternoon?</p> <p>3 A. I do not.</p> <p>4 Q. Okay. This -- and this might help you.</p> <p>5 This FG114, that third page, on the right it says</p> <p>6 "datetime added." This note was added on 6/14/18 at</p> <p>7 11:21 a.m.</p> <p>8 Did you report back your findings to</p> <p>9 Ferrellgas and then they put in this note?</p> <p>10 A. Yes. So it was -- I went -- I would have</p> <p>11 been there the 14th, I would imagine, morning,</p> <p>12 before noon.</p> <p>13 Q. So you went to the Gonzalez home on the</p> <p>14 14th in the morning, and at that visit you</p> <p>15 determined there was an electrical issue; is that</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. And you reported that back to Ferrellgas,</p> <p>19 correct?</p> <p>20 A. Yes.</p> <p>21 Q. How did you report that back? Was that via</p> <p>22 phone or some other way?</p> <p>23 A. Via phone to my manager.</p> <p>24 Q. So you called Kelly Kite?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. You called Kelly Kite and you let him know 2 there was an electrical issue?</p> <p>3 A. Yes.</p> <p>4 Q. Is that because it says here, at the very 5 last line, it says "per GM Kelly Kite"?</p> <p>6 A. No. Kelly Kite is a very knowledgeable 7 man, and with his knowledge and my knowledge and 8 based on what the customer had described and told me 9 and I observed, that is what I came up with, is that 10 there was an electrical issue.</p> <p>11 Q. Okay. Did Mr. Gonzalez do the right thing 12 by calling Ferrellgas to report this issue?</p> <p>13 A. Yes.</p> <p>14 Q. And would that be something you expected 15 him to do in this situation?</p> <p>16 A. Yes.</p> <p>17 Q. And so it was appropriate for you to come 18 out and inspect it and make sure the gas system was 19 safe, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Did you determine that the gas system was 22 safe at the time when you went out there?</p> <p>23 A. Yes.</p> <p>24 Q. You determined that the gas system was safe 25 at that time?</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. You have the customer sign off on it?</p> <p>2 A. Most of the time.</p> <p>3 Q. But you do always have them review it?</p> <p>4 A. Yes.</p> <p>5 Q. Is that called the "system check form"?</p> <p>6 A. They have changed the name several times. 7 The last time I remember it being called, it was 8 called an -- a -- yes, a Ferrellgas -- an "FSC" 9 [sic], I believe, is what it was called.</p> <p>10 Q. Okay. Let's look at a document -- is it in 11 electronic form or is it a paper form?</p> <p>12 A. It's either/or. There is both. We have an 13 electronic work order on most jobs and then there is 14 also a paper one that we fill out.</p> <p>15 Q. Was it electronic or paper in this 16 circumstance?</p> <p>17 A. I don't believe it was documented at that 18 time.</p> <p>19 Q. You don't believe what was documented?</p> <p>20 A. That -- the 14th trip so . . .</p> <p>21 Q. So you are saying you did an inspection but 22 didn't document it?</p> <p>23 A. Correct.</p> <p>24 Q. Is that in compliance with Ferrellgas 25 policies and procedures?</p>
<p style="text-align: right;">Page 39</p> <p>1 A. That there was no leaks on the barbecue 2 that we were talking about or that was in question.</p> <p>3 Q. Okay. When you went out for the inspection 4 on 6/14/18 in the morning, did you make a 5 determination that the gas system was in safe 6 condition with the electrical issue?</p> <p>7 A. Yes.</p> <p>8 Q. What is your process for making that 9 determination?</p> <p>10 A. That particular instance, observed the gas 11 line, the flex lines and the barbecue, along with 12 Mr. Gonzalez, of what he had told me that he was 13 experiencing. We used an approved leak detector, 14 sprayed everything down, touched, filled -- touched, 15 smelled and observed no leaks on that particular 16 area.</p> <p>17 Q. Is there a documentation process for when 18 an inspection is done?</p> <p>19 A. Yes.</p> <p>20 Q. What's that documentation process called?</p> <p>21 A. There is a Ferrellgas form that we fill out 22 that's -- records what has been done on the job.</p> <p>23 Q. Does that document get reviewed by the 24 customer as well?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 A. No.</p> <p>2 Q. What's your understanding of the importance 3 of filling out a system check form?</p> <p>4 A. For documentation.</p> <p>5 Q. Any other reason why you fill out a system 6 check form?</p> <p>7 A. Policy and procedure.</p> <p>8 Q. And what's the purpose of that policy and 9 procedure, other than documentation, based on your 10 understanding?</p> <p>11 A. Customer record.</p> <p>12 Q. Also to verify that the work was actually 13 done?</p> <p>14 A. Correct. I would say yes.</p> <p>15 Q. Okay. And so you would -- would you agree 16 with me that if a system check form wasn't actually 17 done and there is no record that any inspection was 18 done that it would be questionable whether or not a 19 system check was even done?</p> <p>20 MR. MCMULLEN: Object to form.</p> <p>21 THE WITNESS: No, I would disagree with 22 that.</p> <p>23 BY MR. PFAU:</p> <p>24 Q. Are you in the habit of not filling out 25 system check forms as part of your job?</p>

<p style="text-align: right;">Page 42</p> <p>1 A. No.</p> <p>2 Q. You would always fill out a system check</p> <p>3 form?</p> <p>4 A. No.</p> <p>5 Q. Okay. Was there somebody responsible for</p> <p>6 making sure that you filled out the system check</p> <p>7 forms?</p> <p>8 A. I don't know. I -- I don't know if there</p> <p>9 is a specific person.</p> <p>10 Q. Would your manager, Kelly Kite, have</p> <p>11 double-checked to make sure you did the inspection</p> <p>12 correctly by double-checking your system check form?</p> <p>13 MR. MCMULLEN: Object to form.</p> <p>14 THE WITNESS: I don't know. I don't</p> <p>15 know -- I don't know what his procedure is as far as</p> <p>16 making sure we do our job.</p> <p>17 BY MR. PFAU:</p> <p>18 Q. You don't know if there is anybody that</p> <p>19 would double-check to make sure you are doing</p> <p>20 inspections correctly and using the right</p> <p>21 documentation?</p> <p>22 A. I'm sure there is -- there is somebody</p> <p>23 that's assigned to, you know, make sure that</p> <p>24 paperwork is correct and things aren't missed, I</p> <p>25 mean, as far as documentation, but I don't know who</p>	<p style="text-align: right;">Page 44</p> <p>1 there is lots of numbers on it, right?</p> <p>2 A. Correct.</p> <p>3 Q. Is it like a checklist?</p> <p>4 A. It could be used as a checklist.</p> <p>5 Q. Checklist to make sure you are checking the</p> <p>6 various parts of the system?</p> <p>7 A. Yes.</p> <p>8 Q. Is that helpful to you as a service tech?</p> <p>9 A. It could.</p> <p>10 Q. Why could it be helpful?</p> <p>11 A. I'm going to say it could because -- unless</p> <p>12 something is forgot or, you know, you are confused</p> <p>13 in what you are to do.</p> <p>14 Q. So -- and that's what checklists are for,</p> <p>15 right, to make sure we get everything, correct?</p> <p>16 A. Correct.</p> <p>17 Q. And this checklist is designed so that</p> <p>18 service techs don't miss something inadvertently,</p> <p>19 correct?</p> <p>20 A. Correct.</p> <p>21 Q. So its system check form is designed to</p> <p>22 assist service techs to make sure they are doing</p> <p>23 their job the best way possible; is that accurate?</p> <p>24 A. I would say it is designed to assist the</p> <p>25 service tech or the person using the form, yes.</p>
<p style="text-align: right;">Page 43</p> <p>1 that person is.</p> <p>2 MR. PFAU: We will mark this as Exhibit 3.</p> <p>3 (Exhibit 3 marked.)</p> <p>4 BY MR. PFAU:</p> <p>5 Q. Have you ever seen this documentation</p> <p>6 before?</p> <p>7 A. Yes.</p> <p>8 Q. So you have reviewed it and read it before?</p> <p>9 A. Yes.</p> <p>10 Q. I'm going to point you out to the last</p> <p>11 page, FG39. Have you ever seen that form before?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. What is it?</p> <p>14 A. It's a system check form.</p> <p>15 Q. What's the purpose of this form?</p> <p>16 A. To document pressures, appliances,</p> <p>17 comments. It's just a form -- it's a form to</p> <p>18 provide documents that -- what was done and things</p> <p>19 like that.</p> <p>20 Q. Is one of the purposes of the system check</p> <p>21 form to help you in your job?</p> <p>22 A. I -- I don't quite understand the question</p> <p>23 as far -- yeah, I don't quite understand the</p> <p>24 question.</p> <p>25 Q. Well, looking at the system check form,</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Is this system check form shown to</p> <p>2 customers?</p> <p>3 A. At times, yes.</p> <p>4 Q. So after you or another service tech would</p> <p>5 go through this checklist, then it is presented to</p> <p>6 the customer?</p> <p>7 A. Correct.</p> <p>8 Q. Why is that?</p> <p>9 A. To explain to him or her what has been</p> <p>10 done. Yeah, to explain to them what's been done.</p> <p>11 Q. Why would -- why would you want to explain</p> <p>12 that to a customer?</p> <p>13 A. Ease of mind, to -- to -- customers don't</p> <p>14 know exactly what we do so we have to explain to</p> <p>15 them.</p> <p>16 Q. Is it so that -- and you say the customers</p> <p>17 also sign this, correct?</p> <p>18 A. There are times, yes. Not all the time do</p> <p>19 they sign it.</p> <p>20 Q. Okay. When would they sign it?</p> <p>21 A. They are -- they are to sign them when they</p> <p>22 are filled out and they are available to sign them,</p> <p>23 with the explanation of what was done and what is on</p> <p>24 the form.</p> <p>25 Q. So if this form is filled out, then is it</p>

<p style="text-align: right;">Page 46</p> <p>1 then your job to present it to the customer and ask 2 them to sign it? 3 A. Yes, if the customer is available. 4 Q. And the customer signs it to verify that 5 you did the work that you are saying you did, 6 correct? 7 A. Correct. 8 Q. And if this form isn't filled out by you or 9 isn't signed by a customer, then there may be 10 question of whether or not the work was actually 11 done, correct? 12 MR. MCMULLEN: Object to form. 13 THE WITNESS: I have to disagree. 14 BY MR. PFAU: 15 Q. Would you agree that documentation verifies 16 that work has been done and that's the point of 17 documentation? 18 A. Yes. 19 Q. Did you have, like, an electronic tablet or 20 some electronic device that you would use to fill 21 out these system check forms? 22 A. Yes, but not as in -- in great detail as 23 the actual paper. So we had an electronic device 24 that things would be documented into, but not as in 25 detail as the actual piece of paper.</p>	<p style="text-align: right;">Page 48</p> <p>1 Q. Does it run a certain software? 2 A. I don't know. 3 Q. When you -- when it was out of operation, 4 where would you leave it? 5 A. At the office. 6 Q. Where was that office? 7 A. North Las Vegas. I don't recall the actual 8 address. 9 Q. If you didn't have the handheld device with 10 you, would you always have paper copies of the 11 system check form? 12 A. If that job entailed it, yes. 13 Q. So if a job -- 14 A. Not everything I did required that paper. 15 Q. So if a job required a system check form, 16 then you would have it with you? 17 A. Correct. 18 Q. When you went out to the Gonzalez residence 19 the morning of 6/14/18, did you have a paper copy of 20 the system check form or the handheld with you? 21 A. I don't recall. I don't remember if I did 22 or didn't so -- it was not an uncommon practice for 23 me not to have the handheld. They were constantly 24 getting broke or not working. 25 Q. So if you had the -- if you didn't have the</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Did you always have this electronic device 2 with you as part of your duties as a service tech? 3 A. No. 4 Q. When wouldn't you have it with you? 5 A. When it wasn't available or it was broke or 6 the system was down. 7 Q. Do you recall if you had it with you on 8 6/14/18? 9 A. I do not. 10 Q. Okay. What's the name of that device? 11 A. We just call it, in general, as we call it 12 a "handheld." 13 Q. Handheld. 14 About how big is it? 15 A. Handheld. 16 Like the old cell phone bricks. That's the 17 best way to describe it. 18 Q. If you could, like, estimate like -- 19 A. It's -- it's about yeah big. 20 Q. So would that be like six by three or four 21 or something like that? 22 A. I would say more, maybe, four by -- four 23 inches by eight or three inches by eight inches. 24 Q. Is it a touchscreen tablet? 25 A. Yes.</p>	<p style="text-align: right;">Page 49</p> <p>1 handheld, based on your testimony you said earlier, 2 you definitely would have had the system check form 3 with you on that morning? 4 A. I carried spares, blank ones, yes. 5 Q. Okay. So on the -- when you went out to do 6 the inspection on 6/14 to look at the electrical 7 issue at the Gonzalez residence, then you would have 8 had that paper form with you? 9 A. Yes. 10 Q. Okay. But you chose not to fill it out 11 that day? 12 A. Correct. 13 Q. Would you agree that one of the purposes of 14 a system check form and to review it with your 15 customers is to make them feel at ease about the 16 work you have done? 17 A. Ask the question again. 18 MR. PFAU: Can I have it reread. 19 THE WITNESS: If you would. 20 (Thereupon, the record was read by the 21 court reporter as follows: "Q. Would you 22 agree that one of the purposes of a system 23 check form and to review it with your 24 customers is to make them feel at ease 25 about the work you have done?")</p>

<p style="text-align: right;">Page 50</p> <p>1 THE WITNESS: Yes.</p> <p>2 BY MR. PFAU:</p> <p>3 Q. Would it also -- a system check form also</p> <p>4 be there to assure the customers that you have done</p> <p>5 the inspection properly and safely?</p> <p>6 A. I would disagree. It -- I would disagree.</p> <p>7 They -- they wouldn't -- if they were there, they</p> <p>8 would be observing me, so I would disagree with</p> <p>9 that.</p> <p>10 Q. You disagree that the system check form --</p> <p>11 let me ask this. Let me ask a different way.</p> <p>12 Do you think that the system check form</p> <p>13 doesn't have anything do with customer safety, or</p> <p>14 would you agree that it does have something to do</p> <p>15 with customer safety?</p> <p>16 A. I would agree that it has to do with</p> <p>17 safety.</p> <p>18 Q. On a scale from one to ten, with ten being</p> <p>19 the most important, how important is it for you to</p> <p>20 complete a system check form every time you do an</p> <p>21 inspection?</p> <p>22 A. Is that my opinion or others'?</p> <p>23 MR. MCMULLEN: Could you reread the</p> <p>24 question.</p> <p>25 Thank you.</p>	<p style="text-align: right;">Page 52</p> <p>1 an issue with their gas system that could cause</p> <p>2 danger or harm to the customer?</p> <p>3 A. I'm going to say that if you are asking me</p> <p>4 to scale from one to ten, with ten being the most</p> <p>5 important, depending on the situation, seven?</p> <p>6 Eight? There are so many different scenarios.</p> <p>7 Q. Okay. Let's go to -- back to June 14th.</p> <p>8 You went out there, you identified an electrical</p> <p>9 issue, and you did that by contacting Kelly Kite,</p> <p>10 correct?</p> <p>11 A. Along with my observation, yes.</p> <p>12 Q. Okay. What did you observe that led you to</p> <p>13 believe there was an electrical issue?</p> <p>14 A. The customer's explanation of what he had</p> <p>15 gone through, the reports of shock when you touch</p> <p>16 different parts of the barbecue, the fact that the</p> <p>17 barbecue was a barbecue that also was plugged in to</p> <p>18 the electric.</p> <p>19 Q. Did you do any of your own testing?</p> <p>20 A. Electrical-wise, no.</p> <p>21 Q. Did you touch the gas line?</p> <p>22 A. Yes.</p> <p>23 Q. What did you observe?</p> <p>24 A. Normal gas line. I -- let's see. This was</p> <p>25 midsummer, so it -- it would have been cool to the</p>
<p style="text-align: right;">Page 51</p> <p>1 (Thereupon, the record was read by the</p> <p>2 court reporter as follows: "Q. On a scale</p> <p>3 from one to ten, with ten being the most</p> <p>4 important, how important is it for you to</p> <p>5 complete a system check form every time you</p> <p>6 do an inspection?")</p> <p>7 THE WITNESS: It depends on what type of</p> <p>8 inspection you are doing. You know, it depends on</p> <p>9 what type of inspection you are doing. The FSC form</p> <p>10 is -- only documents certain things, so I feel a</p> <p>11 one-to-ten, I -- I don't know how to answer that.</p> <p>12 BY MR. PFAU:</p> <p>13 Q. Okay. Let me more narrowly define it for</p> <p>14 you then.</p> <p>15 A. Okay.</p> <p>16 Q. On a scale from one to ten, with ten being</p> <p>17 most important, how important is it for you to fill</p> <p>18 out a system check form when a customer has reported</p> <p>19 an issue with their gas system?</p> <p>20 A. Depends on what the issue is.</p> <p>21 Q. Let me be more specific for you, then.</p> <p>22 A. Okay.</p> <p>23 Q. On a scale from one to ten, with ten being</p> <p>24 the most important, how important is it for you to</p> <p>25 complete a system check form when a customer reports</p>	<p style="text-align: right;">Page 53</p> <p>1 touch because it was in the shade. Sprayed it down</p> <p>2 with an approved leak detector, visually and smell</p> <p>3 and listening for a leak, didn't observe anything.</p> <p>4 Q. So your testimony is that when you touched</p> <p>5 the gas line, it was cool to the touch?</p> <p>6 A. Correct.</p> <p>7 Q. Did you touch any of the metal components,</p> <p>8 like the connections of the gas line?</p> <p>9 A. Yes.</p> <p>10 Q. Did you get shocked?</p> <p>11 A. That particular time, no.</p> <p>12 Q. You got shocked another time?</p> <p>13 A. I don't recall if I got zapped when I</p> <p>14 touched the actual barbecue, but a minor -- you</p> <p>15 know, like a minor tingle. I mean, I'm not quite</p> <p>16 sure if it was -- if it was an actual shock or if it</p> <p>17 was static or -- I'm not -- I don't recall, but as</p> <p>18 far as the -- as far as the pipe and the flex lines,</p> <p>19 I was there to make sure that they were leak free,</p> <p>20 that there was no leak, so -- and the -- the thing</p> <p>21 that Mr. Gonzalez described to me had me somewhat</p> <p>22 dumbfounded. I mean, and that's why I confided in</p> <p>23 Kelly Kite as well and explained to him all that.</p> <p>24 And that's what we had come up with. And Mario</p> <p>25 tended to agree that they had electrical problems</p>

<p style="text-align: right;">Page 54</p> <p>1 that needed to be repaired.</p> <p>2 Q. You just testified that you went back again</p> <p>3 another time and you felt a tingle when you touched</p> <p>4 the barbecue at one point?</p> <p>5 A. I believe there was, at one time, yes.</p> <p>6 Q. Do you remember how many days after this --</p> <p>7 the first time that you went out there, on the 14th,</p> <p>8 that that occurred?</p> <p>9 A. It might have been the 14th. I'm not -- I</p> <p>10 do not recall the actually date.</p> <p>11 Q. Did you go back a second time to the</p> <p>12 location?</p> <p>13 A. I believe I did.</p> <p>14 Q. Could it have been at the second time that</p> <p>15 you went to the location that you felt that tingle?</p> <p>16 A. I don't know. I don't know.</p> <p>17 Q. Did you go back a third time?</p> <p>18 A. Third time, as in the incident -- the --</p> <p>19 Q. The time --</p> <p>20 A. -- accident?</p> <p>21 Q. -- prior to this incident. So between</p> <p>22 6/14 -- and the incident occurred on 6/18. So we</p> <p>23 know you went out there on the 14th, based on your</p> <p>24 testimony. It appears that you went out a second</p> <p>25 time. Is that correct?</p>	<p style="text-align: right;">Page 56</p> <p>1 there paperwork that you are supposed to fill out</p> <p>2 other than the system check form?</p> <p>3 A. It depends on what type of inspection.</p> <p>4 Q. Like the inspection you were describing for</p> <p>5 us?</p> <p>6 A. I'm going to say yes. I should have</p> <p>7 probably had a work order.</p> <p>8 Q. So if you went out a second time, should</p> <p>9 there have also been a work order for that in</p> <p>10 following up on this issue?</p> <p>11 A. There probably should have been.</p> <p>12 Q. And that's in violation of Ferrellgas</p> <p>13 policies and procedures by not doing that?</p> <p>14 A. According to policy and procedure, yes.</p> <p>15 Q. So your testimony was, on the 14thth or the</p> <p>16 15th you felt a tingle when you touched the</p> <p>17 barbecue. What part of the barbecue did you touch?</p> <p>18 A. Most likely the lid.</p> <p>19 Q. And you felt it tingle where?</p> <p>20 THE WITNESS: Most likely the lid.</p> <p>21 BY MR. PFAU:</p> <p>22 Q. I'm sorry, where did you feel it in your</p> <p>23 body, the tingle?</p> <p>24 A. Oh, possibly my -- well, it would have been</p> <p>25 my hand. My hand would have touched it.</p>
<p style="text-align: right;">Page 55</p> <p>1 A. I believe, but I don't recall details.</p> <p>2 Q. Okay. Do you believe that you went out a</p> <p>3 third time, as well, prior to this incident?</p> <p>4 A. I don't believe so.</p> <p>5 Q. Okay. So just two times?</p> <p>6 A. I believe that is correct, two times.</p> <p>7 Q. Okay. So the first time you went out to</p> <p>8 the scene was when you did this inspection you</p> <p>9 described for us that we don't have any</p> <p>10 documentation for, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And second time would have been when?</p> <p>13 A. It might have been the 15th.</p> <p>14 Q. You think it was the next day after you</p> <p>15 went and did the initial inspection?</p> <p>16 A. I don't know, honestly. I don't -- I</p> <p>17 can't -- I can't recall any specific details, if, in</p> <p>18 fact, I did go there the second time or not. I</p> <p>19 don't -- it -- it's -- yeah, I just don't recall it.</p> <p>20 Q. When you go out to a customer's location,</p> <p>21 is there some paperwork that you should -- that you</p> <p>22 are required to fill out, by Ferrellgas, to verify</p> <p>23 that you were at the customer site?</p> <p>24 A. Not always, no.</p> <p>25 Q. If you are there to do an inspection is</p>	<p style="text-align: right;">Page 57</p> <p>1 Q. How far did it go up your hand when you</p> <p>2 felt it?</p> <p>3 A. It didn't. I would say it was right at</p> <p>4 fingertip, so, like I said, I don't know if it was</p> <p>5 static or if it was an actual charge from it not</p> <p>6 being grounded, so . . .</p> <p>7 Q. Were you touching the lid with your finger?</p> <p>8 A. I probably would have went -- I went to</p> <p>9 grab it.</p> <p>10 Q. Okay. And you were feeling you felt a</p> <p>11 tingle in your fingers?</p> <p>12 A. Possibly, yes.</p> <p>13 Q. And that was either on the 14thth or the</p> <p>14 15th?</p> <p>15 A. Correct.</p> <p>16 Q. Is that something that should be documented</p> <p>17 somewhere?</p> <p>18 A. No.</p> <p>19 Q. Was Mr. Gonzalez present on the 14th or the</p> <p>20 15th when you were doing your inspection?</p> <p>21 A. Yes.</p> <p>22 Q. What was he doing?</p> <p>23 A. Observing and conversating.</p> <p>24 Q. Okay. Was he watching everything you did?</p> <p>25 A. He was directly over me, yeah. He was</p>

<p style="text-align: right;">Page 58</p> <p>1 directly behind me. We were discussing multiple  2 things. Explaining to me what had transpired as far  3 as what he was observing and, you know, coming up  4 with possible scenarios of what exactly is wrong.  5 Things like that, yeah.</p> <p>6 Q. Was that on the 14th and the 15th he was  7 directly behind you?</p> <p>8 A. I don't recall. I mean, I would say yes.</p> <p>9 Q. So to your best recollection, you recall  10 him being right next to you?</p> <p>11 A. Yeah, at no time we were separate. So we  12 were -- we were always together.</p> <p>13 Q. Do you recall what else you did on the  14 second time that you went out there, possibly --  15 maybe the 15th?</p> <p>16 A. No.</p> <p>17 Q. What were you there for?</p> <p>18 A. I -- I'm sure I was there to see if the  19 electrician -- possibly -- you know, I don't know --  20 I don't know. I don't recall or can't remember the  21 second time completely, so I would be guessing. And  22 I don't want to guess. I would imagine that I was  23 there to see if the electrician had completed his  24 stuff.</p> <p>25 Q. On the 14th when you went out, did you make</p>	<p style="text-align: right;">Page 60</p> <p>1 issue that you have found in an inspection?</p> <p>2 A. Ask that question again.</p> <p>3 MR. PFAU: We can have it reread.</p> <p>4 (Thereupon, the record was read by the  5 court reporter as follows: "Q. What forms  6 of verification are satisfactory, according  7 to Ferrellgas policies and procedures, to  8 verify that work has been done on an issue  9 that you have found in an inspection?")</p> <p>10 THE WITNESS: The only form that we have  11 would be the system check form, the FSC form.</p> <p>12 BY MR. PFAU:</p> <p>13 Q. Does Ferrellgas require that you receive  14 some sort of verification that work has been done by  15 a contractor when you have recommended that work be  16 done by a contractor?</p> <p>17 A. No. It -- no, as far as actual  18 documentation, paperwork from another worker, we go  19 off of the customer. We question the customer and  20 the customer says yes or no, and then, of course,  21 what we can observe to our limited knowledge of an  22 electrician or a -- something else that's out of our  23 field.</p> <p>24 Q. What questions do you ask of the customer  25 to verify?</p>
<p style="text-align: right;">Page 59</p> <p>1 any recommendations to Mr. Gonzalez?</p> <p>2 A. Yes.</p> <p>3 Q. What did you recommend?</p> <p>4 A. That he needed to call an electrician.</p> <p>5 Q. Did you recommend that he call a licensed  6 and bonded electrician?</p> <p>7 A. I don't think I went that far.</p> <p>8 Q. You do think that when you came back the  9 second time, on the 15th, that you were there to  10 check if the electrician did their work?</p> <p>11 A. I believe so, yes.</p> <p>12 Q. Okay. Did you verify that an electrician  13 had done work on the barbecue?</p> <p>14 A. I would have asked Mr. Gonzalez if they had  15 completed their work, so I -- that sounds -- to the  16 best of my recollection that I -- that I can  17 remember, that's what I would have done.</p> <p>18 Q. Is that part of the process of verifying  19 after an inspection that any issues that you found  20 have been repaired, to verify that they have been  21 repaired?</p> <p>22 A. Some type of verification, yes.</p> <p>23 Q. Okay. What forms of verification are  24 satisfactory, according to Ferrellgas policies and  25 procedures, to verify that work has been done on an</p>	<p style="text-align: right;">Page 61</p> <p>1 A. Specifically, "was the other work  2 completed."</p> <p>3 Q. Do you ask the customer if the work was  4 completed by a licensed and bonded contractor?</p> <p>5 A. We do not. I do not.</p> <p>6 Q. And so to the best of your recollection,  7 you did not ask that question to Mr. Gonzalez that  8 day?</p> <p>9 A. I don't recall. I -- ask the question  10 again. What are you asking?</p> <p>11 Q. You testified that you do not ask whether  12 or not work has been done by a licensed contractor,  13 licensed and bonded contractor?</p> <p>14 A. I don't ask if there is a licensed  15 contractor. I ask if the work has been done.</p> <p>16 Q. So I was then following up with: Then, you  17 would not have asked Mr. Gonzalez, based on your  18 habit of not asking if there was a licensed  19 contractor, whether or not he hired a licensed  20 contractor to do electrical work on the system that  21 you inspected?</p> <p>22 A. Correct. Correct.</p> <p>23 Q. When you did the inspection on the 14th,  24 the inspection that you described for us, was the --  25 actually, let's look at a picture. I will show you.</p>

<p style="text-align: right;">Page 62</p> <p>1 This will help.</p> <p>2 MR. PFAU: This is going to be 4.</p> <p>3 (Exhibit 4 marked.)</p> <p>4 BY MR. PFAU:</p> <p>5 Q. Do you recognize what this is?</p> <p>6 A. Yes.</p> <p>7 Q. So as you look at Exhibit 4, a picture,</p> <p>8 does this look like the underneath of Mario</p> <p>9 Gonzalez's barbecue grill that's at issue?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. Does this look like that's the gas</p> <p>12 line that we are discussing, that we talked about,</p> <p>13 that you said you did the inspection on?</p> <p>14 A. Yes.</p> <p>15 Q. There is a little T, right, in the gas</p> <p>16 line?</p> <p>17 A. Correct.</p> <p>18 Q. And that T has a valve at the base or the</p> <p>19 upward line of the T, correct?</p> <p>20 A. Correct.</p> <p>21 Q. Was that valve open or closed when you did</p> <p>22 your inspection?</p> <p>23 A. Open.</p> <p>24 Q. Okay. Did you close it after you did your</p> <p>25 inspection?</p>	<p style="text-align: right;">Page 64</p> <p>1 A. Again, the 15th is very vague to me. I</p> <p>2 don't -- I don't remember. I don't remember the</p> <p>3 second time exactly.</p> <p>4 Q. Okay. Did you -- did you red tag the gas</p> <p>5 system on the 14th when you originally did your</p> <p>6 inspection?</p> <p>7 A. I did not.</p> <p>8 Q. Did you red tag the system on the 15th when</p> <p>9 you went out the second time?</p> <p>10 A. I did not.</p> <p>11 Q. Did you tell Mr. Gonzalez that the barbecue</p> <p>12 system was safe to use?</p> <p>13 A. Yes.</p> <p>14 Q. And when would that have been?</p> <p>15 A. I don't recall exactly when I did tell him</p> <p>16 that it would be safe to use.</p> <p>17 Q. Would it have been on the 14th?</p> <p>18 A. Don't know.</p> <p>19 Q. You don't know if it was on the 14th? So</p> <p>20 is it possible you told him on the 14th the barbecue</p> <p>21 system was safe to use?</p> <p>22 A. I'm -- without certainty, I'm going to say</p> <p>23 no.</p> <p>24 Q. So it's not possible? It's not likely, is</p> <p>25 that the best way to say it? Is it not likely you</p>
<p style="text-align: right;">Page 63</p> <p>1 A. I don't recall if I closed it or Mario</p> <p>2 closed it back off.</p> <p>3 Q. Did you verify if it was closed?</p> <p>4 A. I remember seeing it closed before I left,</p> <p>5 yes, before we departed that area, so . . .</p> <p>6 Q. So you remember that specific detail?</p> <p>7 A. It was closed, but I don't remember if I</p> <p>8 closed it or if Mario reached back down and closed</p> <p>9 it.</p> <p>10 Q. Okay. Do you remember the position of the</p> <p>11 hose when you inspected it?</p> <p>12 A. It was hooked up.</p> <p>13 Q. Okay. Do you remember where it was inside</p> <p>14 the cabinet?</p> <p>15 A. Underneath.</p> <p>16 Q. Was it in the same position as it is right</p> <p>17 here in this picture, for example?</p> <p>18 A. I'm going to say yes.</p> <p>19 Q. Did you have any other communications with</p> <p>20 Mr. Gonzalez after the two times you were out there</p> <p>21 but before this incident on 6/18/18, like did you</p> <p>22 have any phone calls with him?</p> <p>23 A. Not that I can recall.</p> <p>24 Q. Okay. On the 15th, when you went out to</p> <p>25 the site, did you do another inspection?</p>	<p style="text-align: right;">Page 65</p> <p>1 told him on the 14th that the barbecue system was</p> <p>2 safe to use?</p> <p>3 A. On the 14th is when we had made a plan for</p> <p>4 Mr. Gonzalez to call an electrician. So at that</p> <p>5 time I would not have told him that the barbecue was</p> <p>6 safe to use. But what I had done, as far as looking</p> <p>7 at it and spraying it down, I would have determined</p> <p>8 that it was safe to use after the -- the recommended</p> <p>9 things were done from the electrician.</p> <p>10 Q. And again, what did you recommend be done?</p> <p>11 A. That he call an electrician and find out</p> <p>12 why there is a ground -- or why it's getting</p> <p>13 shocked, or if it needs to be grounded or -- I don't</p> <p>14 know. I'm not an electrician.</p> <p>15 Q. Okay. You just said there was an</p> <p>16 electrical issue that should be checked out?</p> <p>17 A. I believed it was an electrical issue, it</p> <p>18 was not a gas issue.</p> <p>19 Q. So would you have told Mr. Gonzalez that</p> <p>20 the barbecue system was safe to use on the 15th?</p> <p>21 A. It's a possibility, but, not recalling</p> <p>22 exactly what I did on the 15th, I don't know.</p> <p>23 Q. You do recall you told him it was safe to</p> <p>24 use, correct?</p> <p>25 A. At one time or another, yes.</p>



<p style="text-align: right;">Page 66</p> <p>1 Q. But it wasn't on the 14th probably, right?</p> <p>2 A. I would say no.</p> <p>3 Q. Okay. But it could have been on the 15th,</p> <p>4 correct?</p> <p>5 A. Possible.</p> <p>6 Q. Okay. Could it have been later than that?</p> <p>7 A. Possible. I -- I don't -- I just do not</p> <p>8 recall. I truly do not remember.</p> <p>9 Q. Okay. Would you have done it over the</p> <p>10 phone?</p> <p>11 A. I doubt it. No.</p> <p>12 Q. Okay. So you would have done it in person?</p> <p>13 A. Yes.</p> <p>14 Q. So if you don't do it on the 14th, and the</p> <p>15 15th was the only other time you were there in</p> <p>16 person, is it -- is it more likely than not that you</p> <p>17 told him that the barbecue system was safe to use on</p> <p>18 the 15th?</p> <p>19 A. Again, it's possible.</p> <p>20 Q. A little more specific.</p> <p>21 A. Yeah.</p> <p>22 Q. Is it more likely that was the day you told</p> <p>23 him that it was safe to use, on the 15th?</p> <p>24 A. It is more likely.</p> <p>25 Q. Did you complete a system check form on the</p>	<p style="text-align: right;">Page 68</p> <p>1 A. It would be if I had completed one, yes.</p> <p>2 MR. MCMULLEN: Can we take a bathroom break</p> <p>3 sometime soon.</p> <p>4 MR. PFAU: Now is a good time.</p> <p>5 (Off the record.)</p> <p>6 BY MR. PFAU:</p> <p>7 Q. So we took a little break. Back on the</p> <p>8 record again.</p> <p>9 This system check form that we were</p> <p>10 referring to that's Exhibit 3, is a leak check part</p> <p>11 of this system check form?</p> <p>12 A. Yes.</p> <p>13 Q. Should a system check form be used when</p> <p>14 putting a system back into operation after an issue</p> <p>15 has been identified by you?</p> <p>16 A. Yes.</p> <p>17 Q. Did you get regular training from</p> <p>18 Ferrellgas?</p> <p>19 A. Refreshers, yes. Yes. Yes.</p> <p>20 Q. How often was that training?</p> <p>21 A. I don't know specifics.</p> <p>22 Q. If you could just estimate for us, about</p> <p>23 how many times a year would you get training from</p> <p>24 Ferrellgas?</p> <p>25 A. Anywhere from two to four, I would imagine.</p>
<p style="text-align: right;">Page 67</p> <p>1 15th when you were out at the site?</p> <p>2 A. To the best of my recollection, no.</p> <p>3 Q. Did you do an inspection on the 15th when</p> <p>4 you were out at the site?</p> <p>5 A. Again, I don't -- I just don't remember</p> <p>6 what I did on the 15th, I truly don't. More than</p> <p>7 likely I did do an inspection and deemed that it was</p> <p>8 safe to use.</p> <p>9 Q. But you don't remember if you did an</p> <p>10 inspection, correct?</p> <p>11 A. No.</p> <p>12 Q. You are just kind of guessing that you</p> <p>13 would have?</p> <p>14 A. No, I'm not -- I'm not -- if I was -- if I</p> <p>15 was there, more than likely I would have done</p> <p>16 something.</p> <p>17 Q. But you don't know what that would have</p> <p>18 been?</p> <p>19 A. I don't recall specifics, no.</p> <p>20 Q. So you have no specific recollection of any</p> <p>21 activities that you did on the 15th at all?</p> <p>22 A. No.</p> <p>23 Q. If you had completed a system check form,</p> <p>24 would that be part of the records that we would have</p> <p>25 from Ferrellgas?</p>	<p style="text-align: right;">Page 69</p> <p>1 Q. About how long were those trainings?</p> <p>2 A. Probably quarterly.</p> <p>3 MR. MCMULLEN: I didn't hear the answer.</p> <p>4 THE WITNESS: Probably quarterly.</p> <p>5 BY MR. PFAU:</p> <p>6 Q. Were you ever trained by Ferrellgas that a</p> <p>7 failure to follow the policies and procedures that</p> <p>8 you are being trained on could result in an</p> <p>9 explosion that could injure or kill someone?</p> <p>10 A. Ask the question again.</p> <p>11 MR. PFAU: We can have it reread.</p> <p>12 (Thereupon, the record was read by the</p> <p>13 court reporter as follows: "Q. Were you</p> <p>14 ever trained by Ferrellgas that a failure</p> <p>15 to follow the policies and procedures that</p> <p>16 you are being trained on could result in an</p> <p>17 explosion that could injure or kill</p> <p>18 someone?" )</p> <p>19 THE WITNESS: Yes.</p> <p>20 BY MR. PFAU:</p> <p>21 Q. When you did training with Ferrellgas, was</p> <p>22 it an online system?</p> <p>23 A. Yes.</p> <p>24 Q. Was it like video modules or was it slides?</p> <p>25 A. Several, several different training --</p>

<p style="text-align: right;">Page 70</p> <p>1 techniques, I guess.</p> <p>2 Q. Okay. So sometimes it would be a video</p> <p>3 presentation, correct?</p> <p>4 A. Correct.</p> <p>5 Q. Sometimes it would be a slide show --</p> <p>6 A. Correct.</p> <p>7 Q. -- correct?</p> <p>8 Was there a test at the end?</p> <p>9 A. Not always.</p> <p>10 Q. Just sometimes?</p> <p>11 A. Correct.</p> <p>12 Q. Were you required to watch the entire video</p> <p>13 before going to the next video?</p> <p>14 A. Yes.</p> <p>15 Q. Were you required to look at the entire</p> <p>16 presentation of PowerPoint slides before you go to</p> <p>17 the next section?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Did you always do that?</p> <p>20 A. Yes.</p> <p>21 Q. You always looked at all of the materials</p> <p>22 before taking an exam, if there was one?</p> <p>23 A. Yes -- I mean, yes. Whatever the material</p> <p>24 was, we had to go over it and go through it so --</p> <p>25 there was no bypassing it.</p>	<p style="text-align: right;">Page 72</p> <p>1 do that, yeah. It depends on what they -- what they</p> <p>2 had us review.</p> <p>3 Q. Did you -- do you recall ever being trained</p> <p>4 on this as part of the Ferrellgas training?</p> <p>5 A. In the beginning, yes.</p> <p>6 Q. Would that be when you first got hired?</p> <p>7 A. Correct.</p> <p>8 Q. And that was 2013, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Do you recall any other subsequent training</p> <p>11 on this red tag procedure after 2013?</p> <p>12 A. Not specifically, no.</p> <p>13 Q. Did you ever independently review this</p> <p>14 document after 2013?</p> <p>15 A. Not that I can recall.</p> <p>16 Q. When you did your initial inspection that</p> <p>17 you described for us on the 14th of June, did you</p> <p>18 determine that the gas system was safe to use at</p> <p>19 that time?</p> <p>20 A. Yes.</p> <p>21 Q. Did you determine that there was no issues</p> <p>22 that could create -- cause harm to your customer, on</p> <p>23 the 14th, based on the information you received</p> <p>24 about the electrical issue and the electrical shock</p> <p>25 that you received?</p>
<p style="text-align: right;">Page 71</p> <p>1 Q. You mentioned one thing that you reviewed</p> <p>2 was the red-tagging procedure, correct?</p> <p>3 A. Yes.</p> <p>4 MR. PFAU: We are going to just pull that</p> <p>5 up here. We are on No. 5, so mark this as</p> <p>6 Exhibit 5.</p> <p>7 (Exhibit 5 marked.)</p> <p>8 BY MR. PFAU:</p> <p>9 Q. Is this the document you reviewed?</p> <p>10 A. Yes.</p> <p>11 Q. So you are familiar with the red-tagging</p> <p>12 procedures?</p> <p>13 A. Yes.</p> <p>14 Q. Looks like -- I'm looking at this</p> <p>15 exhibit -- can I actually look at yours really fast?</p> <p>16 A. (Witness complied.)</p> <p>17 Q. So I'm going to take off some of this stuff</p> <p>18 that's on here. We are going to make Exhibit 5,</p> <p>19 FG99 through 106. And we are going to remove these</p> <p>20 last pages just so they don't confuse us. Okay?</p> <p>21 A. Uh-huh.</p> <p>22 Q. Would you have to review this red tag</p> <p>23 policy document as part of your training with</p> <p>24 Ferrellgas?</p> <p>25 A. It depends on what they -- if they chose to</p>	<p style="text-align: right;">Page 73</p> <p>1 A. Correct. There was no leak in the system.</p> <p>2 Q. So based on that information alone, you</p> <p>3 determined that the system was safe?</p> <p>4 A. Correct.</p> <p>5 Q. And based on that analysis is why you</p> <p>6 didn't -- decided not to do a red tag?</p> <p>7 A. Correct.</p> <p>8 Q. Is that in line with the policies and</p> <p>9 procedures outlined in this document that's in front</p> <p>10 of us?</p> <p>11 A. After reviewing it, no.</p> <p>12 Q. So you violated the policies and procedures</p> <p>13 of Ferrellgas by not red-tagging the system?</p> <p>14 A. I did not red-tag the system, correct.</p> <p>15 Q. The question actually is a little more</p> <p>16 specific, that you violated the policies and</p> <p>17 procedures at Ferrellgas by not red-tagging the</p> <p>18 system on the 14th; is that correct?</p> <p>19 A. Yes.</p> <p>20 Q. Is a violation of the policies and</p> <p>21 procedures of Ferrellgas to put customers in danger</p> <p>22 or harm due to explosions?</p> <p>23 MR. McMULLEN: Object to form.</p> <p>24 THE WITNESS: I don't agree with that</p> <p>25 statement, so no.</p>

<p style="text-align: right;">Page 74</p> <p>1 BY MR. PFAU:</p> <p>2 Q. Do -- so you agree that you should have</p> <p>3 followed the red-tagging procedures and red-tagged</p> <p>4 the entire gas system, correct?</p> <p>5 A. Correct.</p> <p>6 Q. And after you red-tag a gas system, is</p> <p>7 there a procedure to get that system back up and</p> <p>8 running again?</p> <p>9 A. Yes.</p> <p>10 Q. What would that be?</p> <p>11 A. To determine that the work had been</p> <p>12 completed a by qualified person, whatever the issue</p> <p>13 had been.</p> <p>14 Q. Is there a form that is completed to verify</p> <p>15 that all of the work has been done properly and the</p> <p>16 system is again safe to use before it is -- the red</p> <p>17 tag is taken off?</p> <p>18 A. Not a particular form, no.</p> <p>19 Q. You wouldn't have to use the system check</p> <p>20 form, for example?</p> <p>21 A. Depending on what it was red-tagged for,</p> <p>22 depends on if you need to use the system check form.</p> <p>23 Q. How about in this scenario?</p> <p>24 A. In this scenario, I would say no.</p> <p>25 Q. Why is it important to properly red tag</p>	<p style="text-align: right;">Page 76</p> <p>1 record of that somewhere?</p> <p>2 A. Yes.</p> <p>3 Q. Because you would have given the</p> <p>4 documentation to Ferrellgas, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Is there anybody that verified your work on</p> <p>7 either the 14th or the 15th?</p> <p>8 A. Other than the customer.</p> <p>9 Q. Did Kelly Kite contact you to follow up on</p> <p>10 the status of the system at any point?</p> <p>11 A. No.</p> <p>12 Q. Were you contacted by a safety -- I think</p> <p>13 we called them either area or regional safety</p> <p>14 personnel?</p> <p>15 A. No.</p> <p>16 Q. Would you agree that as a professional</p> <p>17 working in the propane industry that one of the most</p> <p>18 important things that you must do is ensure customer</p> <p>19 safety?</p> <p>20 A. Yes.</p> <p>21 Q. On a scale from one to ten, with ten being</p> <p>22 most important, how important is it for you, as a</p> <p>23 propane professional, to ensure customer safety?</p> <p>24 A. It would be a nine and a ten.</p> <p>25 Q. Do you agree that if you don't follow</p>
<p style="text-align: right;">Page 75</p> <p>1 equipment?</p> <p>2 A. To remove it from service for fear of -- of</p> <p>3 harm.</p> <p>4 Q. Harm to whom?</p> <p>5 A. Itself or others.</p> <p>6 Q. Harm to customers or to people at the</p> <p>7 customer's home, for example?</p> <p>8 A. Yes.</p> <p>9 Q. Did you, at any point prior to the</p> <p>10 explosion on 6/18/18, red-tag the entire gas system</p> <p>11 or the barbecue grill?</p> <p>12 A. I don't recall. I don't -- I don't know if</p> <p>13 there was a red tag on the system prior to or -- I</p> <p>14 don't know.</p> <p>15 Q. Well, if I understand your testimony</p> <p>16 correctly, you did testify that you didn't do it on</p> <p>17 the 14th, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And that was a violation of Ferrellgas</p> <p>20 policies, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And you -- did you do it on the 15th?</p> <p>23 A. No.</p> <p>24 Q. Okay. So if you had done it at any time</p> <p>25 prior to the explosion on 6/18/18, would there be a</p>	<p style="text-align: right;">Page 77</p> <p>1 Ferrellgas policies and procedures, you are putting</p> <p>2 customers, and anyone at their home that is using</p> <p>3 the gas system, at risk of serious injury or even</p> <p>4 death?</p> <p>5 MR. MCMULLEN: Object to form.</p> <p>6 THE WITNESS: Ask the question again.</p> <p>7 MR. PFAU: We can have it reread.</p> <p>8 I don't remember exactly what I say most of</p> <p>9 the time. That's why I have to have her reread it.</p> <p>10 (Thereupon, the record was read by the</p> <p>11 court reporter as follows: "Q. Do you</p> <p>12 agree that if you don't follow Ferrellgas</p> <p>13 policies and procedures, you are putting</p> <p>14 customers, and anyone at their home that is</p> <p>15 using the gas system, at risk of serious</p> <p>16 injury or even death?")</p> <p>17 THE WITNESS: I do not agree.</p> <p>18 BY MR. PFAU:</p> <p>19 Q. Were there ever any investigations into</p> <p>20 this incident after the explosion?</p> <p>21 A. I believe there was an investigation after,</p> <p>22 yes.</p> <p>23 Q. Were you asked questions as part of an</p> <p>24 investigation?</p> <p>25 A. No. I was not involved in the</p>

<p style="text-align: right;">Page 78</p> <p>1 investigation.</p> <p>2 Q. When you say "not involved," do you mean</p> <p>3 that nobody questioned any part of your involvement</p> <p>4 in this investigation?</p> <p>5 A. I don't understand the question.</p> <p>6 Q. Well, let's just be more specific then.</p> <p>7 Did anybody interview you to get additional</p> <p>8 details about what occurred before the explosion in</p> <p>9 an -- as a result of an investigation?</p> <p>10 MR. MCMULLEN: You shouldn't reveal</p> <p>11 anything that you and I have spoken about, but you</p> <p>12 understand the question is whether anyone spoke with</p> <p>13 you.</p> <p>14 THE WITNESS: That's -- no. So the answer</p> <p>15 is no.</p> <p>16 BY MR. PFAU:</p> <p>17 Q. So there were no internal Ferrellgas</p> <p>18 individuals that -- and again, I'm just -- I'm</p> <p>19 not -- I don't want to belabor the point but I just</p> <p>20 want to make sure.</p> <p>21 A. Right.</p> <p>22 Q. There is no internal Ferrellgas individuals</p> <p>23 that approached you or asked you about facts and</p> <p>24 circumstances related to this explosion?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 80</p> <p>1 BY MR. PFAU:</p> <p>2 Q. Why did you leave Ferrellgas?</p> <p>3 A. For a better opportunity.</p> <p>4 MR. PFAU: Okay. I think I'm done for now.</p> <p>5 I will pass the witness.</p> <p>6 MS. WINSPEAR: I guess I will go.</p> <p>7 MR. GOLDSTEIN: Okay. Yeah, you go ahead</p> <p>8 and I will follow up.</p> <p>9 MS. WINSPEAR: All right.</p> <p>10 EXAMINATION</p> <p>11 BY MS. WINSPEAR:</p> <p>12 Q. Mr. Vicory, my name is Gina Winspear. I</p> <p>13 represent defendant Carl Kleisner. Let me try to</p> <p>14 get to my notes here.</p> <p>15 My understanding -- you still have all of</p> <p>16 the exhibits in front of you, correct?</p> <p>17 A. Yes, ma'am.</p> <p>18 Q. My understanding is that Exhibit 2 is the</p> <p>19 only record that Ferrellgas has regarding either the</p> <p>20 report of an issue on 6/13 by Mr. Gonzalez or of</p> <p>21 your conversation with him on 6/14. Is that right?</p> <p>22 MR. MCMULLEN: Let me just object that he</p> <p>23 was not involved in the document production, so</p> <p>24 there is no foundation.</p> <p>25 BY MS. WINSPEAR:</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. Did they -- did anybody try to contact you</p> <p>2 via any means, via letter, email, text message, in</p> <p>3 any way, to try to understand what occurred in this</p> <p>4 situation?</p> <p>5 A. No.</p> <p>6 Q. Were there any inquiries into the paperwork</p> <p>7 or lack of paperwork, as related to this incident,</p> <p>8 prior to the explosion on 6/18/18?</p> <p>9 A. I don't know.</p> <p>10 Q. Did anybody ask you about any paperwork?</p> <p>11 A. No.</p> <p>12 Q. Nobody asked you about a system check form?</p> <p>13 A. No.</p> <p>14 Q. Were there any -- was there any discipline</p> <p>15 related to this explosion, discipline directed</p> <p>16 toward you related to this explosion?</p> <p>17 A. I would say no. But that -- no, there</p> <p>18 wasn't, there was no discipline.</p> <p>19 Q. There was -- was there anybody that</p> <p>20 addressed this issue with you at -- and -- at any</p> <p>21 point?</p> <p>22 MR. MCMULLEN: Outside conversations that</p> <p>23 you and I have had, is the question.</p> <p>24 MR. PFAU: Correct.</p> <p>25 THE WITNESS: No.</p>	<p style="text-align: right;">Page 81</p> <p>1 Q. Okay. What records did you review</p> <p>2 regarding Mr. Gonzalez's call reporting an issue</p> <p>3 with his barbecue, other than Exhibit 2?</p> <p>4 A. None.</p> <p>5 Q. Okay. So this is the -- Exhibit 2 is the</p> <p>6 only document you have seen documenting Mr. Gonzalez</p> <p>7 reporting an issue with his barbecue in June</p> <p>8 of 2018; is that correct?</p> <p>9 A. Just so I understand, this is the only</p> <p>10 document that I have seen of the documentation of</p> <p>11 the -- of the call?</p> <p>12 Q. Correct.</p> <p>13 A. Yes, this is the only one that I have seen</p> <p>14 today.</p> <p>15 Q. Okay. Other than today, have you seen any</p> <p>16 other documentation of Mr. Gonzalez reporting an</p> <p>17 issue with his -- his barbecue in June of 2018?</p> <p>18 A. No.</p> <p>19 Q. Okay. So as you sit here today, August 7,</p> <p>20 2020, Exhibit 2 is the only documentation you have</p> <p>21 ever reviewed relating to Mr. Gonzalez report of an</p> <p>22 issue with his barbecue or your inspection at that</p> <p>23 property; is that fair?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. And as you sit here today, in terms</p>

<p style="text-align: right;">Page 82</p> <p>1 of refreshing your recollection about what you did</p> <p>2 when you were at the Gonzalez property on June 14,</p> <p>3 2018, is this the only document that you have been</p> <p>4 able to review to refresh your recollection?</p> <p>5 A. Yes.</p> <p>6 Q. And as we are sitting here more than two</p> <p>7 years after June 14, 2018, you have talked with</p> <p>8 great specificity today about what you did. Do you</p> <p>9 recall with great specificity your actions on</p> <p>10 June 14, 2018?</p> <p>11 MR. MCMULLEN: Object to form.</p> <p>12 BY MS. WINSPEAR:</p> <p>13 Q. Do you understand that question, sir?</p> <p>14 A. No, I don't quite understand it.</p> <p>15 Q. Okay. We are here two years later. Are</p> <p>16 you recall -- are you testifying today based upon</p> <p>17 your recollection, because there is no other</p> <p>18 documents you have reviewed?</p> <p>19 A. Yes.</p> <p>20 Q. How many Ferrellgas customers did you</p> <p>21 service in an average month when you were working</p> <p>22 for Ferrellgas in 2018? Just your best estimate,</p> <p>23 sir.</p> <p>24 A. Hundreds.</p> <p>25 Q. In an average month?</p>	<p style="text-align: right;">Page 84</p> <p>1 A. Correct.</p> <p>2 Q. And as you sit here today, as I understood</p> <p>3 your testimony earlier, you are certain, based upon</p> <p>4 this Exhibit 2, that you were at the Gonzalez</p> <p>5 property on June 14, 2018, correct?</p> <p>6 A. Correct.</p> <p>7 Q. You believe, as you sit here today, that</p> <p>8 you were out there one other time, and you have</p> <p>9 speculated today that it was the 15th but you don't</p> <p>10 know that for sure. Did I get that testimony</p> <p>11 correct?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. And you also don't have any sort of</p> <p>14 written record of what you would have done on that</p> <p>15 second visit to the property; is that a fair</p> <p>16 statement?</p> <p>17 A. Correct.</p> <p>18 Q. And you don't have any sort of</p> <p>19 documentation of what the date of that second visit</p> <p>20 would have been, correct?</p> <p>21 A. Correct.</p> <p>22 Q. So what we know from Exhibit 2 is that</p> <p>23 Mario Gonzalez called some sort of customer service</p> <p>24 hotline at 8:31 p.m. Central Standard Time on the</p> <p>25 13th of June, correct?</p>
<p style="text-align: right;">Page 83</p> <p>1 A. I would say a hundred, a hundred to hundred</p> <p>2 and a half, 150, somewhere.</p> <p>3 Q. Okay. And did that average stay pretty</p> <p>4 consistent throughout the time you worked for</p> <p>5 Ferrellgas until you left in December of 2019?</p> <p>6 A. No. There was -- there was peaks and --</p> <p>7 peaks and -- highs and lows.</p> <p>8 Q. Okay. What would be an average low in a</p> <p>9 month?</p> <p>10 A. Probably 75 or so.</p> <p>11 Q. Okay. And we are talking about actual</p> <p>12 appearance at somebody's property?</p> <p>13 A. Just in general, the whole day-to-day</p> <p>14 activities, specific jobs.</p> <p>15 Q. But as a service representative or</p> <p>16 technician -- I'm sorry, what was your title? I'm</p> <p>17 mixed up.</p> <p>18 A. "Service technician" is what I called it.</p> <p>19 Q. As a service technician you were primarily</p> <p>20 responsible for going to customer properties and</p> <p>21 dealing with any issues they were having, right?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. So out of that hundred or 75, the</p> <p>24 majority of your time is spent going and dealing</p> <p>25 with customer issues at their property, correct?</p>	<p style="text-align: right;">Page 85</p> <p>1 A. Yes, according to this.</p> <p>2 Q. And then we know from this small</p> <p>3 "description" box on Exhibit 2, Page 112, that</p> <p>4 Mr. Gonzalez reported that "the rubber lines to</p> <p>5 grill were extremely hot, he opened line and flames</p> <p>6 shot out, he turned gas supply off to grill, would</p> <p>7 like OCD" -- do you know what "OCD" stands for?</p> <p>8 A. On-call driver.</p> <p>9 Q. Okay. That would be you?</p> <p>10 A. I don't know if it would have been me at</p> <p>11 that time or not.</p> <p>12 Q. Okay. If it wasn't you, who would it have</p> <p>13 been?</p> <p>14 A. A fellow -- a fellow employee, a fellow</p> <p>15 coworker.</p> <p>16 Q. Okay. Who would it have been in 2018; who</p> <p>17 that fellow employee --</p> <p>18 A. I don't know. We had several. I don't</p> <p>19 know as far as name-wise.</p> <p>20 Q. Okay. So he wasn't specifically requesting</p> <p>21 anything, Mr. Gonzalez, correct? According to this</p> <p>22 note.</p> <p>23 A. According to this note, it says that,</p> <p>24 "would like the on-call driver to call and advise,"</p> <p>25 use for grill" -- and advise. The uses are, for</p>

<p style="text-align: right;">Page 86</p> <p>1 grill, "water heating, cooking and pool sometimes."  2 Q. Okay. So then how were you contacted?  3 Were you contacted on the 13th?  4 A. I believe I was.  5 Q. Were you contacted in writing or by  6 telephone?  7 A. By telephone.  8 Q. Okay. Would you have ever received, prior  9 to going out there on the 14thth, this written  10 description of Mr. --  11 A. No.  12 Q. -- Gonzalez's report?  13 Okay. So you believe, as you sit here  14 today in 2020, that you were contacted by phone.  15 And who would have contacted you?  16 A. The on-call driver.  17 Q. Okay. And had -- to your recollection  18 today, had the on-call driver gone out to the  19 property prior to contacting you?  20 A. It depends -- yeah, it depends on that  21 person's -- and their training and their --  22 Q. So you don't remember what happened in this  23 circumstance --  24 A. No.  25 Q. -- fair to say?</p>	<p style="text-align: right;">Page 88</p> <p>1 Monthly?  2 A. No. I -- as needed. I mean, it wasn't  3 like -- no, it was -- it was as needed, as a  4 Ferrellgas -- as an employee for his gas needs.  5 Q. Let me ask you this question: Prior to  6 June 13, 2018, when you got this call, or at the  7 time you got this call saying that Mario Gonzalez  8 had called, did you know who he was?  9 A. Oh, yeah. Yeah.  10 Q. Okay. When they said, "Mario Gonzalez is  11 calling about a problem," you knew, right, who Mario  12 was?  13 A. Correct.  14 Q. Okay. And you were able to immediately --  15 your recollection, at least, is that you called him  16 on the phone?  17 A. Correct.  18 Q. And that you made arrangements to go out  19 there the next day?  20 A. Correct.  21 Q. So, let's see. I'm going to turn you next  22 to -- I'm going to turn you to page 14 of that same  23 Exhibit 2.  24 Do you know who added this particular entry  25 into the Ferrellgas system?</p>
<p style="text-align: right;">Page 87</p> <p>1 A. Not -- not for that day.  2 Q. Okay. You -- as you sit here today, your  3 best recollection is you got a call from an on-call  4 driver, correct?  5 A. Correct.  6 Q. And your recollection, as you sit here  7 today, is you don't know who called you -- which of  8 the on-call drivers called you; is that a fair  9 statement?  10 A. I'm not sure. I'm not sure. Yeah, that is  11 correct, I'm not sure exactly who it was.  12 Q. All right. And then, what did you do next?  13 A. I believe I called Mario, Mr. Gonzalez, and  14 he restated what is documented here.  15 Q. And this is on the evening of the 13th?  16 A. Of the 13th.  17 Q. Okay.  18 A. And I believe, if I recall correctly, I  19 told him that I would come by in the morning.  20 Q. Okay. How well did you know Mario Gonzalez  21 prior to June 13th?  22 A. Other than -- I had never met him before he  23 was a customer.  24 Q. Okay. How about the time he was a  25 customer, how frequently did you interact with him?</p>	<p style="text-align: right;">Page 89</p> <p>1 A. According to the description, Monica.  2 Q. Okay. And do you know how Monica got the  3 information?  4 A. I do not.  5 Q. Okay. Do you recall having any  6 conversation with Monica on June 14?  7 A. I did not.  8 Q. All right. You know that you did not have  9 conversation with her?  10 A. Correct.  11 Q. Okay. Who did you speak with, with  12 Ferrellgas, on June 14, 2018?  13 A. It would have been Kelly Kite.  14 Q. Okay. So in this particular entry, it  15 states: "Service tech spoke with customer and was  16 able to determine customer had an electrical issue,"  17 correct?  18 A. Correct.  19 Q. Are you an electrician, sir?  20 A. I am not.  21 Q. Okay. Do you have any training as an  22 electrician?  23 A. I do not.  24 Q. Have you ever been licensed as an  25 electrician?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. I have not.</p> <p>2 Q. Ever worked as an electrician?</p> <p>3 A. I have not.</p> <p>4 Q. To your knowledge, is Kelly Kite an</p> <p>5 electrician?</p> <p>6 A. I don't know.</p> <p>7 Q. Was Kelly Kite ever physically present with</p> <p>8 you on the Gonzalez property, after Mr. Gonzalez</p> <p>9 reported the issue with his barbecue on June 13,</p> <p>10 2018?</p> <p>11 A. He was not.</p> <p>12 Q. And where -- when you would have had a</p> <p>13 conversation with Kelly Kite on June 14, where would</p> <p>14 he have been physically located?</p> <p>15 A. I do not know.</p> <p>16 Q. Where was his office?</p> <p>17 A. As far as Kelly Kite?</p> <p>18 Q. Yeah.</p> <p>19 A. He had a huge area. He traveled a lot.</p> <p>20 Q. Okay. Where was his main home-base office?</p> <p>21 A. It was either Kingman or Flagstaff --</p> <p>22 Q. Okay.</p> <p>23 A. -- so . . .</p> <p>24 Q. From -- at any point between June 13 and</p> <p>25 June 18, 2018, to your knowledge, was Kelly Kite</p>	<p style="text-align: right;">Page 92</p> <p>1 BY MS. WINSPEAR:</p> <p>2 Q. Okay. Where in the June 13 entry does it</p> <p>3 indicate that there is an electrical issue?</p> <p>4 A. There -- I would say there doesn't. There</p> <p>5 doesn't.</p> <p>6 Q. Right. Okay. So when you went to the</p> <p>7 property on June 14, you didn't have any information</p> <p>8 that there was an electrical issue, correct?</p> <p>9 MR. MCMULLEN: Object to form.</p> <p>10 BY MS. WINSPEAR:</p> <p>11 Q. You were going out to inspect hot gas</p> <p>12 lines, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. Mr. Gonzalez, to your knowledge, is</p> <p>15 not an electrician, correct?</p> <p>16 A. To my knowledge, correct.</p> <p>17 Q. Okay. Mr. Gonzalez never suggested to you</p> <p>18 that he had an electrical problem, did he?</p> <p>19 A. Yes, he did.</p> <p>20 Q. Okay. When did he suggest that to you?</p> <p>21 A. Upon conversation of the 14th.</p> <p>22 Q. Well, let me make sure I understand this,</p> <p>23 because what I understood from your testimony</p> <p>24 earlier is that upon consultation with Kelly Kite,</p> <p>25 after you did your inspection and didn't find a gas</p>
<p style="text-align: right;">Page 91</p> <p>1 ever on the premises of the Gonzalez property? Just</p> <p>2 to your knowledge.</p> <p>3 A. No, not to my knowledge.</p> <p>4 Q. You were asked earlier in your deposition</p> <p>5 about the call regarding the issue at the Gonzalez</p> <p>6 property and the question was, did you get a call</p> <p>7 about a possible electrical issue in the Gonzalez</p> <p>8 backyard. Do you remember being asked that?</p> <p>9 A. Ask the question again.</p> <p>10 Q. Do you remember being asked earlier in your</p> <p>11 deposition "Did you get a call about a possible</p> <p>12 electrical issue in the Gonzalez backyard?" I mean,</p> <p>13 the record is going to reflect that that was one of</p> <p>14 the questions.</p> <p>15 A. Yeah. I guess I'm confused on the</p> <p>16 question. Did -- did --</p> <p>17 Q. Let me restate my question.</p> <p>18 There was a question earlier in your</p> <p>19 deposition, "Did you get a call about a possible</p> <p>20 electrical issue in the Gonzalez backyard?" The</p> <p>21 call that came in regarding Mr. Gonzalez was not</p> <p>22 about an electrical issue. Would you agree with me</p> <p>23 on that?</p> <p>24 MR. MCMULLEN: Object to form.</p> <p>25 THE WITNESS: I would not agree with that.</p>	<p style="text-align: right;">Page 93</p> <p>1 leak, you and Kelly Kite, together, determined that</p> <p>2 it must be an electrical problem. Isn't that</p> <p>3 correct?</p> <p>4 A. That is correct.</p> <p>5 Q. Okay. And then that's when you advised</p> <p>6 Mr. Gonzalez to get an electrician out there,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. On Page 114 of Exhibit 2 it also</p> <p>10 states: "Spa was being worked on by a contractor</p> <p>11 and this is when the issue happened."</p> <p>12 Do you see where I'm referring?</p> <p>13 A. Yes.</p> <p>14 Q. Do you remember providing that information</p> <p>15 to Kelly Kite?</p> <p>16 A. No.</p> <p>17 Q. Do you remember that being something you</p> <p>18 saw at the property, that the spa was being worked</p> <p>19 on?</p> <p>20 A. Well, I think it was a misunderstanding of</p> <p>21 "spa" versus Mr. Gonzalez's koi pond.</p> <p>22 Q. Okay. So did you, when you were out at the</p> <p>23 property on June 14, see the koi pond being worked</p> <p>24 on?</p> <p>25 A. At that particular time, no.</p>

<p style="text-align: right;">Page 94</p> <p>1 Q. Okay. So information regarding the koi 2 pond or the spa being worked on was information that 3 Mr. Gonzalez communicated to you and you 4 communicated to Kelly Kite; is that fair? 5 A. Correct. 6 Q. Okay. So in that "details" summary, it 7 says: "Service tech spoke with customer and was 8 able to determine customer had an electrical issue 9 and customer was going to call an electrician to 10 resolve issue," right? 11 A. Correct. 12 Q. All right. Nothing in this particular 13 summary or "details" section indicated that you, in 14 your capacity as a service representative for 15 Ferrellgas, conducted an inspection on June 14, at 16 least as to that -- that summary right there, 17 correct? It says you "spoke with" the customer. 18 A. I spoke -- yes, I spoke to the customer 19 when I was there. 20 Q. Okay. But you would agree with me that, in 21 terms of what is written on this particular page in 22 this "details" section, there is nothing stating 23 that you conducted an inspection? 24 MR. MCMULLEN: Are you referring to FG114? 25 MS. WINSPEAR: I am. I am in --</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. All right. So when you say "knowledge and 2 experience," you are referring to you were drawing 3 from Kelly Kite's knowledge and experience? 4 A. Correct. 5 Q. Okay. And you testified earlier, that's 6 why I consulted Mr. Kite and that's when we 7 concluded it was an electrical issue. 8 Do you remember giving that testimony? 9 A. Correct. 10 Q. And so, really, it was Mr. Kite who 11 concluded it was an electrical issue, correct? 12 A. It was ultimately my decision. 13 Q. Okay. Meaning you provided him the 14 information; he, based upon his knowledge and 15 experience, diagnosed it for you; and you determined 16 that was consistent with what you were seeing? 17 A. Yes. 18 Q. And the issue that was confounding you was 19 the fact that Mr. Gonzalez reported hot gas lines, 20 right? 21 A. Correct. 22 Q. He reported that when he turned off the gas 23 off, it sparked, right? 24 A. That is incorrect [sic]. 25 Q. Okay. So what were the issues that were</p>
<p style="text-align: right;">Page 95</p> <p>1 specifically, for the record -- Exhibit 2, FG114 in 2 the "details" box. 3 BY MS. WINSPEAR: 4 Q. I'm just asking you to agree that nothing 5 in that "details" box says you conducted an 6 inspection. 7 A. Correct. 8 Q. What information did Kelly Kite provide to 9 you that contributed to your determination that the 10 customer had an electrical issue? 11 A. Sharing of knowledge and past experience. 12 Q. Okay. So I got from your earlier 13 testimony -- I tried to write this down verbatim -- 14 that you testified that the thing Mr. Gonzalez 15 confided in me had me "dumbfounded." 16 Do you remember providing that testimony 17 earlier? 18 A. Yes. 19 Q. Okay. 20 A. It was something that I had not come across 21 before. 22 Q. Okay. So knowledge and experience, you 23 hadn't experienced this particular issue before, in 24 your capacity as a Ferrellgas employee, correct? 25 A. Correct.</p>	<p style="text-align: right;">Page 97</p> <p>1 confounding you? 2 A. That the gas line was hot. 3 Q. Okay. And how about the fact that, as you 4 testified earlier, that when you touched the 5 exterior of the lid of the barbecue you felt some 6 tingling; was that one of the issues that was 7 confounding you? 8 A. I don't remember if it was at that time or 9 if that was a prior -- a different day. 10 Q. Okay. So that wasn't necessarily something 11 on the 14th that contributed to your diagnosis of 12 the issue, correct? 13 A. I don't -- I don't remember -- 14 Q. Okay. 15 A. Honestly. 16 Q. You testified earlier that at the point 17 after consulting with Mr. Kite you were able, 18 according to this note, to determine that the 19 customer had an electrical issue, and you testified 20 that you recommended things get done from an 21 electrician. Do you remember providing that 22 testimony? 23 A. Yes. 24 Q. And then you were asked what were the 25 recommended things to be done by an electrician. Do</p>



<p style="text-align: right;">Page 98</p> <p>1 you remember that? Do you remember being asked 2 that? 3 A. Yes. 4 Q. Okay. And your testimony was to call an 5 electrician and find out why it's getting shocked? 6 A. I don't know if it was because it was 7 getting shocked, but I believe it was a grounding 8 issue that needed to be ground. 9 Q. Okay. And that was based upon information 10 that Kelly Kite suggested to you? 11 A. Information that Kelly Kite shared with me 12 and Mario Gonzalez had told me. 13 Q. And what did Mr. Gonzalez tell you about 14 the grounding issue? 15 A. He said that he had been shocked before. 16 Q. And where did he tell you he had been 17 shocked? 18 A. At the barbecue. 19 Q. Okay. And so you communicated that 20 information from Mr. Gonzalez to Mr. Kite, and he 21 then suggested that must be a grounding issue; is 22 that right? 23 A. Correct. Correct. 24 Q. Okay. And on either the 14th or the 15th, 25 did you perform a venting or vent system inspection</p>	<p style="text-align: right;">Page 100</p> <p>1 a gas appliance -- help me understand. 2 A. Okay. 3 Q. You are going to be in front of a jury at 4 some point. 5 A. The -- there would be no need for a 6 regulator underneath the barbecue because the line 7 is already considered low pressure. Low pressure is 8 what runs the barbecue. Where that line is 9 low-pressured is another regulator somewhere outside 10 the barbecue area. I don't recall whether it's at 11 the tank or the home or the pool heater, but there 12 was no regulator required underneath the barbecue -- 13 Q. Okay. 14 A. -- because it was a low-pressure line. 15 Q. So have you ever reviewed a recorded 16 statement that Mario Gonzalez gave to Ferrellgas? 17 A. No. 18 Q. You have not read or listened to 19 Mr. Gonzalez's recorded statement? 20 A. I'm going to say no. 21 Q. Okay. Are you aware that Mr. Gonzalez 22 reported on June 26, 2018, that after the explosion 23 of the barbecue, you came to the property and told 24 him that "I don't know how I didn't notice this when 25 I put your system in in the first place, but it</p>
<p style="text-align: right;">Page 99</p> <p>1 of the Gonzalez barbecue? 2 A. No. 3 Q. On either the 14th or the 15th, did you 4 inspect the regulator for the barbecue? 5 A. There was no regulator underneath the 6 barbecue. It was not required. 7 Q. There was no regulator for the barbecue 8 under the -- 9 A. Underneath -- 10 Q. -- the cabinet? 11 A. -- the cabinet, because it was not 12 required. 13 Q. And that's per the barbecue or per 14 Ferrellgas? 15 A. It was a low-pressure line. 16 Q. Okay. But my question is, is that -- when 17 you say it's not required -- 18 A. Okay. 19 Q. -- is that per Ferrellgas's policies or is 20 that per the barbecue manual policies? 21 A. I can't answer that because it -- unless 22 you understand how the system is set up, there is no 23 need for a regulator underneath the barbecue in the 24 cabinet. 25 Q. And that has to do with the installation of</p>	<p style="text-align: right;">Page 101</p> <p>1 looks like there is no regulator valve on this part 2 of the system, which there should be"; are you aware 3 that Mr. Gonzalez has reported that you told him 4 that after this explosion? 5 A. No. 6 Q. And your testimony today is there did not 7 need to be a regulator valve on that part of the 8 system? 9 A. That is correct. 10 Q. Did you go to the Gonzalez property after 11 the explosion and tell Mr. Gonzalez that you felt 12 totally responsible for it? 13 A. I don't recall if I said I was -- that I 14 felt totally responsible for it. I recall showing 15 remorse and apologizing. 16 Q. Okay. Did you tell Mr. Gonzalez after the 17 explosion that you should have red-tagged the grill? 18 A. I'm going to say I do believe I did say 19 that. 20 Q. Did you tell Mr. Gonzalez after the 21 explosion that you should have never let him use it 22 until you knew it was a hundred percent safe? 23 A. I'm going to say no, because I didn't feel 24 that there was a gas problem. 25 Q. So the red tag, as I understand it, it is</p>

<p style="text-align: right;">Page 102</p> <p>1 not just for gas problems, it's for appliances that</p> <p>2 utilize gas as well. If there is an appliance</p> <p>3 problem that's relying on the gas, you are also</p> <p>4 supposed to red-tag it, correct?</p> <p>5 A. I would have to refer back to the actual</p> <p>6 thing. I don't recall.</p> <p>7 Q. So if you will turn, then, with me to</p> <p>8 Exhibit 5. So on the first page, which is</p> <p>9 Ferrellgas 99, just in the policy section, it says,</p> <p>10 under that bullet point: "Red tag and disable any</p> <p>11 incomplete, dangerous or defective systems or</p> <p>12 dangerous or defective gas-burning equipment."</p> <p>13 The barbecue was a gas-burning equipment,</p> <p>14 correct?</p> <p>15 A. That is correct.</p> <p>16 Q. Okay. So the red tag didn't just apply</p> <p>17 just to the gas lines, it applied to the gas burning</p> <p>18 equipment, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And then turning to Ferrellgas page 101 in</p> <p>21 that Exhibit 5, at the last box, the condition</p> <p>22 "unsafe appliance or gas-burning equipment," which</p> <p>23 was what you were facing with this barbecue, the --</p> <p>24 you were -- the Ferrellgas policy and procedure was</p> <p>25 to attach unsafe condition notice and shut off the</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. And these were -- this unsafe condition</p> <p>2 notice was part of the Ferrellgas documentation that</p> <p>3 was available to you and that you relied on in your</p> <p>4 position as a customer service representative,</p> <p>5 correct?</p> <p>6 A. (No audible answer.)</p> <p>7 Q. These were your policies --</p> <p>8 A. Yes --</p> <p>9 Q. -- and procedures?</p> <p>10 A. Yes, this is Ferrellgas's policies and</p> <p>11 procedures.</p> <p>12 Q. Okay. So on page 102, the procedure for</p> <p>13 dealing with a questionable piece of gas-burning</p> <p>14 equipment is essentially the same, attach a red tag</p> <p>15 to the manual shut-off valve, leave the equipment</p> <p>16 shut off, and then you are supposed to obtain</p> <p>17 that -- or some documentation that it's placed in</p> <p>18 operation by a qualified technician. Would you</p> <p>19 agree with me on that?</p> <p>20 A. Yes.</p> <p>21 Q. And then finally, that last box on page 102</p> <p>22 addresses a situation where you might be unfamiliar,</p> <p>23 as a Ferrellgas employee, with the operation of</p> <p>24 specific equipment, of gas-burning equipment,</p> <p>25 correct?</p>
<p style="text-align: right;">Page 103</p> <p>1 gas supply at the closest manual shut-off valve,</p> <p>2 correct?</p> <p>3 MR. MCMULLEN: Are you asking him what it</p> <p>4 says?</p> <p>5 MS. WINSPEAR: I am asking what it says.</p> <p>6 THE WITNESS: Yes. The unsafe appliance or</p> <p>7 gas-burning equipment, the -- attach an unsafe</p> <p>8 condition notice and shut off the gas supply to the</p> <p>9 closest manual shut-off valve.</p> <p>10 BY MS. WINSPEAR:</p> <p>11 Q. And a gas-burning barbecue would have been</p> <p>12 an appliance or gas-burning equipment, correct?</p> <p>13 A. Correct.</p> <p>14 Q. Okay. And you were also supposed to check</p> <p>15 a box, if you were going to red-tag it, that this</p> <p>16 gas-burning equipment must be placed in operation by</p> <p>17 a qualified technician, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And then on the next page, Ferrellgas 102</p> <p>20 of Exhibit 5, there is a box labeled "questionable</p> <p>21 system or piece of gas-burning equipment." So the</p> <p>22 first one was one that was identified as unsafe.</p> <p>23 This box deals with gas-burning equipment that is</p> <p>24 questionable. Would you agree with me on that?</p> <p>25 A. Correct.</p>	<p style="text-align: right;">Page 105</p> <p>1 A. Correct.</p> <p>2 Q. Okay. And procedure is basically the same,</p> <p>3 if you are not sure you are supposed to turn it off,</p> <p>4 turn the valve off, red-tag it and wait for it to be</p> <p>5 placed in operation by a qualified technician,</p> <p>6 correct?</p> <p>7 A. Yes, for something that I'm not familiar</p> <p>8 with, yes.</p> <p>9 Q. Okay. Or something that's questionable,</p> <p>10 right, from the prior box?</p> <p>11 A. Yes.</p> <p>12 Q. Or something that's unsafe, from the box on</p> <p>13 a prior page, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And with regard to Mr. Gonzalez's barbecue,</p> <p>16 you didn't red-tag it. We have gone through that.</p> <p>17 But in terms of the barbecue being placed in</p> <p>18 operation, you obtained that information from</p> <p>19 Mr. Gonzalez verbally saying, "Yeah, I had it looked</p> <p>20 at by someone," right?</p> <p>21 A. Correct.</p> <p>22 Q. And you obtained no information as to the</p> <p>23 qualifications of whomever it is he had it looked at</p> <p>24 by, correct?</p> <p>25 A. Correct.</p>

<p style="text-align: right;">Page 106</p> <p>1 Q. When is the last time you spoke with Kelly 2 Kite? 3 A. December of 2019. 4 Q. So when you left the company? 5 A. Uh-huh. 6 Q. All right. 7 I'm sorry, was that a "yes"? I just -- 8 A. Yes. Yes. Yes. 9 Q. All right. Thanks. 10 MS. WINSPEAR: Okay. I think that's all of 11 the questions I have for you. Thank you very much 12 for your time, sir. 13 MR. GOLDSTEIN: I'm Steve Goldstein. 14 I'm sitting at the children's table. 15 MS. WINSPEAR: Do you want to change places 16 with me? 17 (Discussion held off the record.) 18 EXAMINATION 19 BY MR. GOLDSTEIN: 20 Q. I represent Mr. Gonzalez in this case. He 21 has been sued as well. I just have a few follow-up 22 questions because counsel have gone over it in 23 complete detail and your answers have been pretty 24 good. So bear with me. 25 Now, the first time that you talked with</p>	<p style="text-align: right;">Page 108</p> <p>1 that happen? 2 A. Not very often unless there's specific 3 things that contribute to it. 4 Q. And do you know -- were you able to 5 diagnose what contributed to the flame shooting out; 6 did you come to some kind of conclusion? 7 A. The conclusion that I had come to is that 8 there was a charge on the line, of when he 9 disconnected it the residual in the flex line 10 ignited and there was a quick flash. 11 Q. I'm sorry, I didn't hear that. 12 A. I said, "and there was a quick flash." 13 Q. Okay. Did -- at that point would it have 14 been the proper course to red-tag the system? 15 A. Yes. 16 Q. Okay. But that did not occur, in this 17 instance? 18 A. That is correct. 19 Q. And you have been doing this job as a 20 service tech, for AmeriGas and before, for a number 21 of years, and in this place and -- 22 A. Correct. 23 Q. -- you would consider yourself a 24 professional service man in this industry, right? 25 A. Correct.</p>
<p style="text-align: right;">Page 107</p> <p>1 Mr. Gonzalez, how long was that, on the 13th? 2 A. Your average phone call. Ten minutes, 3 I'm -- ten, 15 minutes, you know, enough for him to 4 describe to me what he was observing and going 5 through and -- I'm sure just conversation back and 6 forth, and telling him that I would be there the 7 next day to check it all out, that it -- that he had 8 turned it off and not using it and -- so . . . 9 Q. Okay. And he told you about the flames 10 shooting out? 11 A. He told me about that, if I recall, the 12 next day, the following day. 13 Q. Okay. And that was notated in the call 14 log, right? 15 A. Yes, from the 13th, yes. 16 Q. The 13th or the 14th? 17 A. Well, the -- he called on the 13th, I 18 believe. 19 Q. But I'm talking about the flames shooting 20 out -- 21 A. I -- I don't specifically recall if he had 22 said something about the flame on the 13th, of the 23 phone call, or on the 14th, of me being at his home. 24 Q. All right. And the flames shooting out of 25 the gas line, in your experience, how often does</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. Okay. But in this case, you thought 2 that -- or you did not put on -- a red tag on the 3 system, on the barbecue even, or any combination of 4 those? 5 A. I did not. 6 Q. Okay. Now, let me take you -- let me ask 7 you this: When you were at the site the first day, 8 on the 14th, did you do all the tests that you 9 needed to do, or are there other tests that you 10 could have performed? 11 A. There is other tests. At the time I 12 didn't -- I didn't deem that tests -- other tests 13 were necessary beyond what we did. 14 Q. Okay. 15 A. And then not writing the red tag. 16 Q. And what were some of those other tests 17 that you could have done? 18 A. Shut the system completely down and done a 19 full systems test. 20 Q. What would that -- I'm sorry, go ahead. 21 A. That's it. That's it. 22 Q. What would that have accomplished? 23 A. To deem that it was completely leak free. 24 Q. Okay. And why didn't you do that? 25 A. Because we were specifically talking about</p>

<p style="text-align: right;">Page 110</p> <p>1 the barbecue, and it was -- it could be tested using</p> <p>2 the method of a leak detector.</p> <p>3 <b>Q. On a certain area of the hose?</b></p> <p>4 A. The -- from where it hooked into the</p> <p>5 barbecue, all the way down to the shut-off valve,</p> <p>6 yes.</p> <p>7 <b>Q. Okay. Was there any kind of pressure test</b></p> <p>8 <b>that you could have done?</b></p> <p>9 A. Yes. That's -- that was -- that would be</p> <p>10 the system test/pressure test --</p> <p>11 <b>Q. Okay.</b></p> <p>12 A. -- that could have been done, but it would</p> <p>13 have been done on the entire system.</p> <p>14 <b>Q. Okay. You can't just do a pressure test on</b></p> <p>15 <b>an isolated part?</b></p> <p>16 A. Not on that particular setup, no.</p> <p>17 <b>Q. Okay. You came over, from my</b></p> <p>18 <b>understanding, after the incident, to my client's</b></p> <p>19 <b>house. Do you remember that?</b></p> <p>20 A. Yes.</p> <p>21 <b>Q. Okay. Was it the same day of the incident?</b></p> <p>22 A. Of the flash fire of Mr. Green getting</p> <p>23 burned, is what we are talking about?</p> <p>24 <b>Q. Yes.</b></p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 112</p> <p>1 A. I'm going to say there should have been. I</p> <p>2 don't remember if I had got it or not. I know I</p> <p>3 wrote a red tag that day -- that night.</p> <p>4 <b>Q. Okay. And placed it on the system?</b></p> <p>5 A. So I disconnected the system, wrote a red</p> <p>6 tag, and documented that, yes.</p> <p>7 <b>Q. Okay. In any -- so you came over -- let me</b></p> <p>8 <b>back up just a second. Something popped on my head</b></p> <p>9 <b>on the 14th. How long were you there inspecting?</b></p> <p>10 <b>I'm just talking about the inspection time.</b></p> <p>11 A. Yeah, on the 14th, that morning?</p> <p>12 <b>Q. Yeah. Yeah. You can estimate.</b></p> <p>13 A. Probably, I don't know, 20 minutes.</p> <p>14 <b>Q. 20 minutes?</b></p> <p>15 A. Roughly, to my best guess.</p> <p>16 <b>Q. And that 20 minutes includes a phone call</b></p> <p>17 <b>with Kelly Kite?</b></p> <p>18 A. Correct.</p> <p>19 <b>Q. How long were you on the phone with</b></p> <p>20 <b>Mr. Kite?</b></p> <p>21 A. I don't know. Probably -- I don't know.</p> <p>22 If I had to guess, maybe five minutes.</p> <p>23 <b>Q. Okay. So five minutes of the 20 minutes</b></p> <p>24 <b>was diagnosing what you had observed?</b></p> <p>25 A. Gathering information, yes.</p>
<p style="text-align: right;">Page 111</p> <p>1 <b>Q. How did you find out about the incident?</b></p> <p>2 A. I'm not complete positive that I didn't --</p> <p>3 that either I got a call from our emergency call</p> <p>4 center for Ferrellgas or if it was Kelly Kite or</p> <p>5 even if it was Mario himself. I'm not sure. I</p> <p>6 don't remember exactly who called me first or how I</p> <p>7 found out. But I found out quite soon after it</p> <p>8 transpired, I know that.</p> <p>9 <b>Q. Was this -- the time that you came over was</b></p> <p>10 <b>this a official Ferrellgas visit or --</b></p> <p>11 A. It was a response. At the time of the</p> <p>12 incident and the time I was notified, it was a</p> <p>13 response to an incident.</p> <p>14 <b>Q. So the ten o'clock time frame at night that</b></p> <p>15 <b>you went over there was official --</b></p> <p>16 A. Yes.</p> <p>17 <b>Q. -- Ferrellgas business?</b></p> <p>18 A. Yes.</p> <p>19 <b>Q. Okay. Would there have been a notation of</b></p> <p>20 <b>that?</b></p> <p>21 A. As to what type? You mean, like, as in --</p> <p>22 <b>Q. It's a service call, right?</b></p> <p>23 A. Yes, it was a service call.</p> <p>24 <b>Q. Okay. Would there have been a work order</b></p> <p>25 <b>made?</b></p>	<p style="text-align: right;">Page 113</p> <p>1 <b>Q. Right.</b></p> <p>2 <b>And of the entire time that you were there</b></p> <p>3 <b>on site, aside from the phone call, how long did it</b></p> <p>4 <b>take for you to complete your investigation? And</b></p> <p>5 <b>I'm not talking about just normal just chitchat with</b></p> <p>6 <b>Mario. Because I know, Mario, he likes to talk a</b></p> <p>7 <b>lot about other things too.</b></p> <p>8 A. Uh-huh.</p> <p>9 <b>Q. So just on task, how long were you</b></p> <p>10 <b>investigating?</b></p> <p>11 A. It would have been -- it would have been</p> <p>12 the 15 or 20 minutes because it -- because it was</p> <p>13 something that, you know, that was somewhat</p> <p>14 dumbfounding, you know.</p> <p>15 <b>Q. Okay. Okay. Let's turn to the second time</b></p> <p>16 <b>you came. I know you are vague -- your memory is</b></p> <p>17 <b>vague --</b></p> <p>18 A. Right.</p> <p>19 <b>Q. -- on this, but how long do you think you</b></p> <p>20 <b>were at the site?</b></p> <p>21 A. More than likely, I mean, it would have</p> <p>22 been, with nothing wrong, 15 minutes, 20 minutes. I</p> <p>23 don't -- I truly cannot remember the 15th for some</p> <p>24 reason. It just -- I think I -- I don't know. I</p> <p>25 don't know.</p>

<p style="text-align: right;">Page 114</p> <p>1 Q. Was there anybody else there at that time</p> <p>2 besides you and Mario?</p> <p>3 A. I don't know if Ms. Gonzalez was there or</p> <p>4 not, so . . .</p> <p>5 Q. Was the electrician there?</p> <p>6 A. I believe he -- possible.</p> <p>7 Q. Did you have --</p> <p>8 A. Possible. I -- I -- yeah, possible.</p> <p>9 Q. You think there might have been someone?</p> <p>10 A. I think he was. I think it was -- I -- on</p> <p>11 the 15th -- and this is just -- you know what, I</p> <p>12 would be guessing. I believe, the 15th, there was</p> <p>13 Mario, the electrician and myself. And I think</p> <p>14 Ms. Gonzalez was inside, I think, but she didn't</p> <p>15 have any interaction with us. But I believe that's</p> <p>16 possible.</p> <p>17 Q. Okay. Did you believe that you had any</p> <p>18 conversations with the electrician?</p> <p>19 A. Very small ones, because he does electric,</p> <p>20 I do gas and, like, there is really not a whole lot</p> <p>21 in common.</p> <p>22 Q. Well --</p> <p>23 A. He might have been telling me what he was</p> <p>24 going to do or what he was going to finish or</p> <p>25 something. I don't -- you know, it's three men</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. Yeah.</p> <p>2 And why is that? Why would there not be --</p> <p>3 A. Because you are not testing anything and</p> <p>4 you are not -- you are not -- your red tag is</p> <p>5 document, so . . .</p> <p>6 Q. Okay. And did you have any conversations</p> <p>7 that night with Mario?</p> <p>8 A. I'm sure I did. Specifically, you know, I</p> <p>9 recall bits and pieces but not -- I couldn't put it</p> <p>10 in order, honestly.</p> <p>11 Q. Okay. Did you talk with anybody else there</p> <p>12 that night?</p> <p>13 A. Maybe Ms. Gonzalez just as a, you know,</p> <p>14 "I'm sorry" type thing, but not of anything -- not</p> <p>15 of anything that I can, like, again, recall actual</p> <p>16 detail-type stuff.</p> <p>17 Q. Was she there for the entirety of your</p> <p>18 conversations with Mario?</p> <p>19 A. I want to say yes because Mario had</p> <p>20 actually left before I left the house, so I believe</p> <p>21 he was headed over to the hospital.</p> <p>22 Q. Okay. And during that conversation did you</p> <p>23 admit to him that there was other testing you could</p> <p>24 have done?</p> <p>25 A. I did not admit there was other testing</p>
<p style="text-align: right;">Page 115</p> <p>1 standing there talking, so . . .</p> <p>2 Q. Did he say he was actually going to do</p> <p>3 work?</p> <p>4 A. Either had or was completing, I believe,</p> <p>5 if -- if I had to give a best recollection --</p> <p>6 Q. Okay.</p> <p>7 A. -- so . . .</p> <p>8 Q. Did he say his name?</p> <p>9 A. I believe he did, but I don't remember.</p> <p>10 Q. Okay. Does the name Carl Kleisner ring any</p> <p>11 bells?</p> <p>12 A. It doesn't even ring a bell, no.</p> <p>13 Q. Now, the third visit that was after the</p> <p>14 incident --</p> <p>15 A. All right.</p> <p>16 Q. -- all right, you red-tagged the whole</p> <p>17 system.</p> <p>18 A. Correct.</p> <p>19 Q. Was there an SCF form filled out for that?</p> <p>20 A. No. There would not -- there would not</p> <p>21 need -- there would -- there would be no need for</p> <p>22 a -- for a FSC or FSC -- FCS, however they want to</p> <p>23 call it, that document.</p> <p>24 Q. Okay. Safety form or --</p> <p>25 A. Yeah, the safety check form.</p>	<p style="text-align: right;">Page 117</p> <p>1 that hadn't been done, that could be done. I -- I</p> <p>2 think that, as I was looking at the situation, I was</p> <p>3 talking out loud, and I also -- I believe I showed</p> <p>4 remorse to Mr. Gonzalez, you know. But I don't</p> <p>5 believe that I said -- that I said that there was</p> <p>6 additional testing I could have done.</p> <p>7 Q. Okay. He -- I believe he indicates that he</p> <p>8 did talk to you and that you could have -- you said</p> <p>9 that there could have been more testing done, and</p> <p>10 that you did feel sorry for the whole incident and</p> <p>11 that you thought it was your fault. Do you remember</p> <p>12 saying that stuff to him?</p> <p>13 MR. MCMULLEN: Object to form.</p> <p>14 THE WITNESS: Yeah. It was a -- it was a</p> <p>15 bad night. I -- I didn't -- I didn't feel</p> <p>16 responsible for the incident, because I didn't think</p> <p>17 that -- not knowing what caused it, you know, and I</p> <p>18 didn't think that I actually made that happen so --</p> <p>19 BY MR. GOLDSTEIN:</p> <p>20 Q. Didn't you tell him -- in your last visit</p> <p>21 before the incident, didn't you tell him that his</p> <p>22 grill was okay and he could go ahead and grill?</p> <p>23 A. That he can hook it back up, spray it down,</p> <p>24 or call me and I will come and check it out, is</p> <p>25 exactly what I did tell him that. I do remember</p>

<p style="text-align: right;">Page 118</p> <p>1 that.</p> <p>2 Q. I believe his testimony is that you told</p> <p>3 him that, "Your grill is fine, you are good to go."</p> <p>4 A. I probably did say "good to go." I don't</p> <p>5 recall if I said "the grill is fine."</p> <p>6 Q. Okay. But you don't disagree that you</p> <p>7 pretty much gave him the green light to go ahead</p> <p>8 and --</p> <p>9 A. Correct.</p> <p>10 Q. -- grill?</p> <p>11 And then, as far as you know, this was the</p> <p>12 first time he used his grill?</p> <p>13 A. Before the incident?</p> <p>14 Q. Yeah.</p> <p>15 A. I don't know. I don't -- I don't know.</p> <p>16 Q. You don't know if he used it between --</p> <p>17 A. Oh, between the electrician?</p> <p>18 Q. Between you telling him that he was</p> <p>19 green-lighted to go forward and use his grill, you</p> <p>20 don't know -- or did he tell you?</p> <p>21 A. I -- I don't know.</p> <p>22 Q. -- that this was the first time?</p> <p>23 A. Yeah, I don't -- I don't know. I --</p> <p>24 Q. Because Mario has told us all in testimony</p> <p>25 that this was the first time he had used the grill.</p>	<p style="text-align: right;">Page 120</p> <p>1 Q. Back to the night that you went over there,</p> <p>2 you said that -- you mentioned -- or it was a bad</p> <p>3 night?</p> <p>4 A. Yeah. Anytime somebody gets hurt. I mean,</p> <p>5 it's not a good thing.</p> <p>6 Q. But you don't feel responsible for that?</p> <p>7 A. I don't feel that was my fault, no.</p> <p>8 Q. Mr. Green got engulfed in a ball of fire.</p> <p>9 Are you aware of that?</p> <p>10 A. I have been told, yes.</p> <p>11 Q. Okay. And he got some burns on his body --</p> <p>12 A. Right.</p> <p>13 Q. -- and he stayed in the hospital?</p> <p>14 A. Right.</p> <p>15 Q. You don't believe you have any role in</p> <p>16 that?</p> <p>17 A. I don't believe -- because I do not know</p> <p>18 exactly what happened, I don't know why the fire</p> <p>19 ball or the flash came, I can't say that it's my</p> <p>20 fault. I don't -- I don't . . .</p> <p>21 Q. You did come to my client's house and say</p> <p>22 you are sorry?</p> <p>23 A. Correct.</p> <p>24 Q. You thought you were going to lose your job</p> <p>25 over the situation; is that right?</p>
<p style="text-align: right;">Page 119</p> <p>1 A. Okay.</p> <p>2 Q. You don't have any reason to dispute that,</p> <p>3 do you?</p> <p>4 MR. MCMULLEN: Object to form.</p> <p>5 THE WITNESS: I don't know what he -- if he</p> <p>6 used it or not, no.</p> <p>7 BY MR. GOLDSTEIN:</p> <p>8 Q. Okay. All right. Have you talked to Mario</p> <p>9 since the -- going to his house on that night?</p> <p>10 A. I believe I talked to him -- I talked to</p> <p>11 him one additional time when we -- when I had to</p> <p>12 do -- I believe Ferrellgas requested a sniff test, I</p> <p>13 believe, of propane, and I think I contacted him at</p> <p>14 that time.</p> <p>15 Q. How soon after the incident was that?</p> <p>16 A. I don't -- I don't recall. A day or two,</p> <p>17 I'm going to -- I'm going to say, to the best of my</p> <p>18 recollection.</p> <p>19 Q. So did you come out after, you know, that</p> <p>20 time, or was this over the phone?</p> <p>21 A. It was over the phone and then I -- we went</p> <p>22 to his home. And I believe there was somebody else</p> <p>23 with me but I don't recall who it was --</p> <p>24 Q. Okay.</p> <p>25 A. -- so . . .</p>	<p style="text-align: right;">Page 121</p> <p>1 MR. MCMULLEN: Object to form.</p> <p>2 THE WITNESS: I have seen people lose their</p> <p>3 jobs for many things, again, because there is an</p> <p>4 investigation that has to go through. Does it go</p> <p>5 through somebody's mind when they screw up if they</p> <p>6 are going to be in trouble, yeah, so . . .</p> <p>7 BY MR. GOLDSTEIN:</p> <p>8 Q. Okay. So you told that to my client, I</p> <p>9 believe.</p> <p>10 A. I don't -- I don't remember.</p> <p>11 MR. MCMULLEN: Object to form.</p> <p>12 Go ahead.</p> <p>13 BY MR. GOLDSTEIN:</p> <p>14 Q. You can go ahead and answer.</p> <p>15 A. I don't remember. I don't remember if I</p> <p>16 did or not. I possibly did, I possibly didn't. I</p> <p>17 don't know. You know, emotions -- I'm human and</p> <p>18 emotions are high, and I felt bad.</p> <p>19 Q. Let me just say, you seem like a nice guy.</p> <p>20 Okay? I'm not trying to rake you over the coals</p> <p>21 unnecessarily.</p> <p>22 A. Uh-huh.</p> <p>23 Q. But this is a serious accident.</p> <p>24 A. Right.</p> <p>25 Q. Somebody got hurt, and we are trying to</p>

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<p>1 figure it out --</p> <p>2 A. Correct.</p> <p>3 Q. -- for litigation purposes. So I know that</p> <p>4 this is a tough day for you today, but we all have a</p> <p>5 job to do here.</p> <p>6 You came over for the sniff test?</p> <p>7 A. Correct.</p> <p>8 Q. All right. Was there any paperwork for</p> <p>9 that?</p> <p>10 A. I believe there was.</p> <p>11 Q. Okay. Was there a form filled out, one of</p> <p>12 those -- a system check form?</p> <p>13 A. No. Again, that form would not be -- would</p> <p>14 not be needed to be filled out in the sniff test.</p> <p>15 There is a -- there is a specific piece of paper</p> <p>16 that has the sniff test on it, so that was the one</p> <p>17 that was filled out. And I believe I signed it and</p> <p>18 whoever the person that was with me signed it, and I</p> <p>19 believe either Mr. or Mrs. Gonzalez signed it.</p> <p>20 Q. Okay.</p> <p>21 A. So -- saying that we all had sniff-tested</p> <p>22 and smell and recognize propane --</p> <p>23 Q. Okay.</p> <p>24 A. -- so . . .</p> <p>25 Q. But the system was shut off, right?</p>	<p>1 A. Correct.</p> <p>2 Q. When I say "they," I'm talking about</p> <p>3 Ferrellgas employees.</p> <p>4 A. Correct.</p> <p>5 Q. Okay.</p> <p>6 A. Correct.</p> <p>7 Q. Did any outside agents that were hired by</p> <p>8 Ferrellgas, if any, did anybody reach out to you?</p> <p>9 A. No, sir.</p> <p>10 Q. Okay. So there were no insurance</p> <p>11 investigators or anything like that?</p> <p>12 A. No, sir.</p> <p>13 Q. Did you give any recorded statements?</p> <p>14 A. Not other than my attorney.</p> <p>15 Q. I don't want to know what you talked to</p> <p>16 your attorney --</p> <p>17 A. So no.</p> <p>18 Q. No. Okay.</p> <p>19 MR. GOLDSTEIN: I will go ahead and pass</p> <p>20 the witness.</p> <p>21 MR. PFAU: I just have a couple follow-ups.</p> <p>22 FURTHER EXAMINATION</p> <p>23 BY MR. PFAU:</p> <p>24 Q. So first of all, we talked at the very</p> <p>25 beginning of your deposition about the region, you</p>
Page 123	Page 125
<p>1 A. The system was shut off, yes.</p> <p>2 Q. So in order to do that test, you had to</p> <p>3 turn the system back on?</p> <p>4 A. No.</p> <p>5 Q. Oh.</p> <p>6 A. No.</p> <p>7 Q. But you were able to smell the propane how?</p> <p>8 A. There is a fixed liquid-level gauge on the</p> <p>9 tank that you can open and smell the gas that's in</p> <p>10 the tank.</p> <p>11 Q. Okay. Is that the last time you came over?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Is that the last time you had any</p> <p>14 conversations with any of the Gonzalezes?</p> <p>15 A. I believe so, yes.</p> <p>16 Q. Is that the last involvement you had with</p> <p>17 the Gonzalez matter --</p> <p>18 A. Yes.</p> <p>19 Q. -- in general?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. There was no more investigation on</p> <p>22 your --</p> <p>23 A. On my part, no.</p> <p>24 Q. And they didn't investigate you? As far as</p> <p>25 you know. They didn't talk to you?</p>	<p>1 talked about the area you cover. Does that region</p> <p>2 have a name?</p> <p>3 A. It would either be Grand Canyon or, I want</p> <p>4 to say, I think, region 12.</p> <p>5 Q. What areas does Grand Canyon or region 12</p> <p>6 cover?</p> <p>7 A. Well, specifically for myself would be</p> <p>8 southern Utah, southern Nevada, parts of California</p> <p>9 out as far as Baker, California. That would be my</p> <p>10 area that I would be specifically -- Pahrump,</p> <p>11 Beatty, Mesquite.</p> <p>12 Q. Is that called a "region"? "Area"? What's</p> <p>13 the appropriate name for that?</p> <p>14 A. "Market," I guess.</p> <p>15 Q. Okay. Does the market then roll up to a</p> <p>16 region?</p> <p>17 A. I believe so, yes.</p> <p>18 Q. Do you know the name of the region?</p> <p>19 A. Western or maybe southwest region.</p> <p>20 Q. So we talked a little bit about you</p> <p>21 red-tagging the system after the explosion, correct?</p> <p>22 A. Correct.</p> <p>23 Q. And it was the entire system, correct --</p> <p>24 A. Correct.</p> <p>25 Q. -- not just the barbecue?</p>

<p style="text-align: right;">Page 126</p> <p>1 A. Correct.</p> <p>2 Q. Why did you red-tag the entire system after</p> <p>3 the explosion?</p> <p>4 A. For future investigation, for not knowing</p> <p>5 what happened, what transpired, and for safety.</p> <p>6 Q. And on the 14th, when you were out there</p> <p>7 the first time and did your initial investigation,</p> <p>8 correct? That really wasn't a very good question.</p> <p>9 A. Yeah.</p> <p>10 Q. On the 14th you were there for your initial</p> <p>11 investigation, correct?</p> <p>12 A. For the barbecue, yes.</p> <p>13 Q. Okay. You admitted that you should have</p> <p>14 red-tagged this on this day, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Should you have red-tagged the barbecue or</p> <p>17 the entire system?</p> <p>18 A. I'm going to say just the barbecue.</p> <p>19 Q. Okay. And why would you only red-tag the</p> <p>20 barbecue that day, when you red-tagged the entire</p> <p>21 system on the 18th?</p> <p>22 A. Because that was the only thing that was</p> <p>23 reported to be -- have -- having a possible problem.</p> <p>24 Q. The -- you made a statement -- we talked a</p> <p>25 lot about investigations and -- first of all, I want</p>	<p style="text-align: right;">Page 128</p> <p>1 explosion, they do an investigation. And I say</p> <p>2 "they" meaning the company.</p> <p>3 Q. And who at the company does that</p> <p>4 investigation?</p> <p>5 A. I don't know. They -- they either have</p> <p>6 specific people or they hire people to do it.</p> <p>7 Q. Have you ever seen or heard of</p> <p>8 investigations being done before at Ferrellgas?</p> <p>9 A. Hearsay. You know, not -- not just -- you</p> <p>10 know, you hear stories.</p> <p>11 Q. Okay. Did you ever get any firsthand</p> <p>12 knowledge about any investigations that were being</p> <p>13 done by Ferrellgas?</p> <p>14 A. No.</p> <p>15 MR. PFAU: That's all my questions.</p> <p>16 MS. WINSPEAR: Okay. I don't have anything</p> <p>17 more.</p> <p>18 THE WITNESS: Cool.</p> <p>19 THE REPORTER: Before we go off the record,</p> <p>20 Counsel, do you want a copy of the transcript?</p> <p>21 MS. WINSPEAR: Yes, please.</p> <p>22 THE REPORTER: Yes?</p> <p>23 MR. GOLDSTEIN: Yes.</p> <p>24 THE REPORTER: Yes?</p> <p>25 ///</p>
<p style="text-align: right;">Page 127</p> <p>1 to just clarify. You are not familiar with any</p> <p>2 investigations that were done related to this</p> <p>3 incident --</p> <p>4 A. No.</p> <p>5 Q. -- is that correct?</p> <p>6 Okay. So you don't know if any</p> <p>7 investigation was done by Ferrellgas or anybody</p> <p>8 else, right?</p> <p>9 A. No. I was put in the dark --</p> <p>10 Q. Okay.</p> <p>11 A. -- in my own words. I just -- nobody -- I</p> <p>12 didn't ask, and nobody told me.</p> <p>13 Q. You had mentioned that -- we were talking</p> <p>14 about after the explosion and the night of and how</p> <p>15 you were feeling and all that. You had mentioned</p> <p>16 that in situations like this, there is an</p> <p>17 investigation that you have to go through, I think,</p> <p>18 were your exact words. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. Has that been your experience, that</p> <p>21 investigations do take place in situations like</p> <p>22 this?</p> <p>23 A. Most of the time, yes. It's -- it's --</p> <p>24 what I feel is -- is standard operation-type thing,</p> <p>25 you know, if there is somebody that got hurt, fire,</p>	<p style="text-align: right;">Page 129</p> <p>1 MR. MCMULLEN: (No audible response.)</p> <p>2 The witness will read and sign.</p> <p>3 (Deposition adjourned at 12:00 p.m.)</p> <p>4 -oOo-</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>



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**ANS BRIEF 525**

# **EXHIBIT “16”**

Page 1	Page 3
<p>1 DISTRICT COURT 2 CLARK COUNTY, NEVADA 3 4 JOSHUA GREEN, an individual, ) 5 ) Case No. A-19-795381-C 6 Plaintiff, ) Dept. No. XXXI 7 vs. ) 8 FERRELLGAS, INC., a foreign ) 9 corporation; MARIO S. GONZALEZ, ) 10 an individual; CARL J. KLEISNER, ) 11 an individual; DOES 1 through ) 12 XXX, inclusive and ROES ) 13 Business Entities I through XXX ) 14 inclusive, ) 15 ) 16 Defendants. ) 17 ) 18 (Caption Continued...) ) 19 20 VIDEO DEPOSITION UPON ORAL EXAMINATION OF 21 KELLY KITE 22 August 28, 2020 23 4:03 p.m. 24 108 South Yakima Avenue 25 Tacoma, Washington Pages 1 through 64</p> <p>REPORTED BY: Janice L. Tegarden, WA License #2073</p>	<p>1 (Caption Continued...) 2 3 CARL J. KLEISNER, an individual; ) 4 ) 5 Counter-Claimant ) 6 vs. ) 7 MARIO S. GONZALEZ, an individual, ) 8 DOES 1 through 100 inclusive; and ) 9 ROE Corporations 101 through 200; ) 10 ) 11 Counter-Defendants. ) 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>
Page 2	Page 4
<p>1 (Caption Continued...) 2 3 MARIO S. GONZALEZ, an individual, ) 4 ) 5 Cross-Claimant, ) 6 vs. ) 7 FERRELLGAS, INC., a foreign ) 8 corporation; CARL J. KLEISNER, an ) 9 individual; DOES 1 through 100 ) 10 inclusive; and ROE Corporations ) 11 101 through 200; ) 12 ) 13 Cross-Defendants. ) 14 15 16 MARIO S. GONZALEZ, an individual, ) 17 ) 18 Third-Party Plaintiff, ) 19 vs. ) 20 BBQ GUYS MANUFACTURING, LLC, dba ) 21 BLAZE OUTDOOR PRODUCTS, a foreign ) 22 corporation; HOME DEPOT USA, INC., a ) 23 foreign corporation; KSUN ) 24 MANUFACTURING, a foreign corporation; ) 25 DOES 200 through 300 inclusive; and ) ROE Corporation 301 through 400; ) Third-Party Defendants, ) FERRELLGAS, INC., a foreign ) corporation; ) Counter-Claimant, ) vs. ) MARIO S. GONZALEZ, an individual, ) DOES 1 through 100 inclusive; and ) ROE Corporations 101 through 200; ) Counter-Defendants. ) (Caption Continued...) )</p>	<p>1 A P P E A R A N C E S 2 3 For the Plaintiff: MATTHEW G. PFAU, ESQUIRE 4 H&amp;P LAW 5 8950 W. Tropicana Ave, #1 6 Las Vegas, Nevada 89147 7 (702) 598-4529 8 Matt@courtroomproven.com 9 10 For the Defendant MICHAEL McMULLEN, ESQUIRE 11 Ferrellgas: BAKER STERCHI COWDEN &amp; RICE 12 2400 E. Pershing Road, Suite 500 13 Kansas City, Missouri 64108 14 (816) 448-9379 15 Mmcmullen@bscr-law.com 16 17 For the Defendant STEVEN M. GOLDSTEIN, ESQUIRE 18 Mario S. Gonzalez: PYATT SILVERSTRI 19 (Via Videoconference) 701 Bridger Avenue, Suite 600 20 Las Vegas, Nevada 89101 21 (702) 477-0088 22 Sgoldstein@pyattsilverstri.com 23 24 For the Defendant GINA G. WINSPEAR, ESQUIRE 25 Carl J. Kleisner: DENNETT WINSPEAR, LLP (Via Videoconference) 3301 North Buffalo Drive, Suite 195 Las Vegas, Nevada 89129 (702) 839-1100 Gwinspear@dennettwinspear.com  The Videographer: TJ Pietz Sound Vision Video Production 4821 North 14th Street Tacoma, Washington 98406 (253) 905-4941 Soundvisionvideo@comcast.net</p>

<p style="text-align: right;">Page 5</p> <p>1 INDEX OF EXAMINATION</p> <p>2</p> <p>3</p> <p>4 Page</p> <p>5 Direct Examination</p> <p>6 By Mr. Pfau 8</p> <p>7 Cross-Examination by</p> <p>8 By Mr. Goldstein 57</p> <p>9</p> <p>10</p> <p>11</p> <p>12 EXHIBITS</p> <p>13 (None)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 7</p> <p>1 Gonzales, et al.; and Kleisner versus Gonzalez,</p> <p>2 et al., Case No. A-19-795381-C in the District</p> <p>3 Court Clark County, Nevada.</p> <p>4 The deposition is being held at 1008 South</p> <p>5 Yakima, Tacoma, Washington. The court reporter</p> <p>6 is Jan Tegarden.</p> <p>7 My name is TJ Peitz, and I'm a certified</p> <p>8 legal videographer. We are Alaris Litigation</p> <p>9 Services.</p> <p>10 Will the attorneys present please introduce</p> <p>11 themselves and then the people on the Zoom</p> <p>12 conference please introduce themselves.</p> <p>13 MR. PFAU: This is Matt Pfau for the</p> <p>14 plaintiff, Josh Green.</p> <p>15 MR. McMULLEN: Mike McMullen for Ferrellgas.</p> <p>16 MR. GOLDSTEIN: Steve Goldstein for Mario</p> <p>17 Gonzalez.</p> <p>18 MS. WINSPEAR: And Gina Winspear on behalf of</p> <p>19 Defendant Carl Kleisner.</p> <p>20 THE VIDEOGRAPHER: Would the court reporter</p> <p>21 please swear in the witness and then you may</p> <p>22 proceed.</p> <p>23</p> <p>24 KELLY KITE, after having been sworn by the Notary</p> <p>25 Public, appeared and testified as follows:</p>
<p style="text-align: right;">Page 6</p> <p>1 BE IT REMEMBERED that on Friday, August 28,</p> <p>2 2020, at 4:03 p.m., at the offices of Capitol</p> <p>3 Pacific Reporting, 108 South Yakima Avenue,</p> <p>4 Suite 202, Tacoma, Washington, and via</p> <p>5 videoconference appeared the above-named witness</p> <p>6 before Janice L. Tegarden, Washington State</p> <p>7 Certified Court Reporter, residing at Centralia,</p> <p>8 authorized to administer oaths and affirmations</p> <p>9 pursuant to RCW 5.28.010.</p> <p>10 WHEREUPON the following proceedings were had,</p> <p>11 to wit:</p> <p>12 * * * * *</p> <p>13</p> <p>14 KELLY KITE, having been duly sworn by the Court</p> <p>15 Reporter appeared and testified</p> <p>16 as follows:</p> <p>17</p> <p>18 THE VIDEOGRAPHER: We are on the record.</p> <p>19 Today's date is August 28, 2020, and the time is</p> <p>20 4:03 p.m.</p> <p>21 This is the video recorded deposition of</p> <p>22 Kelly Kite in the matter of Green versus</p> <p>23 Ferrellgas Inc., et al.; Gonzalez versus</p> <p>24 Ferrellgas, Inc., et al.; Gonzalez versus BBQ</p> <p>25 Guys Manufacturing, et al; Ferrellgas versus</p>	<p style="text-align: right;">Page 8</p> <p>1 DIRECT EXAMINATION</p> <p>2</p> <p>3</p> <p>4 BY MR. PFAU:</p> <p>5 Q. Mr. Kite, my name is Matt Pfau. We were introduced</p> <p>6 briefly just before the deposition started. I</p> <p>7 represent Josh Green, who's the plaintiff in this</p> <p>8 case.</p> <p>9 First of all, if you could just start off for us by</p> <p>10 spelling your full name for the record.</p> <p>11 A. K-e-l-l-y K-i-t-e.</p> <p>12 Q. Thank you very much. Have you ever been part of a</p> <p>13 deposition before or been deposed?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. How long ago was that?</p> <p>16 A. I don't remember, years ago.</p> <p>17 Q. Many years ago?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. The reason I ask is because there's things</p> <p>20 called admonitions where we give you some instructions</p> <p>21 on how to properly be part of a deposition.</p> <p>22 Would you like me to go through those for you today?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. So today is a special day for depositions</p> <p>25 because we are all in different rooms – some of us</p>

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<p style="text-align: right;">Page 9</p> <p>1 are in different rooms. We're using technology to try</p> <p>2 to communicate, and so these rules are going to become</p> <p>3 even more important just to try to help our court</p> <p>4 reporter to get the best record possible, and that's</p> <p>5 really the primary reason for these rules.</p> <p>6 First of all, one rule we want to make sure we</p> <p>7 follow is that one person speaks at a time. Our court</p> <p>8 reporter is trying to write everything down, and</p> <p>9 depositions just go faster if one person speaks at a</p> <p>10 time so we don't have to repeat ourselves or ask</p> <p>11 people to stop speaking over each other.</p> <p>12 Is that okay?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. We also need verbal responses only. We are on</p> <p>15 video. We can see if you shake your head yes or no</p> <p>16 but if you don't say the words, "Yes or no," they</p> <p>17 don't make it onto the court reporter's transcript.</p> <p>18 Is that okay?</p> <p>19 A. Yes.</p> <p>20 Q. All right. Also, if you happen to say, "Uh-huh or</p> <p>21 huh-uhs," those also don't translate well into a</p> <p>22 written record.</p> <p>23 So if you happen to do that, I will just ask you to</p> <p>24 clarify your answer like "Is that a yes or is that a</p> <p>25 no?" not intended to be rude at all, just to make sure</p>	<p style="text-align: right;">Page 11</p> <p>1 A. Yes.</p> <p>2 Q. And if there's ever a question that you don't know the</p> <p>3 answer to, it's okay to say, "I don't know," all</p> <p>4 right.</p> <p>5 But if there's a possibility or you have some frame</p> <p>6 of reference to be able to estimate the answer, then</p> <p>7 I'm going to ask you to estimate the answer, okay.</p> <p>8 And I'll give you the example, the one I – about</p> <p>9 your deposition, when you had your last deposition.</p> <p>10 While you may not know the exact day or month even</p> <p>11 when that occurred, you probably know about what year</p> <p>12 it was; is that right?</p> <p>13 A. Sometimes.</p> <p>14 Q. Okay. So when – your last deposition, was it five</p> <p>15 years ago or more?</p> <p>16 A. No, I don't believe so.</p> <p>17 Q. Okay. So it was within the last three years?</p> <p>18 A. Possibly.</p> <p>19 Q. Okay. So that would be like an estimate. For</p> <p>20 example, you have a frame of reference of when your</p> <p>21 last deposition was, and so I would like you to</p> <p>22 estimate for us when that was.</p> <p>23 So your best estimate of your last deposition was</p> <p>24 about three years ago; is that correct?</p> <p>25 A. Three to five, yes, sir.</p>
<p style="text-align: right;">Page 10</p> <p>1 we get a good record.</p> <p>2 Is that okay?</p> <p>3 A. Yes.</p> <p>4 Q. All right. Now, I'm going to be asking you questions.</p> <p>5 Your attorney may object. There may be objections</p> <p>6 from the other attorneys that are present via Zoom.</p> <p>7 If that's the case, you should just go ahead and</p> <p>8 answer the question anyway, unless your attorney</p> <p>9 instructs you not to answer, okay?</p> <p>10 A. Yes.</p> <p>11 Q. It's going to be a little awkward – it's sometimes a</p> <p>12 little awkward at first after you hear some objections</p> <p>13 and then you're not sure you're going to answer or</p> <p>14 not.</p> <p>15 So unless you hear "Don't answer that question,"</p> <p>16 just go ahead and answer it. You can almost ignore</p> <p>17 the objections, okay –</p> <p>18 A. Okay.</p> <p>19 Q. – unless you hear otherwise from your attorney.</p> <p>20 And I understand that Mr. Michael McMullen is here</p> <p>21 to represent you today; is that correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Now, if I ask a question that you don't</p> <p>24 understand, feel free to ask me to repeat it or</p> <p>25 rephrase it, I'd be happy to do that, okay?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Somewhere between three and five. Okay.</p> <p>2 We can take breaks at any time. I hope we're not</p> <p>3 going to be too long. I know you're getting off work</p> <p>4 and so I don't want to keep you here all night.</p> <p>5 So we can take breaks, though, whenever you need it,</p> <p>6 okay, because, you know, we're speaking in masks and</p> <p>7 if you ever need a break from the mask you can just</p> <p>8 step outside or something like that. You can</p> <p>9 definitely do that.</p> <p>10 A. Okay.</p> <p>11 Q. Have you taken any prescription medications today?</p> <p>12 A. Today?</p> <p>13 Q. Yes.</p> <p>14 A. No, sir.</p> <p>15 Q. Okay. Have you consumed any drugs or alcohol today?</p> <p>16 A. No, sir.</p> <p>17 Q. Okay. Is there any reason why you wouldn't be able to</p> <p>18 give your best testimony today?</p> <p>19 A. No, sir.</p> <p>20 Q. Okay. Thank you.</p> <p>21 Now, did you have an opportunity to prepare for</p> <p>22 today's deposition?</p> <p>23 A. What do you mean?</p> <p>24 Q. Well, I understand you may have spoken to your</p> <p>25 attorney, for example, in preparing for today.</p>

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<p style="text-align: right;">Page 13</p> <p>1 And I'm not asking about any communications you've</p> <p>2 had with your attorney because those would be</p> <p>3 privileged.</p> <p>4 What I'm asking about is anything that you may have</p> <p>5 done to prepare for today other than speaking with</p> <p>6 your attorney, like, for example, reviewing documents.</p> <p>7 Did you review any documents in preparation for</p> <p>8 today?</p> <p>9 A. I have seen some documents.</p> <p>10 Q. Okay. Do you recall what those documents were?</p> <p>11 A. Somewhat.</p> <p>12 Q. What were they?</p> <p>13 A. Policies.</p> <p>14 Q. Okay. Policies for what?</p> <p>15 A. For Ferrellgas.</p> <p>16 Q. Do you recall what the policies were?</p> <p>17 A. Specifically, no. Red tag policy.</p> <p>18 Q. Okay. So you saw a red tag policy document?</p> <p>19 A. Uh-huh.</p> <p>20 Q. Okay. Any other policy documents that you reviewed?</p> <p>21 A. Not specifically I can remember what the title of it</p> <p>22 is.</p> <p>23 Q. But were there other policy documents you reviewed?</p> <p>24 A. I believe there was another one, yes.</p> <p>25 Q. Okay. Did you review any other documents in</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Yes.</p> <p>2 Q. What's your role with ThompsonGas?</p> <p>3 A. Regional operations manager.</p> <p>4 Q. As the regional operations manager are your roles</p> <p>5 similar to the role that you had when you were at</p> <p>6 Ferrellgas?</p> <p>7 A. No.</p> <p>8 Q. How is it different?</p> <p>9 A. I work in the field now with employees.</p> <p>10 Q. So how is that different than Ferrell – when you</p> <p>11 worked at Ferrellgas?</p> <p>12 A. At Ferrellgas I was a general manager. My duties were</p> <p>13 primarily in the office, day-to-day financials, and</p> <p>14 all that kind of thing.</p> <p>15 Q. Okay. So currently you're in the field. Do you go on</p> <p>16 to, like, customer sites?</p> <p>17 A. Customer sites, yes.</p> <p>18 Q. Do you do work like technical work on gas lines and</p> <p>19 gas systems?</p> <p>20 A. Now?</p> <p>21 Q. Yes, now.</p> <p>22 A. Yes.</p> <p>23 Q. Okay.</p> <p>24 A. Not for residential.</p> <p>25 Q. Okay. For business customers?</p>
<p style="text-align: right;">Page 14</p> <p>1 preparation for today?</p> <p>2 A. I have seen some copies of notes for the cases.</p> <p>3 Q. Of notes?</p> <p>4 A. Notes for inside the computer cases.</p> <p>5 Q. Okay. That would have been from like the Ferrellgas</p> <p>6 internal system notes?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And what other documents have you reviewed?</p> <p>9 A. I think that's it.</p> <p>10 Q. Okay. So those three documents?</p> <p>11 A. I think so.</p> <p>12 Q. Okay. Did you review any photographs?</p> <p>13 A. No.</p> <p>14 Q. Okay. Did you review any deposition testimony?</p> <p>15 A. No.</p> <p>16 Q. Did you talk to anybody else other than your attorney</p> <p>17 about your deposition today?</p> <p>18 A. Other than my employer that I had to be off.</p> <p>19 Q. Okay. Did you talk to any other maybe parties or</p> <p>20 individuals that were involved in this – this case?</p> <p>21 A. No.</p> <p>22 Q. Okay. Who's your current employer?</p> <p>23 A. ThompsonGas.</p> <p>24 Q. Is this the company you went to go work for right</p> <p>25 after you left Ferrellgas?</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Correct.</p> <p>2 Q. Okay. And so if a business customer were to call in</p> <p>3 to ThompsonGas, if they're within your region then you</p> <p>4 might go out and service that customer?</p> <p>5 A. No.</p> <p>6 Q. Okay. Help us understand how that works.</p> <p>7 A. All right. I go out on specific new stuff, new jobs,</p> <p>8 not on existing customers.</p> <p>9 Q. Okay. So your responsibility currently is to go out</p> <p>10 and assist new customers get their gas system set up;</p> <p>11 is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. Okay. Do you ever deal with troubleshooting new</p> <p>14 customer's gas systems?</p> <p>15 A. Well, what do you mean troubleshooting?</p> <p>16 Q. Well, let's say they're set up, and it seems to you</p> <p>17 that it's done and you leave and you tell them</p> <p>18 everything's okay and they have an issue.</p> <p>19 Do they call you?</p> <p>20 A. Yes, they probably would.</p> <p>21 Q. Okay. And so that's part of your current</p> <p>22 responsibility is to –</p> <p>23 A. Yes.</p> <p>24 Q. – troubleshoot if there's an issue with a new</p> <p>25 customer?</p>

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<p style="text-align: right;">Page 17</p> <p>1 A. I would -- it would be -- I would have to take care of</p> <p>2 it through sending somebody or something, yes.</p> <p>3 <b>Q. Okay. Do you do anything other than deal with new</b></p> <p>4 <b>customer setups as part of your responsibility as the</b></p> <p>5 <b>regional operations manager?</b></p> <p>6 A. Yes, I deal with the service techs.</p> <p>7 <b>Q. When you say you deal with them, what does what mean?</b></p> <p>8 A. I work with them.</p> <p>9 <b>Q. You manage them?</b></p> <p>10 A. Yes.</p> <p>11 <b>Q. Okay. Do you -- are you involved in their training?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. And the service techs are the individuals at</b></p> <p>14 <b>ThompsonGas that when a customer calls in with a</b></p> <p>15 <b>problem that a service tech gets on if they're not a</b></p> <p>16 <b>new customer?</b></p> <p>17 A. Excuse me?</p> <p>18 <b>Q. So if somebody calls in that's a new customer, and</b></p> <p>19 <b>they call into ThompsonGas when they have an issue</b></p> <p>20 <b>with their gas system, would a service tech go out and</b></p> <p>21 <b>help them with that?</b></p> <p>22 A. Yes.</p> <p>23 <b>Q. Okay. So you have a great deal of experience with</b></p> <p>24 <b>in-field operations; is that correct?</b></p> <p>25 A. Well, I've been in the business almost 40 years.</p>	<p style="text-align: right;">Page 19</p> <p>1 A. If I remember right, it was the 27th of December was</p> <p>2 my last day.</p> <p>3 <b>Q. Of 2019?</b></p> <p>4 A. 2019.</p> <p>5 <b>Q. Why did you leave Ferrellgas?</b></p> <p>6 A. For personal reasons.</p> <p>7 <b>Q. Do the personal reasons have anything to do with the</b></p> <p>8 <b>work at Ferrellgas?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. Can you tell us about that, please.</b></p> <p>11 A. Well, I didn't like the way I saw the company going</p> <p>12 with the re-orgs, changes in management, changes in</p> <p>13 people. I decided to do something different.</p> <p>14 <b>Q. And what were the problems that you were seeing within</b></p> <p>15 <b>Ferrellgas that you didn't like?</b></p> <p>16 MR. McMULLEN: Object to the form of the</p> <p>17 question.</p> <p>18 You can answer.</p> <p>19 A. Constant changes in management.</p> <p>20 <b>Q. (By Mr. Pfau) Anything else?</b></p> <p>21 A. Excuse me?</p> <p>22 <b>Q. Was there anything else?</b></p> <p>23 A. That's my primary objection.</p> <p>24 <b>Q. Okay. What was this consistent change in management,</b></p> <p>25 <b>what issue was that causing, if any, within</b></p>
<p style="text-align: right;">Page 18</p> <p>1 <b>Q. Okay. How long were you with Ferrellgas?</b></p> <p>2 A. 36 through acquisitions.</p> <p>3 <b>Q. It was --</b></p> <p>4 MR. GOLDSTEIN: I'm sorry, I couldn't hear</p> <p>5 his response.</p> <p>6 MR. PFAU: If you would just read it back.</p> <p>7 That would be the years.</p> <p>8 (The court reporter reads back.)</p> <p>9 <b>Q. (By Mr. Pfau) So when you say you have a lot of</b></p> <p>10 <b>experience, that means that you have a lot of</b></p> <p>11 <b>experience, in-field experience and dealing with</b></p> <p>12 <b>customer issues and troubleshooting customer issues;</b></p> <p>13 <b>is that correct?</b></p> <p>14 A. I have a lot of time in the field working inside and</p> <p>15 outside the office with customers, yes.</p> <p>16 <b>Q. Okay. Were you -- when you were hired with</b></p> <p>17 <b>ThompsonGas were you hired as a regional operations</b></p> <p>18 <b>manager?</b></p> <p>19 A. Yes.</p> <p>20 <b>Q. Okay. So at -- when was that, when did you start</b></p> <p>21 <b>working for ThompsonGas?</b></p> <p>22 A. December 30th.</p> <p>23 <b>Q. Of which year?</b></p> <p>24 A. 2019.</p> <p>25 <b>Q. Okay. And when did you leave Ferrellgas?</b></p>	<p style="text-align: right;">Page 20</p> <p>1 <b>Ferrellgas?</b></p> <p>2 A. It's constant change. I mean, there's different</p> <p>3 people, it's constant change. I don't know how else</p> <p>4 to explain it.</p> <p>5 <b>Q. I guess I'm asking something more specific. Why is</b></p> <p>6 <b>change an issue when you have change in management</b></p> <p>7 <b>that you experienced at Ferrellgas?</b></p> <p>8 A. Well, for me, I had to re learn everything from one</p> <p>9 person to the next person on how they wanted it done.</p> <p>10 That's a lot of change.</p> <p>11 <b>Q. Okay. So were they implementing different policies?</b></p> <p>12 A. Are you asking me if they did or the company did?</p> <p>13 <b>Q. Well, yeah, every time a new manager would come in,</b></p> <p>14 <b>what were they changing?</b></p> <p>15 A. Well, there's all kinds of things. I mean, it's</p> <p>16 different with every manager.</p> <p>17 <b>Q. Okay. And when you left Ferrellgas your title -- what</b></p> <p>18 <b>was your title again?</b></p> <p>19 A. I believe at that time I was called the general</p> <p>20 manager.</p> <p>21 <b>Q. Okay. How long had you been the general manager?</b></p> <p>22 A. Well, that title has changed several times during my</p> <p>23 tenure there off and on, 15 years.</p> <p>24 <b>Q. Okay. So for about 15 years you had the role, whether</b></p> <p>25 <b>the title was the same or not, right, but you had the</b></p>

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<p style="text-align: right;">Page 21</p> <p>1 role of a general manager and the role was about the</p> <p>2 same for 15 years?</p> <p>3 A. Yes, sir, I believe so.</p> <p>4 Q. Okay. And what was that role, what were your duties</p> <p>5 for 15 years at Ferrellgas?</p> <p>6 A. The financials, running it -- running the business.</p> <p>7 Q. What else?</p> <p>8 A. Overseeing the management team.</p> <p>9 Q. What else?</p> <p>10 A. Pretty much everything as far as running a business.</p> <p>11 Q. Okay.</p> <p>12 A. I don't know what else you want me to say.</p> <p>13 Q. What else -- I'm just trying to get everything that</p> <p>14 you have that you were responsible for as the general</p> <p>15 manager.</p> <p>16 Did you have any oversight into the service</p> <p>17 technicians?</p> <p>18 A. Not directly. Indirectly, yeah.</p> <p>19 Q. Indirectly. And indirectly how?</p> <p>20 A. Through the district managers.</p> <p>21 Q. So as the general manager for 15 years, so</p> <p>22 approximately from 2004 to 2019, is that about right?</p> <p>23 A. That sounds about right.</p> <p>24 Q. Okay. So you'd estimate about that time frame,</p> <p>25 though, correct?</p>	<p style="text-align: right;">Page 23</p> <p>1 If I were to ask you how long I've been a lawyer,</p> <p>2 you'd have to guess, correct?</p> <p>3 A. Yes, sir.</p> <p>4 Q. Because you wouldn't have any idea because you don't</p> <p>5 me, you don't know when I went to school or anything</p> <p>6 like that.</p> <p>7 But if I were to ask you how long you've been in the</p> <p>8 gas business, you would know the exact months or days,</p> <p>9 but you'd still estimate for us the number of years</p> <p>10 like you did with 40, correct?</p> <p>11 A. Yes, sir.</p> <p>12 Q. So that's the difference between an estimate and a</p> <p>13 guess, is an estimate's really -- you have a frame of</p> <p>14 reference and you can give us some approximate</p> <p>15 numbers.</p> <p>16 A. Yes, sir.</p> <p>17 Q. Okay. So when we talked about the time frame you were</p> <p>18 a general manager, based on your best estimate, it was</p> <p>19 between 18 and 24 months?</p> <p>20 A. Yes, that's an estimate.</p> <p>21 Q. Okay. And then sometime just before -- between 18 and</p> <p>22 24 months you were the operations manager?</p> <p>23 A. Or the district manager, I can't remember which.</p> <p>24 Q. Okay. Or the district manager und -- okay.</p> <p>25 And you were the general manager of which area</p>
<p style="text-align: right;">Page 22</p> <p>1 A. I have held other jobs in there because of the</p> <p>2 reorganizations --</p> <p>3 Q. Okay.</p> <p>4 A. -- during that time.</p> <p>5 Q. Understood.</p> <p>6 So between approximately 2004 to 2019 you were</p> <p>7 general manager and then had some additional roles</p> <p>8 within there?</p> <p>9 A. Other roles, not additional.</p> <p>10 Q. Okay, other roles. What were your other roles?</p> <p>11 A. District manager.</p> <p>12 Q. Okay.</p> <p>13 A. Operations manager.</p> <p>14 Q. So the incident we're here to talk about today</p> <p>15 happened on 6/18/18.</p> <p>16 What was your role at Ferrellgas at that time?</p> <p>17 A. General manager.</p> <p>18 Q. Okay. How long had you been general manager up until</p> <p>19 that point?</p> <p>20 A. 18 months, two years. I'm guessing.</p> <p>21 Q. Okay. Is that a guess or is that an estimate?</p> <p>22 A. I'm not sure what the difference is.</p> <p>23 Q. I'll explain again. The difference between a guess is</p> <p>24 if you have no frame of reference for the answer,</p> <p>25 right.</p>	<p style="text-align: right;">Page 24</p> <p>1 within Ferrellgas?</p> <p>2 A. At what time?</p> <p>3 Q. This would be 6/18/18.</p> <p>4 A. That would be the Grand Canyon Service Center.</p> <p>5 Q. As the operations manager was it your responsibility</p> <p>6 to train employees?</p> <p>7 A. As an operations manager?</p> <p>8 Q. Yes, thank you for -- I said it wrong.</p> <p>9 As a general manager. That's what I'm interested</p> <p>10 in, what your roles were as a general manager.</p> <p>11 As a general manager were you responsible for</p> <p>12 training employees?</p> <p>13 A. No.</p> <p>14 Q. Who was responsible for training employees?</p> <p>15 A. District manager.</p> <p>16 Q. Who was the district manager at the time of this</p> <p>17 incident on 6/18/18?</p> <p>18 A. I'm not sure. I believe it was Jim Barrett.</p> <p>19 Q. Okay. Did you have somebody called, like, a safety</p> <p>20 officer or a safety manager also?</p> <p>21 A. We had a regional operations manager.</p> <p>22 Q. Okay. Was that person in charge of safety for the</p> <p>23 company?</p> <p>24 A. For his area.</p> <p>25 Q. Okay. Did the regional operations manager then at</p>

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<p style="text-align: right;">Page 25</p> <p>1 that time have oversight into the Grand Canyon Service</p> <p>2 Center?</p> <p>3 A. As far as reviewing things, yes.</p> <p>4 Q. Okay. Who was the regional operations manager on</p> <p>5 6/18/18?</p> <p>6 A. I believe it was Sam Brown.</p> <p>7 Q. Sam Brown --</p> <p>8 A. Right.</p> <p>9 Q. -- like the color?</p> <p>10 A. Right, like the color.</p> <p>11 Q. What was your understanding of Sam Brown's</p> <p>12 responsibilities?</p> <p>13 A. I don't -- I wasn't in charge of him so I don't know.</p> <p>14 Q. Well, did he -- he -- did he supervise you in any way?</p> <p>15 A. No.</p> <p>16 Q. Did he have any oversight into what you were doing?</p> <p>17 A. Over me?</p> <p>18 Q. Yes.</p> <p>19 A. No.</p> <p>20 Q. Okay. What did he supervise?</p> <p>21 A. Well, again, I can't say that because I wasn't a</p> <p>22 supervisor, that -- that would be the safety</p> <p>23 department.</p> <p>24 Q. So that's what I'm trying to understand a little</p> <p>25 better is what the safety department is and who</p>	<p style="text-align: right;">Page 27</p> <p>1 MR. PFAU: Those of you on Zoom, we're going</p> <p>2 to look at the Exhibit 3 from the Vicory</p> <p>3 deposition. It's the Systems Check Form.</p> <p>4 Q. (By Mr. Pfau) I'll hand you a copy.</p> <p>5 A. Thank you.</p> <p>6 Q. Is this one of the documents you reviewed?</p> <p>7 A. I believe it was.</p> <p>8 Q. Okay.</p> <p>9 A. Well, wait a minute. I reviewed a form that looked</p> <p>10 like this. I don't remember seeing any Vicory on it.</p> <p>11 Q. That's fine. Yeah, aside from this little sticker</p> <p>12 that's been produced on here, is this the document</p> <p>13 that you reviewed?</p> <p>14 A. Well, I remember this page (indicating). I didn't</p> <p>15 review the other documents inside of it.</p> <p>16 Q. Okay. So when you say, "this page," you're referring</p> <p>17 to -- and when we refer to pages we usually look at,</p> <p>18 there's a little number on them at the bottom with</p> <p>19 some letters.</p> <p>20 So it looks like you were pointing to FG39 as the</p> <p>21 document that you recall reviewing?</p> <p>22 A. Correct.</p> <p>23 Q. Okay. And that would be the System Check Form itself,</p> <p>24 correct?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">Page 26</p> <p>1 it's -- who it's over.</p> <p>2 So is Sam Brown the safety deputy?</p> <p>3 A. Well, he's the regional operations manager, he's not</p> <p>4 the safety department for the whole company.</p> <p>5 Q. Okay. So -- but he's the safety person for the</p> <p>6 regions that he oversees?</p> <p>7 A. Correct.</p> <p>8 Q. And what regions were those?</p> <p>9 A. I know he was in my area and he was in the western</p> <p>10 areas. I don't know which ones.</p> <p>11 Q. So multiple areas?</p> <p>12 A. Yes.</p> <p>13 Q. When you said he -- when you say he reviews things,</p> <p>14 what does that mean?</p> <p>15 A. He reviews training. He reviews inspections</p> <p>16 documents.</p> <p>17 Q. Does he review the performance of these inspection</p> <p>18 documents?</p> <p>19 A. What do you mean by "performance"?</p> <p>20 Q. Well, for example, does he look at the inspections</p> <p>21 that are done and verify whether or not they were done</p> <p>22 properly?</p> <p>23 A. I can't answer that because I've never seem him review</p> <p>24 the documents.</p> <p>25 Q. Okay. So let's -- I'm going to pull up --</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. All right. Have you ever seen this System Check Form</p> <p>2 documentation, the other pages that are before FG39?</p> <p>3 That would be FG30 through FG38. Have you ever seen</p> <p>4 those pages before?</p> <p>5 A. I have.</p> <p>6 Q. In what context did you see these pages?</p> <p>7 A. When I read them for training.</p> <p>8 Q. Okay. So let's go back to the page you did review,</p> <p>9 FG39. What's the purpose of this form?</p> <p>10 MR. McMULLEN: Let me object to these. He's</p> <p>11 not here to speak for the company. He can tell</p> <p>12 you his personal opinion, but he's not a</p> <p>13 corporate representative to speak for the</p> <p>14 company about company policies.</p> <p>15 MR. PFAU: So let me ask him specifically.</p> <p>16 Q. (By Mr. Pfau) Based on your training and your</p> <p>17 experience in using the System Check Form that's</p> <p>18 represented on FG39, what is the purpose of this form?</p> <p>19 A. To document how tests were conducted and what the</p> <p>20 results of those tests were.</p> <p>21 Q. Okay. Based on your training and your experience,</p> <p>22 when should this form be used?</p> <p>23 A. There's multiple applications.</p> <p>24 Q. Can you tell them to us.</p> <p>25 A. I don't know if I can tell you every one.</p>

7 (Pages 25 to 28)

<p style="text-align: right;">Page 29</p> <p>1 <b>Q. Okay. Tell us the ones that come to the top of the</b>  2 <b>mind first.</b>  3 A. On a new tank set. On a gas situation that was caused  4 by a leak. Where the system was interrupted or  5 disturbed. The customer had added or deleted any  6 appliances or system -- any other part of the system.  7 <b>Q. Okay. Does the System Checks Form get used when --</b>  8 <b>when you say interruption -- what term did you use?</b>  9 A. Interruption of service.  10 <b>Q. Interruption of service.</b>  11 <b>What qualifies as an interruption of service?</b>  12 A. Breaking into the system and disconnecting something.  13 <b>Q. Okay. If -- okay. Now, these System Checks Forms, do</b>  14 <b>they get stored somewhere that you're familiar with?</b>  15 <b>Do you know what happens to these System Check Forms?</b>  16 A. I know -- oh, how do I word that? They're filed.  17 <b>Q. Okay. So when they're performed, they're filed</b>  18 <b>somewhere?</b>  19 A. Correct.  20 <b>Q. Where are they filed at?</b>  21 A. In a three-ring binder as far as I know.  22 <b>Q. Okay. And that would be in the -- each region has its</b>  23 <b>own binder; is that right?</b>  24 A. There's a location where the service center keeps all  25 that information. Each service center does it</p>	<p style="text-align: right;">Page 31</p> <p>1 <b>Q. Mike can probably help you here. In the description</b>  2 <b>box there's a date at the end.</b>  3 A. Okay. It looks like 5/13. Is it 5/13?  4 <b>Q. Your copy might look like a 5. The -- if you look</b>  5 <b>at -- look at the very last page, FG116, there's the</b>  6 <b>same description box that appears.</b>  7 A. Okay.  8 <b>Q. Is that date more clear to you?</b>  9 A. 6/13.  10 <b>Q. Okay. So this description that was created here was</b>  11 <b>on 6/13/18, correct?</b>  12 A. This one right here, on 112, yes --  13 <b>Q. Yes. Thank you.</b>  14 A. -- it appears to be.  15 <b>Q. What is being described in this box?</b>  16 A. It states that "The rubber lines on the grill were  17 extremely hot. He opened the lines and flames shot  18 out. He turned gas supply off to grill. Would like  19 OCD to call and advise. Uses for grill, hot water  20 heating and cooking and pool sometimes."  21 <b>Q. Okay. So that description as described, would that be</b>  22 <b>a situation where a System Check Form should be used?</b>  23 A. Depending on the outcome of what happened, it could  24 be.  25 <b>Q. What do you mean by "outcome of what happened?"</b></p>
<p style="text-align: right;">Page 30</p> <p>1 differently probably.  2 <b>Q. Okay. Is this System Check Form on FG39, is it used</b>  3 <b>at all when a customer complains about an issue with</b>  4 <b>their gas system?</b>  5 A. I don't understand what you mean "complain about an  6 issue."  7 <b>Q. Sure. We can be more specific. In this -- the case</b>  8 <b>that we're here to talk about today that happened on</b>  9 <b>6/18/18 -- well, let me show you the documentation</b>  10 <b>first.</b>  11 <b>I think it would be the easiest way to refer to the</b>  12 <b>actual situation on the documentation. So I'm going</b>  13 <b>to refer you to this Exhibit 2 from the Vicory</b>  14 <b>deposition. I'm going to let you look at it.</b>  15 <b>Is this another document that you already reviewed</b>  16 <b>in preparation for your deposition today?</b>  17 A. I do remember seeing this.  18 <b>Q. Okay. And what is this document?</b>  19 A. It appears to me that it's case notes from a call at  20 the call center.  21 <b>Q. Okay. And the date on it is what?</b>  22 A. Good grief.  23 <b>Q. Is that hard to read?</b>  24 A. I haven't looked at one of these -- it's been a long  25 time. I need to look at it.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Well, when -- the service tech's going to actually  2 have to go there, and then depending on what he does  3 there, that would be when he would use it.  4 <b>Q. When you say, "he," you mean the technician who shows</b>  5 <b>up on the scene?</b>  6 A. Correct.  7 <b>Q. So if the technician shows up on the scene and finds</b>  8 <b>that there's an issue with the gas system, should that</b>  9 <b>System Check Form be used?</b>  10 A. If he places it in service, yes.  11 <b>Q. Okay. So -- just so we can understand your testimony,</b>  12 <b>based on your experience and training, okay, if there</b>  13 <b>is an issue where there's flames coming out of a hose,</b>  14 <b>an open line, and it's hot and it's found to be an</b>  15 <b>issue as was described here in this description, then</b>  16 <b>the technician goes out?</b>  17 A. Uh-huh.  18 <b>Q. And says -- turns off the system or says, "Don't use</b>  19 <b>this any more," correct?</b>  20 A. Say that again.  21 <b>Q. Sure. You know, I don't know all the gas industry</b>  22 <b>terms so you're just going to --</b>  23 A. I just want to make sure I understand what you're  24 saying.  25 <b>Q. Yeah, that's fine.</b></p>

8 (Pages 29 to 32)

<p style="text-align: right;">Page 33</p> <p>1 And that's what I'm trying to do, is understand what</p> <p>2 your testimony is, too.</p> <p>3 So if a technician were to go out with this</p> <p>4 description that's provided to us on FG112, okay?</p> <p>5 A. Uh-huh.</p> <p>6 Q. He goes out there and he finds an -- confirms the</p> <p>7 issue, okay, and then says -- tells the customer don't</p> <p>8 use this, turn off the gas.</p> <p>9 Should a System Check Form be used when the</p> <p>10 technician then tells them to turn it back on?</p> <p>11 A. If --</p> <p>12 MR. McMULLEN: Let me object to the form of</p> <p>13 the question.</p> <p>14 Go ahead.</p> <p>15 A. If the service technician -- if I understand you</p> <p>16 correct, if a service tech comes out there and finds</p> <p>17 an issue and tells the customer he's shutting the gas</p> <p>18 off, he would red tag it, and he would not use this</p> <p>19 form.</p> <p>20 Q. (By Mr. Pfau) Okay. So a red tag should have been</p> <p>21 applied in that type of a situation that you just</p> <p>22 described?</p> <p>23 A. If the system wasn't placed back in operation, yes.</p> <p>24 Q. When you say, "placed back in operation," do you mean</p> <p>25 that the technician says, "Everything's okay and okay</p>	<p style="text-align: right;">Page 35</p> <p>1 Q. Okay. That's fine.</p> <p>2 So why would you want to use a System Check Form?</p> <p>3 What is the purpose of the System Check Form when</p> <p>4 putting it back into operation?</p> <p>5 Does it have a function when putting it back into</p> <p>6 operation, when a system is put back into operation,</p> <p>7 based on your training and experience?</p> <p>8 A. It would be to document the tests and the appliances</p> <p>9 that were in operation at the time.</p> <p>10 Q. And to make sure that the gas system is safe to use?</p> <p>11 A. What?</p> <p>12 Q. To make sure that the gas system is safe to use?</p> <p>13 A. That's what the tests are for.</p> <p>14 Q. Okay. So do you remember this incident that occurred</p> <p>15 on 6/18/18?</p> <p>16 A. Somewhat.</p> <p>17 Q. What do you remember from it?</p> <p>18 A. That Rob called me and asked me -- let me rephrase</p> <p>19 that.</p> <p>20 Rob called me, described a situation, and asked me</p> <p>21 if I'd ever seen something like that before.</p> <p>22 Q. Okay. When you say, "Rob," that's Rob Vicory,</p> <p>23 correct?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Do you remember what day that was?</p>
<p style="text-align: right;">Page 34</p> <p>1 to use?"</p> <p>2 A. That he tested the system and documented it and placed</p> <p>3 it back in operation after he did something.</p> <p>4 Q. Okay. So it seems that there are two scenarios that</p> <p>5 could occur in this situation when this kind of a call</p> <p>6 comes in, that's what we're referring to on FG112.</p> <p>7 You just tell me if this is right, okay.</p> <p>8 If a technician goes out there and sees a problem,</p> <p>9 he can either red tag it, correct?</p> <p>10 A. Or?</p> <p>11 Q. Or he can look at it, diagnose it, and do a System</p> <p>12 Check Form to get it back in operation?</p> <p>13 A. He can red tag it and shut the gas off or he can place</p> <p>14 it back in operation if whatever's wrong is fixed.</p> <p>15 Q. Uh-huh. So any time that a system's put into</p> <p>16 operation, a System Check Form should be used?</p> <p>17 A. Any time it's been placed in operation, yes.</p> <p>18 Q. Okay. What's the purpose of the System Check Form?</p> <p>19 Based on your training and experience, why would you</p> <p>20 want to use it when you are putting a system back</p> <p>21 into operation?</p> <p>22 A. I thought I answered that when you asked me that</p> <p>23 before what this form was used for.</p> <p>24 Q. No, it's actually something different.</p> <p>25 A. Then I don't understand the question then.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. No.</p> <p>2 Q. Does looking at this documentation that we have in</p> <p>3 front of you that was Exhibit 2 for the Vicory</p> <p>4 deposition, does that help you remember when that</p> <p>5 might have occurred?</p> <p>6 A. I would assume it would have occurred while he was on</p> <p>7 the property, so I would assume that it would have</p> <p>8 been -- I think it's the following morning after this</p> <p>9 date.</p> <p>10 Q. Okay. So that would have been 6/14/18?</p> <p>11 A. I believe so.</p> <p>12 Q. Okay. So on 6/14/18 you -- you believe that Rob</p> <p>13 Vicory gave you a call, described the situation.</p> <p>14 Then what happened?</p> <p>15 A. Asked me if I've seen anything like that. I told him</p> <p>16 of the two incidences I have seen something like that.</p> <p>17 Q. And what else?</p> <p>18 A. That's pretty much the end of the conversation.</p> <p>19 Q. Did you give him any recommendations?</p> <p>20 A. No.</p> <p>21 Q. You just told him about the two incidences?</p> <p>22 A. Yes. I'm not on site.</p> <p>23 Q. Okay. So did -- was that then left up to Rob Vicory</p> <p>24 to decide what to do?</p> <p>25 A. Yes, he's on-site.</p>

<p style="text-align: right;">Page 37</p> <p>1 Q. Okay. What were those two instances that you told him 2 about? 3 A. Electrical issues that where I had seen a spark when I 4 disconnected a gas line. 5 Q. Okay. And was that when you were in the field? 6 A. Yes. 7 Q. And what did you do in those two incidences when you 8 saw a spark on a gas line? 9 A. Well, luckily there was just residual gas in a line so 10 I didn't have to do anything except get the system 11 fixed, which I red tagged the system. 12 Q. Okay. So in -- was that in both instances when you 13 saw a spark come off a line that you red tagged it? 14 A. Yes. 15 Q. Is that the proper procedure? 16 A. I'm not a -- 17 MR. McMULLEN: Object to form. 18 Go ahead. 19 A. I'm not an electrician so I red tagged it. 20 Q. (By Mr. Pfau) Right. Is it based on your training 21 and your experience, is that what -- what you were 22 trained to do if you saw an issue like an electrical 23 issue on a gas line to red tag it immediately? 24 A. Well, you're trained if you're -- if the situation is 25 unknown to you, then you red tag the situation.</p>	<p style="text-align: right;">Page 39</p> <p>1 Does that mean that you called and gave that note? 2 A. Yes. 3 Q. Okay. Why did you call and not Rob Vicory? 4 A. Customer service manager worked for me. I'm assuming 5 I called her because I was out of the office. 6 Q. But the question is a little more specific than that. 7 Why didn't Rob Vicory call in? 8 A. Call her? 9 Q. Yes. 10 A. I don't know. That would not be normal. 11 Q. Okay. Would it be normal for Rob Vicory to call and 12 report to Ferrellgas what the current situation is? 13 A. He could have, yes, reported it to the DM. 14 Q. Okay. Is that normal procedure to report back on 15 what's happening on a customer site? 16 A. To your supervisor, yes. 17 Q. Okay. So if Rob Vicory would have reported back to 18 his -- you said DM, right, so the district manager? 19 A. Correct. 20 Q. If Rob Vicory would have reported back to the district 21 manager, would that note be somewhere in the system? 22 A. I would assume so. 23 Q. And would it be in this -- these -- like these pages 24 we're looking at right here? 25 A. Yes, I would assume so.</p>
<p style="text-align: right;">Page 38</p> <p>1 Q. Okay. So based on your training and experience, 2 should Rob Vicory have red tagged that -- that 3 situation? 4 A. Say that again. 5 Q. Based on your training and experience, should Rob 6 Vicory, based on the call that -- and the description 7 he gave you on the situation with the gas line, should 8 he have red tagged the gas system? 9 A. Yes. 10 Q. Should he have red tagged just the appliance or the 11 whole gas system? 12 A. I'm not there, I'm not on site, so I couldn't answer 13 that question. 14 Q. Okay. So on Page -- it's the third page of this 15 document, the Exhibit 2 Rob -- from the Vicory 16 deposition. It's FG114. 17 There's a "Details" box in there and appears to be 18 your name; is that correct? 19 A. Yes. 20 Q. Okay. Now, this "Details" box, it says, "Service tech 21 spoke with customer and was able to determine customer 22 had an electrical issue and customer was going to call 23 their electrician to resolve issue. Spa was being 24 worked on by a contractor and this is when the issue 25 happened per Kelly Kite."</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Okay. It would be in this -- it looks like ORACLE is 2 the software you use. I think you guys call it People 3 Soft or something, too, right? 4 A. I believe that's what they called them, yes. 5 Q. Okay. But it would be documented somewhere if Rob 6 Vicory had reported back the situation to his district 7 manager, we would see those notes somewhere in these 8 pages that we have here, correct? 9 A. If the district manager made notes in the system, yes. 10 Q. Okay. Is that policy for Ferrellgas, to make notes in 11 the system when reports are coming back on what's 12 happening on the customer site? 13 A. Normally he would make those notes inside the 14 handheld. 15 Q. The handheld is like a palm-held computer? 16 A. Yes. 17 Q. And who's "he" would make those notes. 18 A. Rob Vicory. 19 Q. So is it Rob's responsibility to put notes into the 20 handheld as he's on a customer site to keep the 21 company apprised of what's happening? 22 A. Yes. 23 Q. Why is that part of Ferrellgas's policy based on your 24 training and experience? 25 A. He's on-site, he's the one that did the work.</p>

10 (Pages 37 to 40)

<p style="text-align: right;">Page 41</p> <p>1 Q. Does that policy have a purpose? Does it promote</p> <p>2 anything in particular based on your training and</p> <p>3 experience?</p> <p>4 A. Documentation.</p> <p>5 Q. Okay. What does documentation help?</p> <p>6 A. Just tells the story of what happened there.</p> <p>7 Q. Okay. Does documentation protect, for example, the</p> <p>8 people on the customers when they're on site?</p> <p>9 MR. McMULLEN: Can we just have a running</p> <p>10 objection, if I can, that he's not here to speak</p> <p>11 for the company about the purpose of</p> <p>12 documentation.</p> <p>13 You can answer.</p> <p>14 A. Say it again.</p> <p>15 Q. (By Mr. Pfau) Yeah. So based on your training and</p> <p>16 experience, you've been trained on proper</p> <p>17 documentation, correct?</p> <p>18 A. I have been.</p> <p>19 Q. Okay. And so you know -- you understand the purpose</p> <p>20 of documentation, the policy for documentation for</p> <p>21 Ferrellgas?</p> <p>22 A. If you're asking me if I know why they do the</p> <p>23 documentation, no, I don't know why. I can guess.</p> <p>24 Q. It wasn't part of your training as to why</p> <p>25 documentations --</p>	<p style="text-align: right;">Page 43</p> <p>1 Q. Well, I'll ask you more specific questions and then</p> <p>2 we'll come back to that.</p> <p>3 Because it looks on this page, FG114, on the top of</p> <p>4 the page or near the top, it says, "Resolution</p> <p>5 Details."</p> <p>6 A. Uh-huh.</p> <p>7 Q. And then when you look on the very last page, FG116.</p> <p>8 A. Uh-huh.</p> <p>9 Q. If you look kind of towards the middle right here</p> <p>10 (indicating). I'm going to point to it so you can see</p> <p>11 it (indicating).</p> <p>12 A. Okay.</p> <p>13 Q. That -- it looks like that same note that we just</p> <p>14 looked at in FG114 is copied there. Not completely</p> <p>15 but copied there partially.</p> <p>16 And you follow that around to the right-hand side of</p> <p>17 that line, it says, "Successful Resolution." Do you</p> <p>18 see what I'm referring to?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. Was it proper for Monica to close or resolve</p> <p>21 this case on -- after you gave her that note?</p> <p>22 MR. McMULLEN: Object to form.</p> <p>23 A. I don't -- I don't remember specifically the</p> <p>24 discussion, so I can't remember other than what I told</p> <p>25 her that she typed.</p>
<p style="text-align: right;">Page 42</p> <p>1 A. Explaining the documentation?</p> <p>2 Q. Not explaining. Is it part of your training why</p> <p>3 documentation is part of the Ferrellgas process?</p> <p>4 A. As I stated, it's to tell what happened when the work</p> <p>5 was done.</p> <p>6 Q. Okay. How did you get this information that's</p> <p>7 described on the Details section of FG114?</p> <p>8 A. I'm trying to remember. I'm assuming Rob told me that</p> <p>9 and I called Monica and told her that.</p> <p>10 Q. Okay. So would you have had more than one</p> <p>11 conversation with Rob Vicory about this?</p> <p>12 A. I don't think so. I don't remember it.</p> <p>13 Q. Okay. Okay. Now Monica, she's the customer service</p> <p>14 manager, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. This page here that we're looking at, FG114 --</p> <p>17 oh, you said you supervised Monica?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. Is she -- are you part of her training as well?</p> <p>20 A. Part of Monica's training?</p> <p>21 Q. Yeah.</p> <p>22 A. In relationship to?</p> <p>23 Q. Well, for example, did you supervise or monitor her</p> <p>24 use of the software ORACLE, software?</p> <p>25 A. I don't know what you mean, I guess.</p>	<p style="text-align: right;">Page 44</p> <p>1 Q. (By Mr. Pfau) Okay. Based on your review of this</p> <p>2 note on FG114, does it help you remember whether or</p> <p>3 not the case was actually closed at that time?</p> <p>4 A. By looking at it I would assume that he shut the gas</p> <p>5 off and red tagged it.</p> <p>6 Q. Okay. But did you know whether or not he did?</p> <p>7 A. No.</p> <p>8 Q. Okay. Was that part of your responsibility, to make</p> <p>9 sure that he did red tag it?</p> <p>10 A. No, the district manager would do that.</p> <p>11 Q. Okay. And so I'm looking at this note in "Details" on</p> <p>12 FG114. If somebody red tags it -- if you were</p> <p>13 assuming -- let's say assuming he did red tag it,</p> <p>14 would that mean that the case is closed?</p> <p>15 A. It could mean the case is closed.</p> <p>16 Q. Okay. Why is that?</p> <p>17 A. There's all kinds of variables. An appliance red tag,</p> <p>18 the system would be closed, the case would be closed.</p> <p>19 Q. Okay. So if the system isn't red tagged, then the</p> <p>20 case should not be closed?</p> <p>21 A. An appliance red tag and a system red tag are not the</p> <p>22 same.</p> <p>23 Q. Okay. Let me -- so let's -- this issue was related to</p> <p>24 a barbecue hose line, correct?</p> <p>25 A. An appliance, correct.</p>

11 (Pages 41 to 44)

<p style="text-align: right;">Page 45</p> <p>1 Q. Okay. So if an appliance is not red tagged, for 2 example, then -- 3 A. Not red tagged? 4 Q. Not red tagged. Then the case should not be closed? 5 A. If there was no resolution to it as in shutting the 6 gas off and red tagging it -- I'm not sure what you're 7 asking here. 8 Q. Well, just finish what your saying, that's exactly 9 what I'm asking. 10 I'm asking you if the system was not red tagged or 11 the appliance was not red tagged, should the case be 12 closed? 13 A. Well, I'm going by the assumption that he red tagged 14 it. 15 Q. Okay. So it has -- I can represent to you that the 16 testimony of Rob Vicory was that he did not red tag 17 it. Okay. 18 So know that Rob Vicory did not red tag the 19 appliance or the system after he went out there and 20 verified that there -- or diagnosed an electrical 21 issue with the gas lines, should this case have been 22 closed? 23 A. It should have been closed if it wasn't red tagged, 24 but we wouldn't have known that. 25 Q. What's the -- how does Ferrellgas verify whether or</p>	<p style="text-align: right;">Page 47</p> <p>1 I'd be happy to do that. 2 (The court reporter read back.) 3 MR. McMULLEN: I'm not trying to hold you up, 4 I just -- like I said, I object to the form. 5 But I think he said he was confused so maybe 6 you can rephrase. 7 MR. PFAU: We can. 8 Q. (By Mr. Pfau) So, Mr. Vicory, I'll try and say it 9 again maybe a little differently. 10 MR. McMULLEN: Mr. Kite. 11 Q. (By Mr. Pfau) Oh, I'm sorry, Mr. Kite. I'm so sorry, 12 I did that to you. We've been talking about Rob 13 Vicory and I got all confused. Sorry about that, 14 Mr. Kite. 15 So based on your knowledge and experience, if Rob 16 Vicory had made notes on his handheld, they should 17 have shown up here on these pages we're looking at 18 that was part of Exhibit 2 from the Vicory deposition, 19 correct? 20 A. As I understand the system. 21 Q. Yes? 22 A. Yes. 23 Q. Okay. How did this situation get assigned to Rob 24 Vicory, how does that happen? Because what we're 25 seeing here on the first page of the Exhibit 2 for the</p>
<p style="text-align: right;">Page 46</p> <p>1 not a case can be closed then? 2 A. In the handheld is where he should have documented 3 this stuff. 4 Q. Okay. And those handheld notes would have shown up on 5 here, but we don't have any of those notes? 6 A. Correct. 7 Q. Does that, based on your experience and knowledge, 8 then lead you to believe there were no notes taken on 9 his handheld? 10 MR. McMULLEN: Object to form. 11 A. Say that again. 12 Q. (By Mr. Pfau) Sure. Does that, based on your 13 knowledge and experience, lead you to believe that 14 there were no notes taken on his handheld if they 15 don't show up here on these pages that we have? 16 MR. McMULLEN: I'm sorry, when you say, 17 "that," that's the confusion. Can you rephrase. 18 MR. PFAU: Sure. 19 MR. McMULLEN: Object to form. 20 MR. PFAU: You're confused by that? 21 MR. McMULLEN: I'm sorry, maybe I'm tired. 22 If you understand the question, you can answer. 23 A. I don't so I'd like to -- 24 Q. (By Mr. Pfau) Let's have the question re read and 25 then if there's more confusion then I can clarify.</p>	<p style="text-align: right;">Page 48</p> <p>1 Vicory deposition at FG112, there's a note on here, 2 but then there's no information about how it got 3 assigned to him to go and perform work. 4 How does that happen? 5 A. You're talking about 112? 6 Q. Yes, I am. 7 A. Okay. As I understand it, when he called in, the call 8 center would have taken the call. They would have 9 looked up to see who the on-call person was and 10 contacted that person. 11 Q. Okay. So based on your understanding, the service 12 center would have contacted Rob Vicory directly? 13 A. No, sir. 14 Q. How does that work? 15 A. The call center? 16 Q. The call center. 17 A. Yeah, not the service center. 18 Q. Okay. So when somebody -- when a Ferrellgas customer 19 calls in they get the call center? 20 A. After hours, correct. 21 Q. If -- only after hours? 22 A. Yes, as far as I know. 23 Q. Okay. And then if you're calling after hours -- when 24 was this call made? It was looks like 8:31 p.m. based 25 on the time in the description box.</p>

12 (Pages 45 to 48)

<p style="text-align: right;">Page 49</p> <p>1 Would that be considered after hours?</p> <p>2 A. Yes.</p> <p>3 Q. Okay. So at 8:31 p.m. if Mario Gonzalez, the</p> <p>4 homeowner, calls Ferrellgas he gets the call center,</p> <p>5 the after hours call center?</p> <p>6 A. Correct.</p> <p>7 Q. The after hours call center then looks up who the</p> <p>8 on-call after hours technician is?</p> <p>9 A. The on-call person.</p> <p>10 Q. Okay. On-call technician or person?</p> <p>11 A. Person, yeah. The on-call -- they call them on-call</p> <p>12 drivers.</p> <p>13 Q. Okay.</p> <p>14 A. That's the "OCD."</p> <p>15 Q. And then that call center then would have reached out</p> <p>16 directly to Rob Vicory to tell him what's going on?</p> <p>17 A. Correct.</p> <p>18 Q. Okay. What information does he get when he is</p> <p>19 notified?</p> <p>20 A. They tell him basically the notes as far as I know.</p> <p>21 Q. Okay. Have you ever been to the scene of where this</p> <p>22 incident occurred, the Gonzalez residence?</p> <p>23 A. No.</p> <p>24 Q. So now that we've reviewed your knowledge and I've</p> <p>25 told you a little bit about what some of the</p>	<p style="text-align: right;">Page 51</p> <p>1 A. Yes.</p> <p>2 Q. And if a leak test had been performed, you would</p> <p>3 expect it to be input into a handheld, correct?</p> <p>4 A. Yes.</p> <p>5 Q. When -- when you had those two incidences of the</p> <p>6 electrical spark on the gas line, what was the process</p> <p>7 you went through showing up on the scene, what did you</p> <p>8 do?</p> <p>9 A. I don't understand the question.</p> <p>10 Q. I'm just trying to understand, when you showed up on</p> <p>11 the scene when you were a technician and you saw these</p> <p>12 two incidences of the electrical issue on the gas lin</p> <p>13 that you talked about previously.</p> <p>14 A. Are you asking me why I was there?</p> <p>15 Q. No, no, no, no. I'm asking you if you can recall what</p> <p>16 was the process you went through when you showed up on</p> <p>17 the scene and looked at that gas line that was</p> <p>18 reported to have an electrical issue?</p> <p>19 A. It wasn't reported.</p> <p>20 Q. Okay. So you found it yourself?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. So what did you do once you found that</p> <p>23 electrical issue, what was the first thing you did?</p> <p>24 A. Shut off the gas supply, red tag the system.</p> <p>25 Q. And then what?</p>
<p style="text-align: right;">Page 50</p> <p>1 depositions -- some of the testimony was in the</p> <p>2 depositions, do you believe that the System Check Form</p> <p>3 as we see in Exhibit 3 from the Vicory deposition</p> <p>4 should have been implemented at some point in that</p> <p>5 process?</p> <p>6 A. If he placed it back in operation, yes.</p> <p>7 Q. Okay. That system check form should have been used?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 THE COURT REPORTER: I'm sorry, but when you</p> <p>11 get to a point I need to take a break.</p> <p>12 MR. PFAU: Right now.</p> <p>13 THE VIDEOGRAPHER: We're going off the</p> <p>14 record. The time is 5:02.</p> <p>15 (A ten-minute recess was taken at 5:02 p.m.)</p> <p>16 THE VIDEOGRAPHER: We're back on the record</p> <p>17 at 5:12.</p> <p>18 Q. (By Mr. Pfau) Okay, Mr. Kite. So we were talking --</p> <p>19 we had that conversation about documenting in</p> <p>20 handhelds and whether or not that information would</p> <p>21 show up in the ORACLE system that Ferrellgas uses.</p> <p>22 If -- is part of the documentation also to document</p> <p>23 whether or not a leak test has been performed, is that</p> <p>24 part of the documentation that gets put into a</p> <p>25 handheld based on your training and experience?</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Notified the customer.</p> <p>2 Q. Okay. Was that the proper procedure even according to</p> <p>3 Ferrellgas?</p> <p>4 A. I don't believe I worked for Ferrellgas at that time.</p> <p>5 Q. Okay. Was that before acquisitions?</p> <p>6 A. Before some of them.</p> <p>7 Q. Okay. Based on your training and experience, would</p> <p>8 that be the proper procedure for finding an electrical</p> <p>9 issue on a gas line?</p> <p>10 A. It would be a proper procedure to red tag it if you</p> <p>11 didn't understand what was wrong.</p> <p>12 Q. Okay. Do you have any electrical training?</p> <p>13 A. No, sir.</p> <p>14 Q. Do you know if Rob Vicory had any electrical training?</p> <p>15 A. Not to my knowledge.</p> <p>16 Q. Did you ever get any reports back on what was actually</p> <p>17 done on the -- at the Gonzalez home after you received</p> <p>18 the call from Rob Vicory?</p> <p>19 A. No, sir.</p> <p>20 Q. Were you ever told what Rob Vicory did on site, any</p> <p>21 testing that he my have done?</p> <p>22 A. No, sir.</p> <p>23 Q. Did you ever see any documentation from the Gonzalez</p> <p>24 residence based on the report of the electrical issue?</p> <p>25 A. No, sir.</p>

<p style="text-align: right;">Page 53</p> <p>1 Q. The System Check Form that we've been going through,</p> <p>2 FG39, the last page of the Vicory Exhibit 3.</p> <p>3 Is -- is inspecting the gas line part of this system</p> <p>4 check?</p> <p>5 A. Inspecting gas lines how?</p> <p>6 Q. Yeah. Inspecting gas lines for leaks, for example,</p> <p>7 part of the system check?</p> <p>8 A. That would be the leak test, yes.</p> <p>9 Q. And it's a mandatory section of the System Check Form?</p> <p>10 A. There is a leak test on here, yes.</p> <p>11 Q. Okay.</p> <p>12 A. I can't read it.</p> <p>13 Q. But based on your recollection of the form you know</p> <p>14 it's on there?</p> <p>15 A. Yes.</p> <p>16 Q. Okay. Yeah, it is -- this copy is hard to read, isn't</p> <p>17 it.</p> <p>18 We talked about the safety person previously. In</p> <p>19 this type of situation where something -- where there</p> <p>20 is an electrical issue that's reported on the gas</p> <p>21 system, does a safety person get involved with that</p> <p>22 situation at all?</p> <p>23 A. Not to my knowledge.</p> <p>24 Q. When does a safety person get involved?</p> <p>25 A. When he's doing his reviews of documentation.</p>	<p style="text-align: right;">Page 55</p> <p>1 A. By the homeowner?</p> <p>2 Q. No, by Rob Vicory telling the homeowner to put the</p> <p>3 system back in operation?</p> <p>4 MR. McMULLEN: Object to form.</p> <p>5 A. Okay. Ask me again.</p> <p>6 Q. (By Mr. Pfau) Sure. So we have testimony that the</p> <p>7 homeowner, he said that Rob Vicory told him it was</p> <p>8 okay to use the gas system again, to use the barbecue</p> <p>9 grill, the gas line it was connecting to, the one that</p> <p>10 had the electrical issue. We also have testimony that</p> <p>11 the gas system was never red tagged.</p> <p>12 Was it, based on your knowledge and training and</p> <p>13 extensive experience in the gas industry, appropriate</p> <p>14 for Rob Vicory to tell the homeowner to use the gas</p> <p>15 system again?</p> <p>16 MR. McMULLEN: Object to form.</p> <p>17 A. As I understand the situation, it should have been red</p> <p>18 tagged and disconnected.</p> <p>19 So a service tech, qualified person, should have</p> <p>20 placed it back in operation.</p> <p>21 Q. (By Mr. Pfau) Okay. And to place it back in</p> <p>22 operation it would have to go through the System Check</p> <p>23 Form, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Do you have any experience with any other prior</p>
<p style="text-align: right;">Page 54</p> <p>1 Q. Okay. Does the safety person get involved in doing a</p> <p>2 review of maybe an explosion that occurs at</p> <p>3 somebody's -- a customer's site?</p> <p>4 MR. McMULLEN: Object to form.</p> <p>5 A. I don't know.</p> <p>6 Q. (By Mr. Pfau) Okay. Have you been part of any</p> <p>7 investigations or asked any questions as part of an</p> <p>8 internal investigation of what occurred other than the</p> <p>9 conversation you've had with your attorney?</p> <p>10 A. No.</p> <p>11 Q. So, based on your understanding, it would have been</p> <p>12 Rob Vicory's district manager that would have</p> <p>13 supervised his work and made sure that he was doing</p> <p>14 the right work?</p> <p>15 MR. McMULLEN: Object to form.</p> <p>16 Q. (By Mr. Pfau) Is that correct?</p> <p>17 A. As I understand the system of Ferrellgas, yes.</p> <p>18 Q. Okay. So we have testimony of the homeowner,</p> <p>19 Mr. Gonzalez. He said that he was told it was okay to</p> <p>20 put this -- to start using the grill again by Rob</p> <p>21 Vicory.</p> <p>22 In this situation, if the gas system was never red</p> <p>23 tagged, as we have testimony that it wasn't, was that</p> <p>24 the right decision to -- based on your training and</p> <p>25 experience to put that system back in operation again?</p>	<p style="text-align: right;">Page 56</p> <p>1 explosions that occurred with -- for Ferrellgas</p> <p>2 customers?</p> <p>3 A. What do you mean by "experience"?</p> <p>4 Q. Well, have you seen or heard of any explosions that</p> <p>5 occurred on Ferrellgas customer sites when you were</p> <p>6 working at Ferrellgas?</p> <p>7 A. Heard of.</p> <p>8 Q. Okay. You were never directly involved in any of</p> <p>9 these explosions?</p> <p>10 A. No.</p> <p>11 Q. Okay. When you heard of them, who did you hear them</p> <p>12 from?</p> <p>13 MR. McMULLEN: Object to form.</p> <p>14 A. I don't remember anymore. I mean it's secondhand.</p> <p>15 Q. (By Mr. Pfau) Okay. About how many explosions do you</p> <p>16 recall hearing about?</p> <p>17 MR. McMULLEN: Object to form.</p> <p>18 A. I don't know.</p> <p>19 Q. (By Mr. Pfau) You can give us an estimate. You have</p> <p>20 a frame of reference, right?</p> <p>21 MR. McMULLEN: Object to form.</p> <p>22 A. Two.</p> <p>23 Q. (By Mr. Pfau) Okay. Are you familiar with what a</p> <p>24 FERRELLMETER is?</p> <p>25 A. I am.</p>

14 (Pages 53 to 56)



<p style="text-align: right;">Page 57</p> <p>1 <b>Q. You are. Can you tell us what that is.</b></p> <p>2 A. It's a device used to check a system on an out of gas</p> <p>3 situation.</p> <p>4 <b>Q. Okay. And it's only used for out of gas situations?</b></p> <p>5 A. Correct.</p> <p>6 <b>Q. Okay. So would a FERRELLMETER have been used in this</b></p> <p>7 <b>type of situation that we're here to discuss today?</b></p> <p>8 A. No.</p> <p>9 <b>Q. Okay. I'm done with my questions. Thank you very</b></p> <p>10 <b>much.</b></p> <p>11 MR. McMULLEN: I think Matt is passing the</p> <p>12 witness. Does anyone else have questions?</p> <p>13 MS. WINSPEAR: This is Gina Winspear. I</p> <p>14 don't have any questions.</p> <p>15 MR. McMULLEN: Thank you.</p> <p>16 Steve, any questions?</p> <p>17 MR. GOLDSTEIN: Just a few.</p> <p>18</p> <p>19 CROSS-EXAMINATION</p> <p>20</p> <p>21 BY MR. GOLDSTEIN:</p> <p>22 <b>Q. Sir, I represent Mario Gonzalez, and I just have a few</b></p> <p>23 <b>questions.</b></p> <p>24 <b>Did you ever talk to Mario?</b></p> <p>25 A. No, sir.</p>	<p style="text-align: right;">Page 59</p> <p>1 A. Jim Barrett, if I remember right.</p> <p>2 <b>Q. Okay. So in your opinion, in looking back at</b></p> <p>3 <b>everything, Ferrellgas should have red tagged the</b></p> <p>4 <b>system or the appliance or both, correct?</b></p> <p>5 MR. McMULLEN: Object to form.</p> <p>6 A. In my opinion?</p> <p>7 <b>Q. (By Mr. Goldstein) Yes, as the dis – or the general</b></p> <p>8 <b>manager.</b></p> <p>9 MR. McMULLEN: Object to form.</p> <p>10 A. I would have relied on Rob to follow his training.</p> <p>11 <b>Q. (By Mr. Goldstein) Okay. And part of that training</b></p> <p>12 <b>is, I think when you testified earlier, that he should</b></p> <p>13 <b>have identified a problem such as the one he did, he</b></p> <p>14 <b>should have red tagged the system; is that correct?</b></p> <p>15 MR. McMULLEN: Object to form.</p> <p>16 A. Not being on the site I can't speak for him.</p> <p>17 <b>Q. (By Mr. Goldstein) I'm asking you in your experience</b></p> <p>18 <b>and training.</b></p> <p>19 A. I would have red tagged it.</p> <p>20 <b>Q. Okay. When Mario called after seeing the flames spark</b></p> <p>21 <b>out of his gas hose, he did the right thing by calling</b></p> <p>22 <b>Ferrellgas first, right?</b></p> <p>23 A. I don't understand what you're asking me.</p> <p>24 <b>Q. Well, Ferrellgas didn't send out any technician until</b></p> <p>25 <b>Mario alerted Ferrellgas that there was a problem?</b></p>
<p style="text-align: right;">Page 58</p> <p>1 <b>Q. Okay. Did – after the incident did you follow up</b></p> <p>2 <b>with Mario – anybody in Mario's family?</b></p> <p>3 A. No, sir.</p> <p>4 <b>Q. Okay. After the incident was made -- when were you</b></p> <p>5 <b>made aware of the explosion?</b></p> <p>6 A. After it happened.</p> <p>7 <b>Q. Yeah, obviously that happened. But I'm trying to</b></p> <p>8 <b>figure out what day were you made aware of it?</b></p> <p>9 A. I don't -- I don't remember.</p> <p>10 <b>Q. Okay. Was it maybe the day after?</b></p> <p>11 MR. McMULLEN: Object to form.</p> <p>12 <b>Q. (By Mr. Goldstein) Or the day of?</b></p> <p>13 A. I can't remember any more. It would have been soon.</p> <p>14 <b>Q. All right. Did you make any notes about when you were</b></p> <p>15 <b>notified about the incident?</b></p> <p>16 A. No, sir.</p> <p>17 <b>Q. Did you have any conversations with anybody about the</b></p> <p>18 <b>incident?</b></p> <p>19 A. What are you referring to? As in did I report it, did</p> <p>20 it get reported?</p> <p>21 <b>Q. Well, how did it get reported to you?</b></p> <p>22 A. I don't remember who called me.</p> <p>23 <b>Q. Could it have been Rob Vicory?</b></p> <p>24 A. It could have been, I don't know.</p> <p>25 <b>Q. Okay. Who is this district manager?</b></p>	<p style="text-align: right;">Page 60</p> <p>1 A. Correct.</p> <p>2 <b>Q. Okay. So Mario did the right thing by calling</b></p> <p>3 <b>Ferrellgas to come out and take a look and inspect the</b></p> <p>4 <b>system; is that correct?</b></p> <p>5 A. If you're asking me -- I'm not quite sure what you're</p> <p>6 asking me.</p> <p>7 <b>Q. Well, in your experience and training, Mario alerted</b></p> <p>8 <b>Ferrellgas about the flame that came out of his system</b></p> <p>9 <b>and the electrical shock he had, correct?</b></p> <p>10 A. Correct.</p> <p>11 MR. McMULLEN: Object to form.</p> <p>12 <b>Q. (By Mr. Goldstein) All right. So was he wrong in</b></p> <p>13 <b>doing that?</b></p> <p>14 MR. McMULLEN: Object to form.</p> <p>15 A. He could have called several people. He could have</p> <p>16 called the fire department. He could have called an</p> <p>17 appliance person because it's an appliance.</p> <p>18 <b>Q. (By Mr. Goldstein) Or he could have called the gas</b></p> <p>19 <b>company that supplies him with the gas?</b></p> <p>20 A. Yes, sir.</p> <p>21 <b>Q. And I believe -- and I don't have it in front of me</b></p> <p>22 <b>but I believe in your manuals that you gave to Mario</b></p> <p>23 <b>it says that if there's a problem that they -- he's</b></p> <p>24 <b>supposed to call your company to get it inspected or</b></p> <p>25 <b>at least alert them to the problem; is that correct?</b></p>

15 (Pages 57 to 60)

<p style="text-align: right;">Page 61</p> <p>1 MR. McMULLEN: Object to form.</p> <p>2 A. I don't know what the manual says that they gave him.</p> <p>3 <b>Q. (By Mr. Goldstein) You're not familiar with the</b></p> <p>4 <b>manuals that you give out to your customers?</b></p> <p>5 MR. McMULLEN: Object to form.</p> <p>6 A. I don't work for Ferrellgas so I don't --</p> <p>7 <b>Q. (By Mr. Goldstein) Well, I understand that right now,</b></p> <p>8 <b>but I'm talking about back when you did work for them.</b></p> <p>9 <b>It's not part of your job description to know what's</b></p> <p>10 <b>contained in your manuals that you give out to your</b></p> <p>11 <b>clients?</b></p> <p>12 MR. McMULLEN: Object to form.</p> <p>13 A. Im unfamiliar with a manual that we send to -- or that</p> <p>14 Ferrellgas sends to customers.</p> <p>15 <b>Q. (By Mr. Goldstein) Had you ever seen a manual before</b></p> <p>16 <b>that such as the one they gave to your -- Mario or any</b></p> <p>17 <b>of the clients that they give to them when they sign</b></p> <p>18 <b>up for -- to be one of your clients?</b></p> <p>19 MR. McMULLEN: Object to form.</p> <p>20 A. I've never seen a manual given to customers.</p> <p>21 <b>Q. (By Mr. Goldstein) Okay. So I believe it's been made</b></p> <p>22 <b>as an exhibit. I don't have it with me. I'm only</b></p> <p>23 <b>going to ask you probably a couple more questions</b></p> <p>24 <b>about it.</b></p> <p>25 <b>But you are aware that your customers are given</b></p>	<p style="text-align: right;">Page 63</p> <p>1 MS. WINSPEAR: I have no questions. Thank</p> <p>2 you, though.</p> <p>3 MR. McMULLEN: All right. Thank you very</p> <p>4 much. The witness will read and sign.</p> <p>5 THE VIDEOGRAPHER: This will mark the end of</p> <p>6 the deposition at 5:30. I'm off the record.</p> <p>7 THE COURT REPORTER: Is this being ordered</p> <p>8 today?</p> <p>9 MR. PFAU: I'm not sure what you mean ordered</p> <p>10 today.</p> <p>11 THE COURT REPORTER: Are you ordering this</p> <p>12 transcript, deposition transcript?</p> <p>13 MR. PFAU: Is it being ordered?</p> <p>14 THE COURT REPORTER: Did you want a copy?</p> <p>15 MR. PFAU: Oh, yeah, of course.</p> <p>16 THE COURT REPORTER: Does anybody else need a</p> <p>17 copy?</p> <p>18 MR. PFAU: I don't know if anybody else needs</p> <p>19 it.</p> <p>20 MR. GOLDSTEIN: I do.</p> <p>21 MS. WINSPEAR: We'll take it.</p> <p>22 THE COURT REPORTER: All right. So everyone</p> <p>23 is ordering. Thank you.</p> <p>24</p> <p>25 (The Deposition concluded at 5:30 p.m.)</p>
<p style="text-align: right;">Page 62</p> <p>1 <b>instruction guides or manuals on your system that you</b></p> <p>2 <b>install?</b></p> <p>3 A. I've never seen a manual, no, sir.</p> <p>4 <b>Q. But are you aware of it?</b></p> <p>5 A. No, I've never seen one, so I'm not aware of it.</p> <p>6 <b>Q. Okay. That's not part of your job description to</b></p> <p>7 <b>review manuals about what they give to your</b></p> <p>8 <b>perspective clients and clients?</b></p> <p>9 A. No, sir.</p> <p>10 <b>Q. At Ferrellgas?</b></p> <p>11 A. No, sir.</p> <p>12 <b>Q. I'm sorry, I didn't hear you.</b></p> <p>13 A. No, sir.</p> <p>14 <b>Q. Thank you. Do you think that it was proper for Mario</b></p> <p>15 <b>to call Ferrellgas to have them inspect or come out</b></p> <p>16 <b>and run tests on his system?</b></p> <p>17 MR. McMULLEN: Object to form. Also asked</p> <p>18 and answered.</p> <p>19 You can answer.</p> <p>20 A. If he requested us to come out and do a -- Ferrellgas</p> <p>21 to come out and do a test, then, yes, it's proper.</p> <p>22 <b>Q. (By Mr. Goldstein) Okay. I Thank you very much for</b></p> <p>23 <b>your time. I don't have any further questions.</b></p> <p>24 MR. PFAU: I don't have any follow-up.</p> <p>25 MR. McMULLEN: Gina. Gina, any questions?</p>	<p style="text-align: right;">Page 64</p> <p>1 CERTIFICATE</p> <p>2</p> <p>3 I, Janice L. Tegarden, a Certified Court Reporter</p> <p>4 in and for the State of Washington, residing at Centralia,</p> <p>5 do hereby certify;</p> <p>6</p> <p>7 That the foregoing proceedings were taken before me</p> <p>8 and thereafter reduced to a typed format under my</p> <p>9 direction; that the transcript is a full, true, and</p> <p>10 complete transcript of said proceedings consisting of</p> <p>11 Pages 1 through 64.</p> <p>12</p> <p>13 That as a CCR in this state, I am bound by the</p> <p>14 Rules of Conduct as Codified in WAC 308-14-130; that court</p> <p>15 reporting arrangements and fees in this case are offered</p> <p>16 to all parties on equal terms.</p> <p>17</p> <p>18 That I am not a relative, employee, attorney or</p> <p>19 counsel of any party to this action, or relative or</p> <p>20 employee of any such attorney or counsel, and I am not</p> <p>21 financially interested in the said action or the outcome</p> <p>22 thereof;</p> <p>23</p> <p>24 That upon completion of signature, if required, the</p> <p>25 original transcript will be securely sealed and the same</p> <p>served upon the appropriate party.</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand</p> <p>this 11th day of September, 2020.</p> <p>_____ JANICE L. TEGARDEN Certified Court Reporter License No. 2073</p>

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<div style="text-align: center;">ALARIS LITIGATION SERVICES</div> <p>September 14, 2020</p> <p>MICHAEL MCMULLEN, ESQUIRE BAKER STERCHI COWDEN &amp; RICE 2400 E. PERSHING ROAD, SUITE 500 KANSAS CITY, MISSOURI 64108</p> <p>IN RE: JOSHUA GREEN v. FERRELLGAS INC ET AL</p> <p>Dear MICHAEL MCMULLEN:</p> <p>Please find enclosed your copies of the deposition of KELLY KITE taken on August 28, 2020 in the above-referenced case. Also enclosed is the original signature page and errata sheets.</p> <p>Please have the witness read your copy of the transcript, indicate any changes and/or corrections desired on the errata sheets, and sign the signature page before a notary public.</p> <p>Please return the errata sheets and notarized signature page to our office at 1608 Locust Street, Kansas City, MO 64108 for filing prior to trial date.</p> <p>Sincerely,</p> <p>JANICE L. TEGARDEN</p> <p>Enclosures</p>	<p>STATE OF _____)</p> <p>COUNTY OF _____)</p> <p>I, KELLY KITE, do hereby certify:</p> <p style="padding-left: 40px;">That I have read the foregoing deposition;</p> <p style="padding-left: 40px;">That I have made such changes in form and/or substance to the within deposition as might be necessary to render the same true and correct;</p> <p style="padding-left: 40px;">That having made such changes thereon, I hereby subscribe my name to the deposition.</p> <p>I declare under penalty of perjury that the foregoing is true and correct.</p> <p>Executed this _____ day of _____, 20____, at _____.</p> <p style="text-align: center;">_____ KELLY KITE</p> <p style="text-align: center;">_____ NOTARY PUBLIC</p> <p>My Commission Expires: _____</p>
<div style="text-align: center;">Page 66</div> <div style="text-align: center;">ERRATA SHEET</div> <p>Witness Name: KELLY KITE</p> <p>Case Name: JOSHUA GREEN v. FERRELLGAS INC ET AL</p> <p>Date Taken: AUGUST 28, 2020</p> <p>Page #_____ Line #_____</p> <p>Should read: _____</p> <p>Reason for change: _____</p> <p>Page #_____ Line #_____</p> <p>Should read: _____</p> <p>Reason for change: _____</p> <p>Page #_____ Line #_____</p> <p>Should read: _____</p> <p>Reason for change: _____</p> <p>Page #_____ Line #_____</p> <p>Should read: _____</p> <p>Reason for change: _____</p> <p>Page #_____ Line #_____</p> <p>Should read: _____</p> <p>Reason for change: _____</p> <p>Witness Signature: _____</p>	

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# **EXHIBIT “17”**

# Patient Comfort With Audio or Video Recording of Their Psychotherapy Sessions: Relation to Symptomatology, Treatment Refusal, Duration, and Outcome

Alexis M. Briggie, Mark J. Hilsenroth, Francine Conway, J. Christopher Muran, and Jonathan M. Jackson  
Derner Institute of Advanced Psychological Studies, Adelphi University

Despite the widespread use of audio or video recording in psychotherapy training and research, there has been surprisingly little exploration of patient reactions to the use of recordings in psychotherapy, and there is even less written about patient factors that influence their willingness to consent to recording practices or the impact of such a request on treatment. The present study examined the relationship between pretreatment patient symptomatology and patient attitudes toward the audio or video recording of psychotherapy sessions. Treatment refusal, duration, and outcome were also examined as they related to patient comfort with recording. A total of 390 participants completed an initial intake in a university-based community outpatient clinic. Pretreatment patient symptomatology was measured at the initial intake evaluation using the Brief Symptom Inventory (Derogatis, 1993), and patient attitudes toward audio or video recording were measured using an audio/videotape comfort form. The majority of patients expressed no or slight concerns (52%), and almost three quarters (71%) were willing to consider audio or video recording. It was found that higher levels of pretreatment interpersonal sensitivity and paranoia have a significant negative relationship to recording comfort (i.e., greater pathology related to lower comfort). However, treatment refusal, duration, and outcome were not significantly related to patient comfort with recording. Significant intake clinician effects were observed in regard to patient-rated comfort regarding audio or video recordings, indicating a relationship between patients' intake clinician and their level of comfort. Therapist effects were examined with regard to treatment refusal, duration, and outcome, and all results remained nonsignificant. This research has implications for and supports the implementation of audio- or video-recording practices in clinical training, research, and practice.

**Keywords:** training, audiotape, videotape, patient factors, therapist factors

Those interested in psychotherapy have long attempted to understand the complexities and nuances of that process. Different methodologies have been employed over time in an effort to

objectively capture the content and process of psychotherapy sessions. Early methods included the use of one-way mirrors and live supervision; more recently audio or video recordings have been

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used. Audio and video recording have provided a partial solution to the desire for an objective record of the psychotherapy process in that they provide permanent, undistorted, unbiased accounts of therapy sessions. Recording allows therapists to focus entirely on the patient and remain fully present in the room without having to worry about taking notes or memorizing the interaction. It also eliminates concerns about the unreliability of memory, perception, and thought (Schacter, 1999) that are inevitable when obtaining data from human memory.

In addition to audiotaping, videotaping opened up the capacity to study nonverbal behavior, such as gestures, body language, and postural configurations in the therapy room. Nonverbal behavior has long been recognized as a source of valuable information and can serve many important functions, including expressing emotions, communicating interpersonal attitudes, as well as accompanying as well as supporting speech (Argyle, 2013). Video recording enables the documentation of a more complete communication, that is, both verbal and nonverbal. On the other hand, despite its many advantages, video recording introduced a new dimension to the potential anxieties of therapists and patients surrounding evaluation and performance. Some of the first anecdotal reports of recording sessions stated that therapists were self-conscious about their voices and physical image being recorded (Redlich, Dollard, & Newman, 1950). Concerns about privacy and ethics were also a factor in some therapists' hesitancy to use the new technology. Schneider (1977) argued that observation constitutes an attack on privacy, and some early opponents of the technology suggested that the threat to privacy might even alter the psychotherapy process itself.

The majority of the early literature on recording of sessions was based on clinical anecdotes and opinion. Therefore, the conclusions drawn are open to the critique that they may be biased or subjective. Audio or video recording was first documented in the psychiatric literature in 1942 by Covner, who found that therapists with more experience were less disturbed by recording when compared with therapists with less experience (Covner, 1942). Harper and Hudson (1952) found that negative effects on patients were undetectable, and Lamb and Mahl (1956) found that therapists who were more disturbed by recording felt it affected them and their patients more. Roberts and Renzaglia (1965) found that patients made more positive self-references in the recording condition and more negative self-references in the no-recording condition. Overall, the anecdotal studies drew largely positive conclusions regarding the effects of recording on patients and therapists.

The empirical findings on the effects of audio or video recording on therapists have been mixed and often contradictory. Although much of the research on this subject is outdated or used a less-sophisticated methodology than would be employed in the present day, it does provide foundational knowledge that can inform current research and provide direction for future investigation. Some early empirical research on recording that has found negative effects on therapists included increased anxiety (Yenawine & Arbuckle, 1971), increased negative feelings (Poling, 1968a; Friedman, Yamamoto, Wolkon, & David, 1978), increased negative self-ratings of performance and decreased positive self-ratings of performance (Niland, Duling, Allen, & Panther, 1971), and increased heart rate (Roulx, 1969). Alternately, other early empirical studies found either neutral or positive effects of recording on therapists. Ellis, Krenkel, and Beck (2002) reported that recording

was not significantly associated with either anxiety or performance, and other researchers found that recording improved perception of self and others, with more positive ratings reported in the video-recording condition (Star, 1977). One study also reported greater perception congruence between therapists and their supervisors, meaning that therapist self-ratings were more similar to their supervisor's ratings of their performance after reviewing their recordings (Poling, 1968b). Different therapist variables have been found to mediate the effects of recording on therapists. Therapists who were below group mean on level of self-acceptance or acceptance of others used more negative terms to describe the recording experience (Walz & Johnston, 1963), and less-experienced therapists had more negative reactions (Covner, 1942). Therefore, an examination of therapist effects on patient attitudes regarding audio or video recording seems warranted.

In terms of empirical research regarding the effects of recording on patients, results were also found to be mixed and contradictory, including negative, neutral, and positive effects. Some research has found that recording increased inhibition (Gelso, 1973; Tanney & Gelso, 1972; Van Atta, 1969) and decreased satisfaction (Gelso, 1973) with therapy. On the other hand, other research has found that recording had no effect on anxiety (Bush, Bittner, & Brooks, 1972; Wiemann, 1981) and that patients reported positive reactions to the experience (Barnes & Pilowsky, 1969). It was also found that patients rated the impact of research overall to be positive and higher than did therapists (Marshall et al., 2001). Variables that were found to mediate the effects of recording on patients include (a) the nature of the presenting problem (patients anticipated that personal problems would be more inhibiting than would work or school problems, whereas the opposite pattern was actually found; Van Atta, 1969), (b) gender (females anticipated being more inhibited than did males; cf. Gelso, 1974), and (c) personality variables (more inhibited patients had higher levels of self-control, endurance, order, abasement, deference, and counseling readiness; Gelso & Tanney, 1972).

Although there has been some prior empirical research related to the effects of recording on therapists and patients, there is even less contemporary literature that addresses the factors that impact consent to audio- or video-recording mental health sessions. In a comprehensive review of the literature regarding factors influencing consent to having videotaped mental or medical health sessions, Ko and Goebert (2011) found only four studies that examined consent for videotaping within the field of mental health, and they elected to expand their review to include medical studies for this reason. In their review, two of the ways in which they classified study outcomes were by consent rate and consent factors. They found that none of the mental health studies examined consent factors, and only one study qualitatively looked at consent rate. In terms of patient feelings and behaviors, they reported that "most patients reported feeling comfortable being taped" (p. 200). They concluded (mainly on the basis of medical research) that the data are mixed about whether videotaping is inhibiting for psychiatric patients but were unable to draw any conclusions about any of the factors that influenced consent and indicated that further research is necessary to empirically determine the effects of recording on treatment, outcome, and factors impacting patients' willingness to consent to recording. The current study seeks to fill the gap in empirical findings related to consent to audio- or video-recording mental health sessions and the associated out-

come. This is the first study that quantitatively examines these factors in the mental health field, and it is our hope that it will provide the groundwork for further empirical exploration into a topic that has wide-reaching implications for psychotherapy training, research, and practice.

In the current study, we evaluated patient attitudes toward the audio or video recording of psychotherapy sessions and sought to investigate these in relation to several different research questions. First, are there different levels of patient comfort with audio- or video-recording sessions? Do all patients feel the same way about having their psychotherapy audio- or videotaped, or is there some variation in their attitudes? Second, does pretreatment symptomatology have a relationship to patient comfort with audio- or video-recording sessions? Are there certain symptom clusters or characteristics that are associated with attitudes about treatment being recorded? Third, do different levels of patient comfort with audio- or video-recording sessions have a relationship to entering into treatment and its duration? Would patients who are highly opposed to the idea of audio- or videotaping psychotherapy sessions be repelled by even the inquiry, and might this impact whether or not they return for treatment? Fourth, do different levels of patient comfort with audio- or video-recording sessions have a relationship to treatment outcomes? Related to our third question, if patients who are highly opposed to the idea of audio- or videotaping psychotherapy sessions did enter treatment, would asking them about their comfort around this issue impact their subsequent therapy outcomes negatively? Fifth, is patient comfort with audio- or video-recording sessions effected by the clinician they are working with? That is, does a particular clinician's style, training, experience, ability, or skill in discussing the issues related with audio- or video-recording sessions have an impact on patient-reported comfort level? On the basis of the prior research reviewed, we hypothesized that that patients who have stronger concerns about being audio- or video-recorded would exhibit higher levels of pretreatment global pathology. We also hypothesized that patients with stronger concerns about audio or video recording would exhibit higher levels of treatment refusal, shorter duration, and less-effective treatment outcome compared with patients who are less concerned with audio or video recording. Finally, given the literature on therapist effects (Adelson & Owen, 2012; Baldwin & Imel, 2013; Owen, Drinane, Idigo, & Valentine, 2015), we expected that there would be significant clinician effects present in regard to patient-rated comfort regarding audio or video recordings.

## Method

### Participants

Participants were 390 individuals who received services from a university-based Center for Psychological Services (CPS) between June 2000 and June 2011. CPS is a university-based, community mental health clinic that serves as a training site for the doctoral program in clinical psychology at Adelphi University. The clinic is staffed by doctoral students supervised by the program's faculty, as well as adjunct PhD-level clinical psychologists. All patient data was deidentified prior to archival data collection. Study methods were approved by the university's Institutional Review Board.

Demographics were consistent with populations typically seen at university-based outpatient clinics and are displayed in Table 1. Seventy-nine percent of patients were female, and the average age

Table 1  
Demographic Information of the Patient Sample ( $N = 390$ )

Variable	%	<i>n</i>	<i>M</i>	<i>SD</i>
Gender				
Male	21	82		
Female	79	308		
Marital status				
Single	74	290		
Married	10	40		
Cohabiting	6	23		
Divorced/widowed	7	26		
Separated	3	11		
Primary Axis I diagnosis				
Adjustment disorder	7	27		
Anxiety disorder	23	91		
Eating disorder	4	15		
Mood disorder	35	137		
Substance-related disorder	2	9		
Other	28	70		
None	10	40		
Axis II diagnosis				
Present	23	88		
Absent	77	302		
Age			29.02	10.73
Years of education			15.54	2.06
Number of sessions			25.64	29.31
Psychiatric severity BSI-GSI (at intake)			1.08	0.63

Note. BSI-GSI = global severity index of the Brief Symptom Inventory.

of patients at intake in the center was 29.02 years ( $SD = 10.73$ ). The average number of sessions in the clinic per patient was 25.64. Of the patients included in the database, 72% were Caucasian, 11% were African American, 8% were Hispanic, 3% were Asian patients, and 4% of patients identified as "other." The majority of patients in the sample (74%) were single, 10% were married, 7% were divorced or widowed, 6% were living with a partner, and 3% were separated. Fifty-seven percent of participants were current undergraduate or graduate students. The average number of years' education completed was 15.54 ( $SD = 2.06$ ). The most common primary diagnoses included mood disorder (35%) and anxiety disorder (23%), and Axis II disorders according to the *Diagnostic and Statistical Manual of Mental Disorders* (4th ed.; American Psychiatric Association, 1994) were present in 23% of patients in the sample. Diagnoses were determined by the clinician conducting the intake interview and were based on a semistructured interview. In the sample, there were 168 intake clinicians and 152 treating therapists. Out of the totals, 103 intake clinicians and 100 treating therapists conducted one or more sessions with more than one patient.

### Measures

**Brief Symptom Inventory (BSI; Derogatis, 1993).** The BSI was used to assess pretreatment patient symptomatology at intake session and treatment outcome measured at termination. The BSI is a 53-item self-report measure that reflects psychological symptom patterns, and it consists of nine primary symptom dimensions (somatization, obsessive-compulsive, interpersonal sensitivity, depression, anxiety, hostility, phobic anxiety, paranoid ideation, and psychoticism) and three global indices of distress (global severity index, positive symptom distress index, and positive symptom



total). The BSI has been shown to have high test–retest reliability and internal consistency reliability ( $\alpha = .71-.85$ ; Derogatis, 1993) as well as convergent, discriminant, and construct validity. In the present study, treatment severity was measured using the global severity index (GSI). The mean nonclinical GSI score as provided by Derogatis (1993) is .30 ( $SD = .31$ ), and test–retest reliability utilizing an outpatient sample was .90. The mean pretreatment GSI for the current sample was 1.08 ( $SD = .63$ ).

**Audio/videotape comfort form.** Patient attitudes toward audio/videotaping were measured using the audio/videotape comfort form, developed specifically for this purpose at the training clinic described earlier (see Appendix for full text of the form). The questionnaire provides an explanation of potential audio or video recording, including how it will be used, who will have access to it, and how it will be stored. The form included the open-ended statement “In considering how I might respond to being asked for permission to make audio and/or video recordings of the services I receive for training/educational purposes only . . .,” for which there were five response options. The five options rated participants’ degree of comfort with videotape on a 5-point scale ranging from 5 (*no serious objections*) to 1 (*vehement objections*;  $\alpha = .70$ ,  $N = 390$ ).

## Procedure

Participants voluntarily sought and were accepted for individual psychotherapy at the clinic. Certain exclusion criteria were applied, including acute suicidality, psychosis, or other severe mental illness requiring significant psychopharmacology (in which case an outside referral was made).

Intake interviews were conducted by doctoral-level graduate students under the supervision of licensed clinical psychologists. At the beginning of the intake interview, all patients received written information regarding privacy policies and a clinic fact sheet that included details about staffing, fees, psychotherapy research, diagnostic testing, and confidentiality. At the conclusion of the intake interview, patients were asked to complete two forms: (1) an initial Brief Symptom Inventory (BSI) and (2) the audio/videotape comfort form. When patients were given these forms, they were verbally informed by the intake therapist that audio or video recording of sessions is not a requirement for treatment at this clinic. It should be noted that patients who completed the audio/videotape comfort form did not necessarily undergo recording procedures. That is, not all patients who expressed comfort with audio or video recordings were asked to do so by their therapist. Thus, the current study assessed patient *comfort* with recording, which was measured (a) prior to beginning any treatment and (b) with the knowledge that recording was not a requirement of the clinic. Therefore, this study offers a better assessment of patient attitudes toward this procedure than does one at a clinic where treatment is predicated on informed consent for actual recordings that are required in order to receive services (i.e., potential bias or coercion that may increase acquiescence). After the intake procedure, if patients did not meet the previously mentioned exclusion criteria for treatment at the clinic, they were assigned a therapist on the basis of schedule and availability. Treatment provided was under the supervision of licensed psychologists and was primarily psychodynamic in orientation.

**Treatment refusal and duration.** Treatment refusal and duration data were collected from the number of attended sessions recorded in the patient chart. The data was examined in two ways. First, treatment refusers attended only the initial intake interview but did not attend any psychotherapy sessions (i.e., number of sessions attended = 0). Treatment duration was defined as the number of psychotherapy sessions attended beyond the initial intake interview.

**Collection of archival data.** This study analyzed archival data collected between June 2000 and June 2011. All 390 patients included in the analysis completed an intake evaluation at the clinic, audio/videotape comfort form, and Brief Symptom Inventory (BSI) as part of the intake process. The forms were returned to the graduate clinicians conducting the intake interview. Responses on both forms were then entered into the clinic database by an advanced doctoral student who was neither the treating therapist nor the intake interviewer. Information pertaining to session number was obtained by a retrospective chart review of attendance and billing records.

## Data Analyses

Bivariate Pearson  $r$  correlations were used to determine whether pretreatment symptom dimensions of the BSI were significantly related ( $p < .05$ ; two-tailed) to comfort with audio or video recording. According to Cohen (1988), effect sizes for Pearson correlations are categorized as small if  $r > .10$ , medium if  $r > .30$ , and large if  $r > .50$ . In addition, for within-group pre–post comparisons, effect size ( $d$ ) using pooled standard deviation weighted for  $n$  was calculated for each comparison. According to (Cohen, 1988), effect sizes for  $d$  are categorized as small if  $d > 0.20$ , moderate if  $d > 0.50$ , and large if  $d > 0.80$ . Effect size and clinical significance were obtained and are displayed in terms of overall sample and according to comfort with audio or video recording.

In relation to the calculation of clinical significance, the reliable change index (RCI) for the BSI–GSI was determined using the method outlined in Jacobson and Truax (1991) and in Jacobson, Roberts, Berns, and McGlinchey (1999):

$$RCI = \frac{X_1 - X_2}{Sdiff},$$

where  $X_1$  = pretest score;  $X_2$  = posttest score;  $Sdiff = \sqrt{2(SE^2)}$ ;  $SE = s1 \sqrt{(1 - r_{xx})}$ ;  $s1$  = the standard deviation of control group, normal population, or pretreatment group; and  $r_{xx}$  = the test–retest reliability. If  $RCI \geq 1.96$ , then it is likely that the change was reliable ( $p < .05$ ). RCI was employed for the BSI–GSI and adjusted in order to control for regression to mean and measurement error (Speer, 1992). We favored this approach because this parameter is a more-conservative value of change than is simply comparing pre- and posttreatment scores. Reliable change (RC) and clinically significant change (CSC) was determined using methodology by Jacobson and Truax (1991) by a two-stage process in which (a) the change must be proven to be statistically reliable (RCI; see earlier formula) and (b) the individual must pass from the dysfunctional to the functional distribution.

Because multiple participants were administered the audio/videotape comfort form and pretreatment BSI forms by the same clinician, and because multiple participants were treated by the same therapist, we utilized multilevel models for several different



analyses. That is, we examined the variation in the effectiveness of clinicians and the nonindependence of patients seen by the same clinician (i.e., patients nested within clinician). The variance explained due to each clinician's cases within the entire sample was controlled for. This approach addresses the hierarchical structure of psychotherapy data by accounting for the lack of independence in patients' scores (Adelson & Owen, 2012; Raudenbush & Bryk, 2002). All statistical analyses were conducted using Hierarchical Linear and Nonlinear Modeling, Version 6 (HLM6) (Raudenbush, Bryk, Cheong, & Congdon, 2005).

To test for therapist effects (i.e., to examine variance accounted for by intake clinicians or therapists in videotape comfort and outcome ratings), we constructed seven baseline models (e.g., a model where the criterion variable was entered with no predictor variables). These models quantify the variability due to intake clinicians or therapists in terms of audio- or video-recording comfort, treatment refusal, number of sessions attended, RC of the BSI-GSI, and CSC. These baseline models allowed for the calculation of the residual intraclass correlation (ICC), which determined whether intake clinicians or therapists differed in their patients' average ratings of audio- or video-recording comfort, GSI scores, and withdrawal rates.

To examine our analyses in a multivariate context, we conducted six fixed effects multilevel models where audio- or video-recording comfort was the predictor variable at Level 1 (grand-mean-centered) and BSI-GSI, treatment refusal, treatment duration, RC, CSC, and number of sessions were the respective criterion variables.

## Results

### Are There Different Levels of Patient Comfort With Recording Sessions?

In the overall sample ( $N = 390$ ), 33% ( $n = 130$ ) of participants reported having no objections to audio or video recording on the audio/videotape comfort form, 19% ( $n = 73$ ) had slight concerns, 19% ( $n = 75$ ) had moderate concerns, 13% ( $n = 51$ ) had strong concerns, and 16% ( $n = 61$ ) had vehement objections. Therefore, a range of different patient comfort levels with audio or video recording of sessions was observed. In sum, the majority of patients expressed no or slight concerns (52%), and almost three quarters (71%) were willing to consider audio or video recording after discussion with their therapist.

### Does Pretreatment Symptomatology Have a Relationship to Patient Comfort With Recording Sessions?

Pretreatment symptom dimensions of the BSI were examined in relation to patient ratings of comfort with audio or video recording (see Table 2). Two of the symptom dimensions, interpersonal sensitivity and paranoid ideation, were found to be significantly negatively correlated with comfort with audio or video recording ( $p = .002$ ;  $p = .033$ , respectively), meaning that higher levels of interpersonal sensitivity and higher levels of paranoid ideation were associated with lower levels of comfort with audio or video recording. However, the effects of these relationships were relatively small (i.e.,  $r = -.15$  and  $r = -.11$ , respectively), and their

Table 2

*Relationship Between Pretreatment Patient Symptomatology and Audio/Videotape Comfort ( $N = 390$ )*

Pretreatment symptomatology	Pretreatment		Audio/videotape comfort	
	<i>M</i>	<i>SD</i>	<i>r</i>	<i>p</i>
Somatization	0.630	0.643	-.090	.076
Obsessive compulsive	1.500	0.943	-.048	.345
Interpersonal sensitivity	1.416	1.052	-.154	.002*
Depression	1.380	0.936	-.044	.391
Anxiety	1.209	0.879	-.080	.116
Hostility	0.957	0.830	-.041	.418
Phobic anxiety	0.544	0.709	-.097	.056
Paranoid ideation	1.025	0.826	-.108	.033*
Psychoticism	1.006	0.783	-.085	.093
Positive symptom total	28.356	11.378	-.065	.203
Positive symptom distress index	1.871	0.556	-.068	.179
Global severity index	1.077	0.637	-.090	.076

*Note.* Negative correlation represents greater psychopathology with lower audio/videotape comfort scores.

\*  $p < .05$ .

clinical utility seems quite limited. None of the other symptom dimensions (somatization, obsessive-compulsive, depression, anxiety, hostility, phobic anxiety, psychoticism) were significantly correlated with audio- or video-recording comfort and all showed negligible effects.

### Do Different Levels of Patient Comfort With Recording Sessions Have a Relationship to Entering Into Treatment and Its Duration?

Rates were determined for treatment refusers (i.e., individuals who completed the initial intake session only and did not return for psychotherapy treatment;  $n = 61$ , 16%) and compared with treatment acceptors (i.e., those who started treatment and attended at least one session;  $n = 329$ , 84%) in the overall sample ( $N = 390$ ). Rates were then compared for treatment refusers and treatment acceptors according to audio- or video-recording comfort endorsement rating. Of the 61 treatment refusers, 33% ( $n = 20$ ) reported no objections to audio or video recording, 13% ( $n = 8$ ) reported slight concerns, 18% ( $n = 11$ ) reported moderate concerns, 13% ( $n = 8$ ) reported strong concerns, and 23% ( $n = 14$ ) reported vehement objections. For the 329 treatment acceptors, 33% ( $n = 110$ ) reported no objections, 20% ( $n = 65$ ) reported slight concerns, 19% ( $n = 64$ ) reported moderate concerns, 13% ( $n = 43$ ) reported strong concerns, and 14% ( $n = 47$ ) reported vehement objections. A  $5 \times 2$  chi-square comparing treatment refusers versus treatment acceptors across the five levels of audio- or video-recording comfort was not significant,  $\chi^2(4) = 3.74$ ,  $p = .442$ ,  $N = 390$ ;  $\phi = 0.10$ , reflecting very similar rates of treatment refusal across the five levels of audio- or video-recording comfort for both groups. In addition, number of sessions attended was not significantly correlated with audio- or video-recording comfort ( $r = .06$ ,  $p = .23$ ), indicating no meaningful relationship between audio- or video-recording comfort reported by patients and the eventual number of sessions they attended in treatment.

### Do Different Levels of Patient Comfort With Recording Sessions Have a Relationship to Treatment Outcomes?

Mean intake and posttreatment GSI clinical scores were compared for the participants who completed both the intake and final BSI (i.e., the treatment sample) for each of the five audio- or video-recording comfort endorsement groups and corresponding effect sizes (see Table 3). In order to be most conservative with regard to outcome, we included last observation carried forward of any follow-up patient BSI in our outcome analyses. Patients in all groups showed significant change, with the overall treatment sample improving significantly between pre- and posttreatment scores overall, with a moderate effect size suggesting meaningful psychotherapeutic benefit. Paired *t* tests for each of the levels of audio/video-recording comfort confirmed significant differences between all of the pre- to posttreatment mean GSI scores, and moderate effect sizes were observed for all groups (range:  $d = 0.43$ – $0.63$ ;  $r = .21$ – $.30$ ).

A one-way analysis of variance (ANOVA) comparing the pretreatment means across the five groups was not significant,  $F(4, 238) = 0.89$ ,  $p = .473$ , indicating that all groups began treatment with equivalent levels of disturbance (i.e., level of pretreatment pathology did not vary according to level of comfort with audio or video recording). The posttreatment mean GSI scores across the five groups were also compared using a one-way ANOVA, and no statistically significant differences were found,  $F(4, 238) = 0.774$ ,  $p = .543$ , between the groups of varying audio- or video-recording comfort endorsement, indicating that level of pathology posttreatment also did not differ according to audio- or video-recording comfort.

Table 4 shows the number and percentage of patients both overall and at each of the five levels of patient audio- or video-recording comfort endorsement who (a) achieved reliable change (RC; amount of reliable change accounting for measurement error and regression to the mean), (b) returned to the normal distribution, (c) achieved clinically significant change (CSC; positive for both prior conditions *a* and *b*), and (d) showed deterioration (RCI <  $-1.96$ ). In the overall sample, 30% achieved reliable change, 69% returned to the normal distribution, 23% achieved clinically significant change, and 5% showed deterioration. A  $5 \times 4$  chi-square was performed, comparing clinical significance across the five levels of audio- or video-recording comfort. Differences in RC, return to normal distribution, CSC, and deteriora-

tion across levels of comfort were found to be not significant,  $\chi^2(12) = 2.93$ ,  $p = .996$ ,  $n = 243$ ;  $\phi = 0.06$ , reflecting similar rates of clinical significance across levels of audio- or video-recording comfort.

Number of sessions attended by patients was found to have a nonsignificant relationship with the BSI–GSI reliable change index (RCI;  $r = .12$ ,  $p = .07$ ), albeit a small effect relation between length of attendance in psychotherapy and benefit from treatment. In addition, the dimensional relationship between audio- or video-recording comfort with BSI–GSI RCI was also nonsignificant ( $r = .02$ ,  $p = .77$ ), indicating no meaningful relationship between audio- or video-recording comfort reported by patients and the eventual gains they achieved in treatment.

### Is Patients' Comfort With Recording Sessions Affected by the Clinician They Are Working With?

To test for clinician effects (i.e., to examine variance accounted for by clinicians in audio/video-recording comfort and outcome ratings), seven baseline models (e.g., a model where the criterion variable was entered with no predictor variables) were constructed (see Table 5). These models quantify the variability due to clinicians in terms of audio- or video-recording comfort, treatment refusal (calculated for intake clinicians), treatment duration (calculated for treating therapists), BSI–GSI–RCI scores (the amount of reliable change observed over the course of treatment on the global severity index of the Brief Symptom Inventory accounting for measurement error and regression to the mean), patient achievement of reliable change (RC), and clinically significant change (CSC). These baseline models allowed for the calculation of the residual intraclass correlation (ICC), which determined whether clinicians differed in their patients' average ratings on each of the seven criterion variables: audio- or video-recording comfort, treatment refusal, treatment withdrawal, number of sessions attended, BSI–GSI–RCI scores, patient achievement of RC, and CSC. The ICC<sub>therapist</sub> for these seven models were audio- or video-recording comfort (0.146,  $p = .002$ ), treatment refusal (0.06,  $p = .42$ ), number of sessions (0.003,  $p = .372$ ), BSI–GSI–RCI (0.017,  $p > .50$ ), RC (0.001,  $p > .50$ ), and CSC (0.0002,  $p > .50$ ). These findings suggest that intake clinicians accounted for a significant proportion of the variance (15%) in relation to patient ratings of audio- or video-recording comfort. However, subsequently the intake clinicians and therapists did not account for a significant portion of the

Table 3  
Treatment Outcome for Sample and Effect Size by Patient Audio/Videotape Comfort Endorsement

Variable	Pretreatment GSI: <i>M</i> ( <i>SD</i> )	Posttreatment GSI: <i>M</i> ( <i>SD</i> )	Pre- to posttreatment paired <i>t</i> test		Pre- to posttreatment effect size	
			<i>t</i>	<i>p</i>	<i>d</i> [CI]	<i>r</i> [CI]
Overall $n = 243$	1.07 (0.61)	0.76 (0.59)	−8.31	<.0001	.52 [0.46, 0.57]	.25 [0.20, 0.30]
Audio/videotape comfort						
No objection $n = 80$	1.03 (0.59)	0.75 (0.59)	−4.98	<.0001	.48 [0.39, 0.57]	.23 [0.14, 0.32]
Slight concerns $n = 46$	0.96 (0.54)	0.67 (0.69)	−3.11	.003	.47 [0.35, 0.60]	.23 [0.10, 0.35]
Moderate concerns $n = 50$	1.09 (0.59)	0.74 (0.54)	−4.98	<.0001	.63 [0.52, 0.74]	.30 [0.19, 0.41]
Strong concerns $n = 32$	1.13 (0.70)	0.88 (0.46)	−2.03	.05	.43 [0.29, 0.57]	.21 [0.06, 0.35]
Vehement objections $n = 35$	1.19 (0.68)	0.84 (0.63)	−3.39	.002	.54 [0.39, 0.69]	.26 [0.11, 0.41]

Note. GSI = global severity index; *d* = standardized mean difference using pooled standard deviation (Cohen, 1988); CI = confidence interval.

Table 4

*Treatment Outcome for Sample in Terms of Clinical Significance and by Patient Audio/Videotape Comfort Endorsement*

Variable	Reliable change	Return to normal distribution	Clinically significant change	Deterioration
Overall $n = 243$	30 (74)	69 (168)	23 (57)	5 (12)
Audio/videotape comfort				
No objection $n = 80$	30 (24)	66 (53)	21 (17)	6 (5)
Slight concerns $n = 46$	30 (14)	80 (37)	28 (13)	4 (2)
Moderate concerns $n = 50$	34 (17)	72 (36)	28 (14)	2 (1)
Strong concerns $n = 32$	25 (8)	66 (21)	19 (6)	6 (2)
Vehement objections $n = 35$	31 (11)	60 (21)	20 (7)	6 (2)

*Note.* Data are given as percentages, with  $n$  values in parentheses.

variance in relation to treatment refusal, treatment duration, or outcomes determined by BSI-GSI-RCI, RC, or CSC.

To extend our findings in a multivariate context, we conducted six fixed effects multilevel models where audio/video-recording comfort was the predictor variable at Level 1 (grand-mean-centered) and BSI-GSI-RCI, treatment refusal, treatment duration, RC, and CSC were the respective criterion variables. The results were consistent with our previous analyses and showed that none of the variables related to outcome were significantly associated with audio- or video-recording comfort even after controlling for clinician variance (see Table 6).

## Discussion

The current findings are clearly important to the field and have implications for clinical training, research, and practice. Our results suggest that most patients report feeling relatively comfortable with audio or video recording when it is discussed in relation to training and in the context of appropriate safeguards to confidentiality. This information is helpful in that it may alleviate therapists' and trainees' anxiety about introducing audio or video recording to patients. Furthermore, findings that patients who expressed discomfort with audio or video recording were not significantly more likely to refuse treatment, attend fewer sessions, or have negative treatment outcome could also reassure clinic administrators, therapists, and trainees that it is unlikely negative

outcomes will result from asking patients if they would consider audio or video recording. Finally, understanding patient and therapist factors that may impact attitudes toward audio or video recording may help inform choices about how to introduce this subject.

Since the earliest research involving audio or video recording, it has been reported that some therapists have been reluctant to use recording techniques, citing patient resistance as the primary reason. However, anecdotal research has repeatedly suggested that therapists may actually be more reluctant than patients to being audio- or video-recorded (e.g., Alpert, 1996; Chodoff, 1972; Zabarenko, Magero, & Zabarenko, 1977). There has not been sufficient empirical research conducted in the mental health field to either support or refute these claims. Therefore, we wanted to directly examine patient attitudes toward audio or video recording in a mental health clinic.

## Are There Different Levels of Patient Comfort With Recording Sessions?

We found that the majority of patients reported no objections to audio/video recording (33%), and almost three quarters of patients (71%) were willing to consider audio or video recording after consultation and discussion with their clinician, more than half of whom (52%) expressed no or slight concerns, and less than one third of patients (29%) expressed high levels of discomfort with audio or video recording. This suggests that for the most part, patients are

Table 5

*Percentage of Variance in Audio/Videotape Comfort, Treatment Refusal, Length, and Outcome Attributable to Therapist Effects*

Variable	Intercept coefficient (SE)	ICC <sub>therapist</sub>	$\chi^2$ for therapist random effects	$p$
Audio/videotape comfort	2.41 (0.08)	.146	227.05	.002
Treatment refusal <sup>a</sup>	1.76 (0.15)	.06	170.05	.42
Number of sessions attended <sup>b</sup>	26.72 (1.55)	.003	128.51	.372
Amount of reliable change in BSI-GSI	-0.002 (0.13)	.017	103.02	>.50
Achieving reliable change	-0.83 (0.14)	.001	109.64	>.50
Achieving clinically significant change	-1.18 (0.15)	.0002	93.17	>.50

*Note.* Patient  $n = 243$ ; intake clinician  $n = 168$ ; therapist  $n = 152$ . ICC = intraclass correlations; BSI-GSI = global severity index of the Brief Symptom Inventory (BSI). *Therapist* refers to intake clinician for the audio/videotape comfort and treatment refusal variables and to treating therapist for number of sessions, global severity index, achieving reliable change, and achieving clinically significant change.

<sup>a</sup> Sessions attended beyond the intake = 0. <sup>b</sup> Sessions > 0.

Table 6  
Testing Audio/Videotape Comfort and Outcome Correlations in a Multivariate Context

Fixed effects	Coefficient (SE)	p
Treatment refusal		
Intercept ( $\gamma_{00}$ )	0.85 (0.02)	.000
Audio/videotape comfort ( $\gamma_{10}$ )	0.01 (0.01)	.332
Number of sessions		
Intercept ( $\gamma_{00}$ )	26.71 (1.55)	.000
Audio/videotape comfort ( $\gamma_{10}$ )	1.07 (1.1)	.330
Amount of reliable change in BSI-GSI		
Intercept ( $\gamma_{00}$ )	-0.002 (0.13)	.991
Audio/videotape comfort ( $\gamma_{10}$ )	-0.02 (0.09)	.83
Achieving reliable change		
Intercept ( $\gamma_{00}$ )	0.30 (0.03)	.000
Audio/videotape comfort ( $\gamma_{10}$ )	0.0008 (0.02)	.971
Achieving clinically significant change		
Intercept ( $\gamma_{00}$ )	0.23 (0.02)	.000
Audio/videotape comfort ( $\gamma_{10}$ )	0.005 (0.02)	.751

Note. Patient  $n = 243$ ; intake clinician  $n = 168$ ; therapist  $n = 152$ . BSI-GSI = global severity index of the Brief Symptom Inventory.

comfortable with the idea of audio- or video-recording psychotherapy sessions when properly informed about its use and protections of privacy or confidentiality according to the standards of the American Psychological Association (2011) and the Health Insurance Portability and Accountability Act (1996). This information is valuable for academic programs and clinics because it opens up the possibility of using these tools more widely for training and research purposes.

The current findings are highly consistent with research conducted by Bain and Mackay (1993) in a general medical practice, which reported that 54% of patients agreed to having videotaped medical visits. Although Bain and Mackay's study is in the medical rather than mental health field, it is almost identical to the present study in that they examined patient attitudes, with 52% having no or slight concerns. The present study is also consistent with the findings of Marshall and colleagues (2001), who found that 64% of the participants approached were willing to participate in research that involved the audiotaping of psychotherapy sessions. This prior work is complementary to the present study in that it involved participants' agreeing to the actual recording rather than eliciting patient attitudes toward recording.

### Does Pretreatment Symptomatology Have a Relationship to Patient Comfort With Recording Sessions?

Given the sparse prior research on pretreatment symptomatology and patient attitudes toward audio- or video-recording psychotherapy sessions, we sought to test these associations. We found that patients who have less comfort about being audio- or video-recorded (i.e., greater audio- or video-recording discomfort) were more likely to exhibit significantly higher levels of paranoid ideation and interpersonal sensitivity. These symptom dimensions associated with higher levels of audio- or video-recording discomfort do not seem to be surprising and are fairly consistent with prior anecdotal research that has suggested audio or video recording may not be allowed by patients who are paranoid, psychotic, or personality disordered (Falzone, Hall, & Beresin, 2005) and that

patients who refused to be videotaped "tended to be grandiose or paranoid" (Kornfeld & Kolb, 1964, p. 458). Although, again, it must be stressed that these were small effects ( $r < .16$ ), and therefore their clinical utility may be limited.

### Do Different Levels of Patient Comfort With Recording Sessions Have a Relationship to Entering Into Treatment and Its Duration?

The rates of treatment refusal (16%; session = 0) and acceptance (84%; session > 0) in the present study are consistent with or slightly below those of past studies that have examined this construct and defined it in the same way (i.e., failure to return for the first psychotherapy session following the initial intake interview). Refusal rates of 24% (Betz & Shullman, 1979), 19% (Krauskopf, Baumgardner, & Mandracchia, 1981), and 22% (Kokotovic & Tracey, 1987) have been observed in university counseling center settings. In comparing the rates of treatment refusal and treatment acceptance across the five levels of audio- or video-recording comfort, no significant differences were found between groups. This contradicts our hypothesis that participants with higher levels of audio- or video-recording discomfort would have higher rates of treatment refusal. This finding suggests that even patients who are highly opposed to the idea of audio- or video-recording psychotherapy sessions are not repelled by the inquiry, and it does not impact whether they return for treatment. Like the findings for treatment refusal, number of sessions attended was not found to be significantly related to audio- or video-recording comfort, which does not support the hypothesis that less audio- or video-recording comfort is associated with shorter duration. Again, this suggests that regardless of patients' comfort levels with audio or video recording, their subsequent duration in treatment is not based on this factor.

### Do Different Levels of Patient Comfort With Recording Sessions Have a Relationship to Treatment Outcomes?

Overall, patients in our sample demonstrated significant improvements, with moderate effects over the course of treatment, that are highly comparable to those of other large naturalistic studies of outpatient psychotherapy provided at university-based clinics (Draper, Jennings, Baron, Erdur, & Shankar, 2002; Snell, Mallinckrodt, Hill, & Lambert, 2001), although no significant differences in outcome according to level of audio- or video-recording comfort were observed. This finding suggests that despite any initial differences in symptomatology (e.g., levels of paranoid ideation and interpersonal sensitivity) between those with high and low levels of audio- or video-recording comfort, there were no eventual differences in treatment outcome or amount of improvement. Further, this may suggest that the psychotherapy treatment provided in the current study was able to address any potential initial concerns and provide symptom relief and overall improvement.

### Is Patients' Comfort With Recording Sessions Affected by the Clinician They Are Working With?

In an examination of therapist effects in relation to audio- or video-recording comfort ratings and outcome, there was a signif-



icant therapist (i.e., intake clinician) effect present with regard to patient ratings of audio- or video-recording comfort. That is, about 15% of the variance in patients' ratings of audio- or video-recording comfort was attributable to who their intake clinician was. However, again, even accounting for the effect of patients' intake clinician, or subsequently their assigned therapist, there were still no significant associations between audio- or video-recording comfort and any of the variables related to treatment refusal, duration, and outcome. That is, although there was a significant relationship between who conducted the clinical intake assessment and audio- or video-recording comfort, when these effects were tested in a multivariate context and controlled for, the findings related to audio- or video-recording comfort were non-significant (and all other variables remained nonsignificant as well). The initial finding of an association between audio- or video-recording comfort and an intake clinician effect is important to explore further in terms of what specific therapist characteristics may have contributed to these differential levels of patient comfort with recording practices. It is possible that therapist experience may have played a role, as is suggested by prior research demonstrating different rates of withdrawal from psychotherapy on the basis of therapists' experience level (Swift & Greenberg, 2012). Although all clinicians in the present study were trainees, the level of training they acquired prior to or during enrollment in a doctoral program may have varied somewhat.

Given the initial finding of an association between patient audio- or video-recording comfort and intake clinician (i.e., therapist) effects, it is important to not only explore potential causes but to prophylactically address, where possible, gaps in training and/or procedural issues that may have contributed to this association. Prior anecdotal research in the mental health field has suggested that patients are more likely to agree to recording procedures when they are given a full explanation (Alpert, 1996). It is possible that some patients in the current study were not given as full or detailed follow-up explanation of the audio/videotape comfort form and its related training and research purposes as others were due to factors such as time constraints or perhaps even a lack of therapist commitment to audio- or video-recording research and training. These clinician differences may be reduced by providing more-comprehensive training to trainees about the importance of audio- or video-recording practices for research and training purposes. In addition, it may be valuable to ascertain a clinician's attitude toward audio or video recording. For instance, if a clinician's attitude toward audio or video recording was found to have an effect on patient level of comfort, additional education about the utility of audio or video recording research could be provided early on in the training program.

Despite being the first empirical examination of this issue in the literature, the current study does have some limitations. First, this sample primarily suffered from mild to moderate levels of distress and impairments in functioning (mean intake GSI = 1.08,  $SD$  = 0.63). In order to make these results more generalizable to other samples, further research is needed to examine populations with higher levels of global distress and greater functional impairment. The sample was also limited by its relative homogeneity: The majority of participants were female (79%), Caucasian (72%), and highly educated (mean years' education = 15.54). It would be important for future research to explore potential differences in a sample with more demographic diversity. All of the clinicians

included in the study were doctoral-level trainees, and further research should be conducted to examine how intake clinician and therapist level of experience may impact patient attitudes toward audio or video recording. Given the intake clinician (i.e., therapist) effect findings in the current data regarding this issue, it is suspected that some clinicians were either more informed or more invested in the process of administering the audio/videotape comfort form at the intake session (i.e., it is possible that some clinicians took more time to explain the form and answer any questions the patient may have had and even followed up with questions when the patient had none). In addition, clinicians' own attitudes toward audio or video recording may have been communicated either explicitly or implicitly to patients, which may have had an effect on patient attitudes. These factors should be explored in terms of how clinician knowledge and bias (specific to the form) may have impacted patient attitudes.

In addition to future research addressing limitations of the current study, there are other areas that would be useful to investigate. It may be important for future research to investigate additional patient and therapist characteristics as they relate to patient audio- or video-recording comfort in order to see if there are any other patient-level variables beyond levels of symptomatology (e.g., demographics, personality traits) that may contribute to different levels of comfort with recording. Furthermore, this study examined only patient comfort with audio or video recordings, and at the beginning of the treatment process. However, only some of the patients who expressed a comfort with recording their psychotherapy subsequently had their sessions audio- or videotaped. It is important for future research to examine the relationship between these pretreatment attitudes, as well as whether these attitudes change longitudinally over the course treatment, for patients who subsequently do and do not have their sessions recorded. Additionally, although the effect of the intake clinician and therapist were examined in the current study using HLM analyses, little is known about what specific therapist characteristics may have impacted the findings. A more-thorough investigation into therapist characteristics would be useful in terms of targeting training efforts. This area of research would also benefit from exploration into the effectiveness of interventions designed to increase both patient and therapist levels of comfort with recording practices. Prior research has suggested that many patients (Marshall et al., 2001) and therapists (Yenawine & Arbuckle, 1971) acclimate to the recording process quickly, within a few sessions, and it would be helpful to see whether this can be replicated in settings that may have more of a focus on training and where trainees may have higher or lower baseline levels of anxiety related to recording as well as longitudinally over the course of treatment. Future research in the area of audio- or video-recording psychotherapy sessions will enable clinical supervisors and clinic administrators to more successfully implement audio- or videotape research, which will in turn benefit the field overall in science and practice.

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## Appendix

### Audio/Videotape Comfort Form

The Center for Psychological Services is a training clinic and some patients may be asked for permission to make audio and/or video recordings of the services they receive for training/educational purposes only. These recordings may enable the clinician and supervisor assigned to a case to more clearly review and understand how to best implement a treatment program with the patients they serve. Only the clinical staff involved with a treatment case at the Center would have access to these recordings. All cases are assigned a code number that will be used to identify any information that is recorded from any treatment. Typically, each therapist has one tape and when the tape is full it is reused and old sessions are taped over. Just like all information regarding treatment cases, any recorded information will be kept secured and locked. These tapes will not be disseminated, and they will be handled in accordance with the ethical and professional standards of the American Psychological Association.

In considering how I might respond to being asked for permission to make audio and/or video recordings of the services I receive for training/educational purposes only (Please check one):

\_\_\_\_\_ I would have no serious objections to doing this after having the opportunity to discuss these issues with my assigned therapist.

\_\_\_\_\_ I have some slight concerns, but would probably do this after having the opportunity to discuss these issues with my assigned therapist.

\_\_\_\_\_ I have some moderate concerns, but would possibly do this after having the opportunity to discuss these issues with my assigned therapist.

\_\_\_\_\_ I have some serious concerns, but would probably not do this even after having the opportunity to discuss these issues with my assigned therapist.

\_\_\_\_\_ I would have vehement objections to doing this and would not need to discuss these issues with my assigned therapist.

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