

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

CASE NO.: 2013 CA 13411

WOLFGANG HALBIG,

Plaintiff,

VS.

ERROL ESTATE PROPERTY OWNERS
ASSOCIATION, INC.,

Defendant.

**DEFENDANT, ERROL ESTATE PROPERTY OWNERS ASSOCIATION, INC.'S
MOTION FOR SUMMARY JUDGMENT AND INCORPORATED
MEMORANDUM OF LAW**

Defendant, ERROL ESTATE PROPERTY OWNERS ASSOCIATION, INC. (hereinafter referred to as "Errol"), pursuant to Rule 1.510, Florida Rules of Civil Procedure, by and through the undersigned counsel, moves for summary judgment on all counts in the above-referenced action and incorporates its memorandum of law as if fully set forth herein. In support of its Motion, Errol shows the Court as follows:

1. Defendant is entitled to summary judgment against Plaintiff, WOLFGANG HALBIG (hereinafter "Plaintiff"), because, as a matter of law, Errol did not owe a duty of care to Plaintiff with regard to the sidewalk which he contends caused his fall.

2. This is a personal injury action arising out of an alleged trip and fall incident on or about January 26, 2010, *see* Complaint and Demand for Jury Trial at ¶ 6, on property owned and maintained by a party other than Defendant, Errol. Upon information and belief, the sidewalks are owned and maintained by the City of Apopka, Florida.

3. Plaintiff has not come forth with any evidence suggesting that Errol had any ownership interest, right to control, or duty to maintain the subject sidewalk.

4. In fact, Plaintiff has not come forth with any evidence suggesting that any allegedly dangerous condition caused him to fall.

5. Plaintiff previously brought suit against the City of Apopka in a lawsuit styled *Wolfgang Halbig vs. City of Apopka*, Case No.: 2011-CA-01228, in the Circuit Court of the Ninth Judicial Circuit in and for Orange County, Florida. Plaintiff ultimately settled his lawsuit with the City of Apopka for \$25,000.

6. Mr. Halbig was deposed in that case and testified as follows:

A. I'm going up the hill. I'm tired but that's where you want to really push it' cause that's where you get your extra zip, in there. They wave at me. I wave back. Just as I pass them, there's a stop sign that's about to come up. Okay. So I'm looking at the stop sign up in front of me. All of a sudden comes a car behind me and they're beeping the dagum [sic] horn. Scares the living heck out of me' cause I don't know what they're doing; I got kids yelling. And all of a sudden when I turn, I'm turning left, I'm gone. The next thing I remember is I'm on the ground and somebody is shaking me saying "Are you okay? Are you okay?"

Deposition Transcript of Wolfgang Halbig, taken May 18, 2012, p. 170, ll. 13-23. The deposition transcript is attached hereto as Exhibit "A."

7. Mr. Halbig has not offered any testimony as to what caused him to fall and has identified no witnesses to the fall itself.

8. Plaintiff claims, without any factual or legal support that Errol "was responsible for the maintenance, repair, control and ownership of the area that caused the above accident. *See* Complaint at ¶ 9.

9. Beyond Plaintiff's simple allegation, there is no proof or facts of any kind suggesting that Errol had any duty to maintain or repair the subject sidewalk or that it had "control and ownership," of same.

10. It is undisputed that the subject sidewalk was owned and maintained by Orange County and/or the City of Apopka.

11. Furthermore, it is undisputed that Errol did not have the right to make any modification of the subject sidewalk. *See* Affidavit of Lewis Smith, attached hereto as Exhibit "B."

12. Plaintiff has offered no facts supporting his allegations that Errol had any "ownership, operation, management, maintenance and control of the sidewalk."

13. Furthermore, to the extent that the Court finds that Plaintiff has offered facts on the issue of whether Errol owed a duty to Plaintiff – Plaintiff has offered no proof that Defendant was on notice of, or was otherwise aware of any such condition, despite the requirements of Fla. Stat. § 768.0755.

14. Finally, Plaintiff has offered no evidence as to what actually caused him to fall.

15. Accordingly, Defendant is entitled to Summary Judgment in this action.

MEMORANDUM OF LAW

"Summary judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file together with the affidavits, if any, show that there is no genuine issue of material fact and that the moving party is entitled to a judgment as a matter of law." Fla. R. Civ. P. 1.150. The movant has the initial burden of showing the non-existence of an issue of material fact. *Landers v. Milton*, 370 So. 2d 368, 370 (Fla. 1979). However, once the movant shows competent evidence to support his motion, "[i]t is not enough

for the opposing party to merely assert that an issue does exist.” *Id.* The opposing party, in this case Plaintiff, must come forward with counterevidence sufficient to reveal a genuine issue. *Id.* Additionally, the opposing party is not entitled to an inference that he might have evidence available to prove his case. *See Harvey Bldg., Inc. v. Haley*, 175 So. 2d 780, 782 (Fla. 1965). If the opposing party fails to come forth with evidence to show that a genuine issue of material fact remains with respect to each element of his claims, then summary judgment in favor of the movant is proper.

In a case in which there is a complete absence of evidence to support the allegations, summary judgment should be granted. *Martin Petroleum Corp. v. Amerada Hess Corp.*, 769 So. 2d 1105, 1108 (Fla. 4th DCA 2000). “A party should not be put to the expense of going through a trial, where the only possible result will be a directed verdict.” *Id.* Thus, “[w]here a movant for summary judgment offers sufficient evidence to support its claim of the non-existence of a genuine issue of material fact, the opposing party must demonstrate the existence of such an issue. *Fleming v. Peoples First Fin. Sav. & loan Ass’n.*, 667 So. 2d 273, 274 (Fla. 1st DCA 1995).

In this case, Plaintiff, Wolfgang Halbig, has failed to produce evidence supporting the essential elements of his claim of negligence. Specifically, he has failed to demonstrate that Errol – an owner of private property – owed him a duty to prevent the subject incident. To be clear, the Court’s evaluation going forward should not consider any action taken or omission alleged – rather, the consideration is whether Errol had any obligation to Plaintiff in this action – which Florida law establishes that it did not. Furthermore, Errol submits that Plaintiff’s simple allegations that Errol owed a duty – when Florida law expressly indicates otherwise - are

insufficient in this case. Therefore, summary judgment on all counts against all defendants is warranted here.

A. Errol is Entitled to Summary Judgment on Plaintiffs' Negligence Claim Because It Did Not Owe a Duty to Plaintiff, Wolfgang Halbig.

It has long been the law in this State that the mere occurrence of an accident is not enough to establish negligence. *Wood v. Jones*, 109 So. 2d 774 (Fla. 3rd DCA 1959); *see also*, e.g., *Miller v. Aldrich*, 685 So. 2d 988, 990 (Fla. 5th DCA 1997). Errol does not own the subject sidewalk, but is merely the owner of property adjacent to same. Plaintiff has provided no factual or legal link between the public sidewalk and the private homeowner's association. As the Florida Supreme Court has made clear, private landowners cannot be held liable for injuries sustained as a result of an allegedly dangerous public right-of-way under these circumstances. *Sullivan v. Silver Palm Properties, Inc.*, 558 So. 2d 409 (Fla. 1990).

In *Sullivan*, a driver was injured when bumps in a road - allegedly caused by the roots from a nearby pine tree which was located on adjacent property - affected the operation of her vehicle, causing her to drive into a ditch. The Florida Supreme Court delineated this specific instance, *i.e.*, when a private landowner's vegetation affects the public right of way underground, quoting a Louisiana case as follows: "[i]t was the responsibility of the municipality, and not that of [the abutting property owner], to maintain the sidewalk and correct the defect. *Id.* at 558 So. 2d 409, *quoting Wall v. Village of Tallulah* 385 So. 2d 905 (La. Ct. App.), *writ refused*, 393 So. 2d 737 (La. 1980).

The *Sullivan* holding was more recently endorsed by the Third District in *Miami-Dade County v. Deerwood Homeowners' Ass'n*, 979 So. 2d 1103 (Fla. 3d DCA 2008). In *Deerwood Homeowners' Ass'n*, a factually similar case, the Third District held that a plaintiff could not even state a cause of action against an adjacent property owner. *Id.* at 1103. In that case,

Miami-Dade County urged the Court that the homeowner's association had "voluntarily undertaken" some maintenance function, and; therefore, the well-established, *Sullivan*, rule should not apply. In rejecting this argument, the Third District noted that "'gratuitously' planting a tree next to a sidewalk and 'maintaining the tree for nine years' does not take [homeowner's association]'s or [landscape maintenance company]'s conduct out of the simple, clear rule elaborated in *Sullivan*. In that case, Plaintiff had failed to allege facts establishing that the association or the landscaper had specifically undertaken a duty to maintain the roots or repair the subject sidewalk – the lower court's dismissal of the second amended pleading – with prejudice – was affirmed.

The fact scenario in the instant action is nearly identical to that in *Deerwood Homeowner's Association*. In both cases, Plaintiffs seek to impose liability on the owner of property adjacent to a public right of way. In *Deerwood Homeowner's Association*, the Third District, relying on the *Sullivan* ruling, found that Plaintiff could not even state a cause of action against the private landowner. Where Plaintiff here has failed to establish that Errol undertook some duty to maintain the roots of vegetation adjacent to the sidewalk – or – undertook a duty to repair the sidewalk, this Court should grant summary judgment.

B. Errol is Entitled to Summary Judgment as Plaintiff has Offered no Evidence as to the Cause of His Alleged Fall.

Plaintiff has failed to identify any condition which actually caused him to fall and sustain injuries. Without a factual basis for his allegation that Errol "through its employees, agents, representative and members. . ." caused, allowed, or permitted "the area where the accident occurred, to be, become and to remain in a defective, dangerous and unsafe condition." See Complaint at ¶ 10. As stated above, Plaintiff testified that he did not see what caused him to fall and knew of no witnesses who had seen the cause of the fall. Therefore, Plaintiff has failed to

present prima facie evidence of a duty owed by Errol, breach of a duty owed by Errol, or a proximate cause of his fall. Without the requisite elements of negligence, Errol is entitled to summary judgment as to all counts.

CONCLUSION

Defendant, ERROL ESTATES PROPERTY OWNERS ASSOCIATION, INC. is entitled to summary judgment here - as the pleadings and record evidence show that there is no genuine issue as to any material fact for consideration by the jury, leaving the matter to be decided by the Court as a matter of law. As described above, Defendant has met its initial burden of showing the non-existence of an issue of material fact. It is not enough for Plaintiff merely to assert that an issue does exist with respect to the essential elements of his claim. He must come forward with admissible counterevidence sufficient to reveal a genuine issue. He has not done so. If the party opposing a motion for summary judgment fails to come forth with evidence to show that there are genuine issues of material fact remaining with respect to each element of its claims, then summary judgment in favor of the movant is proper. Such failure is the case here.

WHEREFORE, Defendant, ERROL ESTATE PROPERTY OWNERS ASSOCIATION, INC., respectfully requests this Court GRANT summary judgment on all counts, attorneys' fees, costs, and all other relief deemed just and proper, and that Defendant shall go forward without day.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing was electronically filed with the Clerk of the Court by using the ECF System and **I FURTHER CERTIFY** that a true and correct copy of the foregoing has been furnished by email delivery to JON LAMBE, ESQUIRE, FERDERIGOS & LAMBE, P. O. Box 1907, Orlando, FL 32802,

jon@FLlawgroup.com this ^{2nd} ~~1st~~ day of December, 2014.

VASQUEZ & TOSKO, LLP

Landmark Center Two

225 East Robinson Street, Suite 425

Orlando, FL 32801 – 4328

(407) 481-9300; (407) 481-9171 (Fax)

By: _____

WAYNE TOSKO

Fla. Bar No.: 404675

TODD W. GRETTON

Fla. Bar No.: 0046747

Attorneys for Defendant

EXHIBIT “A”

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT IN AND
FOR ORANGE COUNTY, FLORIDA

WOLFGANG HALBIG,

Plaintiff,

vs.

CASE NO.: 2011-CA-10228-0

CITY OF APOPKA,

Defendant.

Volume I (Pages 1 - 200)

The deposition of WOLFGANG HALBIG taken pursuant to
Notice on behalf of the Defendant, held on Friday, May 18th,
2012, beginning at 9:30 a.m., held at the Offices of Central
Florida Reporters, 105 East Robinson Street, Suite 503,
Orlando, Florida, before Donna R. Keller, R.P.R., and Notary
Public, State of Florida at Large.

A P P E A R A N C E S:

JON LAMBE, Esquire
Ferderigos & Lambe
512 East Washington Street
Orlando, Florida 32802

CERTIFIED
TRANSCRIPT

For the Plaintiff,

F. SCOTT PENDLEY, Esquire
Dean, Ringers, Morgan & Lawton, P.A.
201 East Pine Street, 12th Floor
Orlando, Florida 32801

For the Defendant.

ALSO PRESENT: Laura Pierce, Legal Assistant
Dean, Ringers, Morgan & Lawton, P.A.

I N D E X

TESTIMONY OF WOLFGANG HALBIG

Direct Examination by Mr. Pendley

3

E X H I B I T S

Defendant's Exhibit No. 1
Defendant's Exhibit Nos. 2-857
182- - - - -
S T I P U L A T I O N S

It is hereby stipulated and agreed between counsel for
the respective parties and the witness that the reading and
signing of the deposition be reserved.

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WOLFGANG HALBIG,

having been first duly sworn testified as follows:

THE WITNESS: I do.

DIRECT EXAMINATION

BY MR. PENDLEY:

Q Can you please tell me your full name?

A Wolfgang, W-O-L-F-G-A-N-G, middle initial W, last name Halbig. H-A-L-B-I-G.

Q Mr. Halbig, my name is Scott Pendley. I introduced myself to you just a second ago when I walked in here today. What I need to do today is ask you some questions about your medical condition, this accident, just a lot of questions in general.

A Sure.

Q You're familiar with the process because I know you've testified as an expert on occasion --

A Yes.

Q -- so you're familiar with the litigation process. knowing that, I still need to give you these directions because I find that people who are familiar with the litigation process are sometimes the worst about forgetting these things, so let me just put these on the record.

First of all, you need to answer all of your questions verbally as opposed to a nod or shake of the head because the court reporter cannot take down a nonverbal

1 response. Second, if you can answer a question with a yes
2 or a no, you need to say yes or no as opposed to saying
3 uh-huh or nuh-huh like we might some during casual
4 conversation, and the reason for that is uh-huh and nuh-huh,
5 if they are words, when they're typed up they look alike and
6 we'll go back and read your deposition transcript and we
7 won't know whether you meant to answer the question yes or
8 no. If you say yes or no, there won't be any doubt about
9 it, or misunderstanding about it.

10 Third, if I ask you a question and there's any
11 little bit of a doubt in your mind what I'm asking you, just
12 please tell me to stop, rephrase it, explain it, and I'll be
13 glad to do that, okay?

14 A Okay.

15 Q I want to make sure you understand the question
16 when you answer it, and if you do answer it, I'm going to
17 rely upon your answer at a later date and specifically
18 during the trial of the case, okay?

19 A Okay.

20 Q Fair?

21 A Fair.

22 Q All right. Fourth, it's very important that only
23 one person talk at a time; so please make sure I'm through
24 with a question before you begin your answer. Likewise,
25 I'll try and make sure that you're through with an answer

1 before I begin my next question, okay? Obviously, the
2 reason for that is if more than one person talks at a time,
3 it makes the court reporter's job very difficult. She may
4 miss something being said and, worse yet, before we're
5 through here today, we will drive her crazy if we try and
6 talk over each other, okay? Yes?

7 A Yes.

8 Q All right. Fifth, at any point in time if you
9 need to stand up, take a break, go outside and get some
10 fresh air, whatever you need to do, talk to your attorney,
11 you just let me know and we will take a break for however
12 long we need to, okay?

13 A Okay.

14 Q All right. Any questions?

15 A No.

16 Q All right. What's your date of birth?

17 A August 10th, 1946.

18 Q That makes you how old today?

19 A 65.

20 Q Why don't we go off the record and have you give
21 me your Social Security number, and then what I'll do is go
22 back on the record and just have you give me the last four
23 numbers, okay?

24 A Okay.

25 MR. PENDLEY: So let's go off the record.

1 (A discussion was held off the record.)

2 Q All right. Now let's go back on the record and,
3 Mr. Halbig, if you could, just give me the last four digits
4 of your Social Security number.

5 A 7802.

6 Q How tall are you?

7 A Six feet.

8 Q How much do you weigh today?

9 A 276.

10 Q This accident occurred back in January of 2010,
11 January 26th, to be exact. About how much did you weigh
12 back at that time?

13 A Approximately same weight.

14 Q Do you have a driver's license?

15 A I do.

16 Q May I please see it?

17 A (Handing.)

18 Q Thank you very much. What we'll do, when we take
19 a break, we'll make a copy of your driver's license and
20 attach it to the deposition as Exhibit 1 for identification.

21 Has your driver's license in the state of Florida
22 ever been suspended or revoked for any reason at all?

23 A No.

24 Q I thought I saw somewhere in my file, and I could
25 be completely wrong, that on one occasion you had been

1 stopped and cited for driving on a suspended or an expired
2 license.

3 A That's my son.

4 Q That was your son. Okay. Have you had a license
5 in any other state other than the state of Florida?

6 A No.

7 Q And why did you hesitate to answer there for a
8 second?

9 A Well, I went to college in Texas.

10 Q Your license requires you to wear eyeglasses to
11 drive?

12 A Yes, it does.

13 Q When is the last time prior to today that you had
14 your eyes examined?

15 A Last year. Probably February of last year.

16 Q And who would have examined your eyes at that
17 time?

18 A It would have been at LensCrafters in Ocoee, at
19 the mall there in Ocoee. There's a doctor in there.

20 Q The West Oaks Mall?

21 A Yes, sir.

22 Q And when would that have been?

23 A I think somewhere January, February. Yeah. Last
24 year.

25 Q So 2011?

1 A I would say yes.

2 Q Okay. Prior to the accident in January of 2010,
3 when was the last time you had your eyes examined?

4 A I try to do it annually. I don't have the
5 specific date, but I try to do it -- upgrade our glasses
6 every year.

7 Q Other than having your eyes examined in
8 approximately January of 2011, have you had your eyes
9 examined on any other occasions since the accident in
10 January of 2010?

11 A No.

12 Q Who would have last examined your eyes before the
13 accident?

14 A It would have been the same location.

15 Q LensCrafters?

16 A Right. My file should be there.

17 Q Okay. And about how long have you been having
18 your eyes examined at that location?

19 A Probably six years.

20 Q When you had your eyes last examined there in
21 January, approximately January of last year, did you have to
22 get a different prescription?

23 A A upgrade, yes.

24 Q Do you wear any type of device to assist you in
25 hearing?

1 A No.

2 Q At the time of the accident in January of 2010,
3 were you wearing your eyeglasses?

4 A I was.

5 Q Different eyeglasses than you have on here day?

6 A Yes. They're -- yes.

7 Q All right. And how were they different?

8 A Well, those on the day of the accident are
9 completely broken.

10 Q Okay.

11 A And I had to go get new ones; so, therefore, my
12 eyes were tested for new glasses, which are these.

13 Q Okay. The glasses that you were wearing on the
14 day of the accident, were they clear and transparent like
15 the ones you're wearing here today?

16 A Yes, yes.

17 Q Were you wearing any type of additional device to
18 screen the sun such as a sunglass overlay or anything like
19 that?

20 A No. It was a morning run so there was no -- just
21 didn't have the need for sunglasses.

22 Q All right. And the glasses that you were wearing
23 at that time, did you wear any type of device to help keep
24 the glasses secured to your face?

25 A No, sir.

- 1 Q Okay. So you weren't wearing any type of -- I
2 forget what you call them -- Croakies or anything like that?
- 3 A No.
- 4 Q Okay. Your current address is what?
- 5 A Current is 25526 Hawks Run Lane in Sorrento,
6 Florida 32776.
- 7 Q And you moved there after the accident?
- 8 A Yes, sir.
- 9 Q It looks like it was in April of 2010?
- 10 A Correct.
- 11 Q And where is that located in Sorrento?
- 12 A It's in RedTail community off State Road 46.
- 13 Q Is that the --
- 14 A It's a golf community.
- 15 Q -- Heathrow community?
- 16 A Yes, sir.
- 17 Q What type of home do you live in there?
- 18 A It's family dwelling.
- 19 Q Single family?
- 20 A Single family.
- 21 Q Size?
- 22 A Four bedroom, three bath. 3200 square feet.
- 23 Q How many?
- 24 A 3200.
- 25 Q And where did you live prior to moving to that

1 address?

2 A In Errol Estates, 1821 Cranberry Isles Way in
3 Apopka, Florida 32712.

4 Q And that's where you would have been living at the
5 time of the accident?

6 A Yes, sir.

7 Q According to your answers to interrogatories, you
8 lived there from approximately January of 1999 until April
9 of 2010. Does that sound about right?

10 A That would be correct.

11 Q Does that sound --

12 A That would be correct, yes.

13 Q Why did you move from the Apopka address to the
14 Sorrento address?

15 A In light of the accident, if you go visit my
16 residence, there's a really steep hill and I have to park my
17 car there every day. Trying to get in and out of that car
18 with my back, with my knee, with my hands, it's difficult
19 getting in and out.

20 Q Okay. Let me make sure I understand what you're
21 telling me. Your old address in Apopka had a steep
22 driveway, yes?

23 A Correct.

24 Q And it's your testimony that the reason you moved
25 from that address to Sorrento was because of that steep

1 driveway and because of the difficulty you had apparently
2 getting in and out of your car on that driveway?

3 A Yeah. If you saw it, you would see. Yup.

4 Q And the difficulty you had related to your -- what
5 parts of your body?

6 A My right knee, my lower back, having to deal with
7 my right wrist and my neck. It was very -- because of the
8 steepness of the hill, it's just hard getting in and getting
9 out, and it just became very tedious, and it was time to
10 look to go to a flat surface.

11 Q And it's your testimony that was the sole reason
12 that you moved from Apopka to Sorrento?

13 A It's not the sole reason, but it was the major
14 contributing reason.

15 Q Okay. What were the other reasons, regardless of
16 how much they may have contributed to your decision and your
17 wife's decision to move?

18 A Well, at that time we just had a grandchild. My
19 other son was getting married, they were planning on having
20 a baby, and we needed more space.

21 Q What other reasons?

22 A The injuries. There's two reasons. I needed more
23 space because we were going to have grandchildren, and
24 primarily is I got sick and tired of having to park on that
25 hill and it hurt every day.

1 Q Let me ask you this question: If your son would
2 not have been having a child, if you would not have been
3 having a grandchild, would you have moved?

4 A Yes.

5 Q So regardless of whether --

6 A Regardless.

7 Q Let me finish me the question.

8 A Go ahead.

9 Q Regardless of whether your son was having your
10 grandchild, you would have moved, yes?

11 A Yes.

12 Q Okay. Let me ask it a different way now.

13 Regardless of whether you had problems getting in and out of
14 your car on the driveway, since your son was having a child,
15 you were having a grandchild and because you needed more
16 space, would you have moved?

17 A Go ahead and do that question again.

18 Q Yeah. Since your son was having a child and you
19 needed more space in your home, you and your wife, I guess,
20 to accommodate your grandchild or your kids, would you have
21 moved despite the fact that you claim you were having
22 problems getting in and out of your car on the steep
23 driveway?

24 A We -- in the house in Cranberry, we had enough
25 room for the first granddaughter; so the issue about the

1 grandchild wouldn't have been relevant. We'd have had
2 enough space for the first child.

3 The problem was that I couldn't park in that
4 space. It's just -- the pain and --

5 Q I understand. You've told me that.

6 A Right.

7 Q I get that, okay? But my question is really a yes
8 or no question.

9 A Okay.

10 Q If you were not having these alleged problems
11 getting in and out of your car on the driveway there on
12 Cranberry Isles in Apopka and you, having stated that you
13 needed more space and that played some role in your decision
14 and your wife's decision to move, would you have moved even
15 if you weren't having problems getting in and out of the
16 car?

17 A No, because we liked that community. Because of
18 my business, it's easy to the airport, convenient shopping,
19 but because of the steepness of the hill, it was a primary
20 factor of me moving.

21 Q Okay. I understand it was a primary factor. My
22 question is even in the absence of problems getting in and
23 out of the car, would you have moved in light of the fact
24 that your son was having a child and you needed more space?
25 Really yes or no.

1 A If I did not have the injuries, I wouldn't have
2 moved.

3 Q Okay. You mentioned something about you had room
4 at that house for one grandchild?

5 A Um-hmm.

6 Q Yes?

7 A Correct.

8 Q Okay. How many grandchildren do you have now?

9 A Two.

10 Q Okay. Would you have had enough room at that
11 house for two children?

12 A We would have added a room on the back side of the
13 house.

14 Q Okay. So as is, without making any additions to
15 that house, you would not have had enough room to
16 accommodate two grandchildren; is that correct?

17 A As it was on that day, yes, I would not.

18 Q And it would have been your plan, from what you're
19 telling me, that you would have made some addition to the
20 house, added to it to accommodate two grandchildren?

21 A Correct.

22 Q If you wouldn't have made or anticipated on making
23 some type of renovation to the house to increase its square
24 footage, would you have moved to obtain more space to
25 accommodate two grandchildren if you wouldn't have had these

1 problems getting in and out of your car?

2 A Had I not had the problems, I would have moved.

3 Q Okay. And your wife will confirm all of this, no
4 doubt?

5 A Absolutely.

6 Q Okay. Had you ever had any plans drawn up for the
7 addition to the house?

8 A No, because they hadn't had the second baby yet.

9 Q Did you make any money in the sale of the house?

10 A We didn't sell it. We still own the house.

11 Q You still own it?

12 A We're renting it.

13 Q Is your rent payment enough to cover expenses for
14 the home, mortgage, taxes --

15 A No. Actually, I pay more than what we're getting
16 for rent.

17 Q The house you bought in the RedTail community in
18 Heathrow, how much did you pay for it?

19 A \$280,000.

20 Q So a pretty good deal?

21 A Absolutely.

22 Q Did you buy it in foreclosure?

23 A Absolutely.

24 Q And why didn't you buy -- let me ask you this
25 question: Do you consider that home not to be as convenient

1 or as close to the airport?

2 A That home is not as convenient as the Apopka home.

3 Q And what about the airport? Not as close?

4 A It's not as close. It's a bigger challenge
5 getting to it.

6 Q Why didn't you buy a home that was just as
7 convenient and just as close to the airport as your Apopka
8 home?

9 A 'Cause it was a great deal.

10 Q All right. Very good. Does anybody live with you
11 at your Sorrento address?

12 A My wife, Kathleen Halbig.

13 Q Could you spell her name, please?

14 A Kathleen. K-A-T-H-L-E-E-N. Same last name,
15 Halbig, H-A-L-B-I-G.

16 Q Middle name?

17 A Audrey.

18 Q Anybody else live at the Sorrento home?

19 A Currently my son.

20 Q Son's name?

21 A Erik. E-R-I-K.

22 Q How old is Erik?

23 A Erik is 30.

24 Q How old is Kathleen?

25 A Kathleen is 57.

1 Q Do you and Kathleen have any children together?
2 A Two boys.
3 Q Their names?
4 A Erik.
5 Q Okay.
6 A And Karl. K-A-R-L. Same last name, Halbig.
7 H-A-L-B-I-G.
8 Q His age?
9 A He is 27.
10 Q What does Erik do?
11 A Erik owns a pool company called Aqua Splash Pool
12 Services, and he's a full-time student at Valencia Community
13 College. Just graduating this summer.
14 Q Degree in?
15 A He's going to get a degree in engineering.
16 Q What about Karl? What does he do?
17 A Karl is -- he manages a research cattle farm for
18 the University of Georgia in Tifton, Georgia.
19 Q Does he have a college degree?
20 A Yes, he does.
21 Q From where?
22 A He has it from the University of Georgia, and he's
23 a Gator.
24 Q A degree in agricultural sciences?
25 A Yes, sir.

1 Q I assume he lives in Tifton?
2 A Yes.
3 Q Karl is married?
4 A Karl is married.
5 Q He's the one that has the two grandchildren?
6 A No. He just has one. Erik has one.
7 Q Okay. And is Erik divorced?
8 A Erik is divorced.
9 Q And how old are your grandchildren?
10 A I have one, Bella Morgan Halbig. She is six. And
11 I have Hadley Halbig which is one.
12 Q And when you say you, you mean you and Mrs. Halbig
13 together?
14 A Yeah, our family has two grandkids.
15 Q What does Ms. Halbig do?
16 A She is the technology manager for the Lake County
17 School Board.
18 Q And how long has she been in that position?
19 A Seven years.
20 Q Was she the technology manager of the Lake County
21 School Board when you filed an EEOC complaint against them?
22 A Yes.
23 Q And just kind of generally tell me, as the
24 technology manager for the school board, what she does.
25 A She is called -- the concept they're using is

1 innovative learning specialist. what she does, her job is
2 to teach all of the teachers how to use technology in the
3 most effective way in the classroom. She's a grant -- she
4 seeks grants from the State of Florida, which she right now
5 has about \$5 million worth of grants. But primarily it's
6 technology, educating the teachers not to be afraid of the
7 technology and how to use it.

8 Q She has a master's or doctorate?

9 A She's almost finished with her master's. She's
10 got six hours left.

11 Q what will her master's be in?

12 A In administration.

13 Q Is she in good health?

14 A Absolutely.

15 Q Besides Erik and Karl, do you have any other
16 children?

17 A No.

18 Q Been married on any other occasion?

19 A No.

20 Q And how long have you and Kathleen been married?

21 A Since 1979.

22 Q During that time, have the two of you ever been
23 divorced and then remarried?

24 A Yes.

25 Q How many times?

1 A Once.

2 Q And when was that?

3 A I don't recall.

4 Q Approximation?

5 A I want to say 1995.

6 Q How long were the two of you divorced before you
7 remarried?

8 A About 18 months.

9 Q What county were you divorced in?

10 A Seminole County.

11 Q And what county were you remarried in?

12 A The great city of Las Vegas.

13 Q Little different question. Well, let me ask you
14 this: During the time that you and Kathleen were divorced,
15 did the two of you live separately?

16 A Yes.

17 Q Since that time, since the time you've been
18 remarried in Las Vegas, have you lived separate and apart on
19 any occasion?

20 A No.

21 Q Prior to becoming divorced around 1995 or
22 thereabouts, had the two of you lived separately and
23 divorced?

24 A No.

25 Q Since being remarried in Las Vegas, have the two

1 of you ever undergone any type of marital counseling of any
2 type from any counselor, mental health care provider,
3 clergyman, anybody at all?

4 A No.

5 Q Are her mom and dad still alive?

6 A Yes, they are.

7 Q And what kind of business is her dad in?

8 A Her dad is a doctor. He's an ophthalmologist,
9 retired in Ocala, Florida. And the mom has just been a
10 housewife all her life, raising five kids.

11 Q And what is her dad's name?

12 A Dr. Donald Smith.

13 Q Does she have any brothers and sisters?

14 A She has four brothers and one sister.

15 Q Big family?

16 A Yes.

17 Q Do any of her brothers live in Orange County?

18 A No.

19 Q Just briefly tell me the brothers' names and what
20 they do for a living.

21 A Kevin Smith is in the management with the IRS,
22 lives in Georgia. Steve works for Pratt Whitney engineering
23 company in Palm Beach County. Kent lives in Volusia County.
24 He's a technology geek, I would call him. Graduate from
25 UCF. Karen was vice president of Hewlett-Packard. She's

1 now retired in California. who have I left? Kevin --

2 Q well, there was one brother --

3 A And Kathy, yeah.

4 Q Okay. Other than your wife and your son, do you
5 have any other relatives living in the central Florida area?

6 A On my family side, no. They've all passed away.
7 And on my wife's side, yes. She has family members that
8 live in central Florida.

9 Q Any in Orange County?

10 A She has a cousin lives in Orange County.

11 Q Do you see him or her on a regular basis?

12 A No, sir.

13 Q Would they have any knowledge about the facts and
14 circumstances surrounding this incident or your health?

15 A Not one word.

16 Q Okay. What's his or her name?

17 A His name is Charles Thompson.

18 Q What does he do?

19 A He's retired from the military.

20 Q Does she have any other relatives in Orange County
21 besides Charles?

22 A Just her mother who lives in Volusia County.

23 Q Would her mom, your mother-in-law, know anything
24 about the facts and circumstances surrounding this accident
25 or your health?

1 A She would not know anything about the
2 circumstances of the accident or the injury. We just don't
3 talk about that to family. It's just none of their
4 business.

5 Q Right. So the only relatives that you have or
6 that your wife has living in the area would be her brother
7 in Orange County, who is retired, and her mom in Volusia
8 County?

9 A Right.

10 Q Okay. Where does Erik's former wife live?

11 A Where does she live now?

12 Q Yes.

13 A She lives in Orange County.

14 Q Okay. And her name?

15 A Jacqueline.

16 Q Spell it, please.

17 A J-A-C-Q-U-E-L-I-N-E. Spangler. S-P-A-N-G-L-E-R.

18 Q Spangler, is that her married name or maiden name
19 or --

20 A That's her maiden name.

21 Q And do you know where she lives in Orange County?

22 A I do not.

23 Q Do you know if she works outside the home?

24 A Yes, she does.

25 Q Where does she work?

1 A She works for a law firm somewhere in Winter Park.

2 I do not know the name of the law firm.

3 Q And what does she do for them?

4 A Paralegal.

5 Q All right. where did you go to high school,

6 Mr. Halbig?

7 A Avon Park High School.

8 Q When did you graduate?

9 A 1965.

10 Q Where did you go to college?

11 A Abilene Christian University.

12 Q And where is Abilene Christian located?

13 A Abilene, Texas.

14 Q What years did you go there?

15 A 1970 through 1973.

16 Q You graduated?

17 A Yes, I did.

18 Q And your degree is in what?

19 A Bachelor of science.

20 Q What field?

21 A Education.

22 Q I've seen some records where you played football

23 there?

24 A I was on a full scholarship.

25 Q Any injuries, other than just minor abrasions and

1 stuff like that, that you had while you played football at
2 Abilene Christian?

3 A I had an ACL that was torn in my junior year,
4 which would have been 1972.

5 Q Right knee?

6 A Right knee.

7 Q Did they do reconstructive surgery at that time?

8 A They did.

9 Q Back at that time, as I recall it, they had to
10 open up the knee and there was no such thing as arthroscopic
11 surgery back at that time?

12 A It was not arthroscopic.

13 Q Okay. Any other injuries, you know, other than
14 minor cuts and abrasions while playing football at Abilene
15 Christian?

16 A That is the extent of my injuries, the knee
17 surgery.

18 Q Okay. After graduating from Abilene Christian,
19 have you attended any other schools where you received any
20 other degrees?

21 A I attended Nova University and received my
22 master's degree in education.

23 Q Did you actually attend the campus down in Nova or
24 one of their satellite campuses up here in Orlando?

25 A Satellite campus in Gainesville, Florida.

1 Q When did you receive your master's in education?

2 A 1986.

3 Q Any other degrees other than those two?

4 A That's it.

5 Q Have you attended, for academic purposes, any
6 other educational institutions other than Nova or Abilene
7 Christian?

8 A Coffeyville, Kansas, in 1965 through '66. Playing
9 football, 'cause I couldn't speak English.

10 Q So 19 --

11 A '65 through 1966, Coffeyville, Kansas.

12 Q And what was that institution?

13 A Junior college for Florida State players who
14 couldn't speak English.

15 Q Did you receive any degrees there?

16 A No. I transferred to Florida State afterward.

17 Q So let me get this right. You went to junior
18 college?

19 A One year.

20 Q One year. Then you transferred to Florida State
21 university?

22 A Right. But I was not allowed to enroll.

23 Q Then what happened?

24 A I just joined the military --

25 Q I'm confused.

1 A 1965, 1966 Coffeyville, Kansas.

2 Q Okay. You graduated from high school in Avon Park
3 in 1965?

4 A Right.

5 Q Could you speak English then?

6 A Barely.

7 Q How was it that you graduated?

8 A That's my question. I played football and played
9 baseball. They just passed me with a 1.0 GPA.

10 Q So after graduating from Avon Park, then you went
11 to Coffeyville Junior College?

12 A One year.

13 Q For one year. Did you learn to speak English
14 there?

15 A Not fluently.

16 Q But well enough?

17 A Well enough.

18 Q And then from there you transferred to FSU,
19 Florida State, but you were not allowed to enroll?

20 A Correct.

21 Q Did you attend classes?

22 A No.

23 Q How long were you at FSU or in Tallahassee?

24 A Maybe four days.

25 Q And then where did you go?

1 A well, I was sent back to Highlands County to get
2 my draft card.

3 Q which is in Avon Park?

4 A which is in Avon Park. I wasn't a naturalized
5 citizen; so they wouldn't enroll me unless you had a draft
6 card in those days; so FSU sent me back to get a draft card
7 so I could enroll. But then in the meantime, they drafted
8 me; so, therefore, instead of being drafted, I joined the
9 Air Force for -- from 1966 through '70, I was in the United
10 States Air Force.

11 Q So your lottery number came up?

12 A No. It was more than the lottery number. He
13 didn't like the fact that I didn't have a draft card.

14 Q Okay. And so 1966 to 1970, you were in the Air
15 Force, yes?

16 A Yes, sir.

17 Q And when you were in the Air Force during that
18 time, where would you have been stationed and served your
19 tours of duty?

20 A It would have started with Lackland Air Force
21 Base. Then it would have gone to Dyess Air Force Base in
22 Abilene, Texas. It would have gone to Fairchild Air Force
23 Base in Seattle, Washington, and then back to Dyess Air
24 Force Base.

25 Q Honorable discharge?

1 A Honorable discharge.

2 Q And what was your rank when you were discharged?

3 A E-4.

4 Q And kind of in layman's terms, what is that?

5 A Sergeant.

6 Q During the time that you were in the Air Force,
7 did you serve any time overseas?

8 A They would not let me go.

9 Q And why was that?

10 A I was not a naturalized citizen.

11 Q Are you a naturalized citizen now?

12 A I am.

13 Q And when did you become a citizen?

14 A In 1968, in Abilene, Texas.

15 Q You went through all of the process that the law
16 requires you to go through?

17 A In the federal courts, right. Passed a test.

18 Q After you became a naturalized citizen, they would
19 have allowed you to go overseas?

20 A That would be correct. They would have, but they
21 chose not to.

22 Q Right. During the time that you were in the Air
23 Force, what was your duty base or assignment?

24 A If you look at my DD214, I was a combative
25 measures instructor.

1 Q What does that mean?

2 A It's teaching pilots, B-52 bomber pilots, C-130
3 tanker pilots and load testers, how to kill people in the
4 event they had a crash or eject from the aircraft.

5 Q How to do what?

6 A Kill people, how to take their lives.

7 Q Do you have a pilot's license?

8 A I do not have a pilot's license.

9 Q Have you ever had one?

10 A Never.

11 Q During the time that you were in the Air Force,
12 were you ever injured at all?

13 A Playing softball.

14 Q And how were you injured playing softball?

15 A I think I was stuck on a fence. There was a
16 barbed wire fence, and I was trying to catch a ball from
17 going over the fence and I was just stuck. (Indicating.)
18 And I just had to have some treatment on it. I had to go to
19 the -- you know, as a military personnel, I had to go to the
20 hospital, and they just gave me a shot to make sure I'm not
21 infected.

22 Q So it was --

23 A Not a serious injury. There was nothing serious.
24 No serious injuries.

25 Q It sounds like a puncture --

1 A Puncture --

2 Q We can't talk at the same time.

3 A I know. I forgot.

4 Q That's all right. So it sounds like it was a
5 puncture wound that just required minor treatment?

6 A Right.

7 Q Okay. Now I'm getting this chronology now. So
8 now after being discharged from the military, the Air Force,
9 is that when you went to Abilene Christian?

10 A Yes, sir.

11 Q On a football a scholarship?

12 A Yes, sir.

13 Q And while you were there, I think you said in your
14 junior year you injured your right knee, tore your ACL which
15 required pretty much reconstructive surgery on that knee?

16 A Yes, sir.

17 Q Okay. In 1974, you graduate. What do you do
18 then?

19 A I graduated in 1973.

20 Q '73. I apologize.

21 A Got a phone call and was hired as a teacher and
22 football coach at Lake Brantley High School in Seminole
23 County.

24 Q All right. And how long did you work at Lake
25 Brantley in any capacity?

1 A Six months.

2 Q And why did you only stay there six months?

3 A Because it -- I did not like the dress code at the
4 time for girls, and I thought that being a young coach, I
5 was not going to put my education at risk.

6 Q Just explain to me what you're talking about.

7 A Well, in those days, in 1973, the fad was girls
8 didn't wear bras and they had very short skirts, and it
9 seemed like nobody wanted to enforce the dress code. And
10 for young coaches in those days, it -- you could get
11 yourself in trouble if you were not careful. To me, I
12 didn't want to lose my certification; so I became a state
13 trooper.

14 Q So you voluntarily resigned Lake Brantley?

15 A Oh, yes.

16 Q And who was your immediate supervisor during the
17 time that you were there?

18 A Darvin Booth.

19 Q Principal?

20 A Yes, sir. Principal.

21 Q Was Coach David Tullis there at the time?

22 A Dave Tullis was there.

23 Q Who were the other coaches at that time?

24 A Boy, you know --

25 Q Mike Smith?

1 A No. Mike Smith came later, came later on. You
2 know, we opened the brand new school there in 1973 --

3 Q Right.

4 A -- and Tullis -- to be honest with you, I can't
5 remember all the coaches that I worked with. But it was Guy
6 Garrett was the athletic director. He's the one that
7 recruited me from Abilene Christian.

8 Q So you resigned from Lake Brantley and you joined
9 the Florida Highway Patrol?

10 A Yes, sir.

11 Q Were you a certified law enforcement officer at
12 the time?

13 A Not at the time. They had to send me to the
14 academy in Tallahassee.

15 Q And did you complete the academy?

16 A Yes, sir.

17 Q Back at that time, how many hours did CJST require
18 in order for you to be a certified law enforcement officer?

19 A I don't recall the hours, but I know it was three
20 and a half months in the academy full-time, and we lived at
21 the academy.

22 Q Okay. So you graduate, pass the test, get your
23 certificate from CJST as a law enforcement officer. And
24 then you started working with Florida Highway Patrol?

25 A Give me the initials again. C what?

1 Q CJST. Criminal Justice Standards and Training.

2 A Right. But, again, it was the academy, I guess.
3 I never heard that terminology. But I graduated from the
4 academy which gave me my certification.

5 Q And then you worked with the highway patrol?

6 A Right.

7 Q And that would have been from approximately 1974
8 until when?

9 A 1976.

10 Q And which troop were you assigned to during your
11 tenure with the highway patrol?

12 A Troop E in Miami, Florida.

13 Q And what were your duties?

14 A I was a state trooper.

15 Q Rank?

16 A No rank.

17 Q Did you voluntarily resign from that position?

18 A I resigned from that position.

19 Q Voluntarily?

20 A Voluntarily.

21 Q Okay. And why did you resign?

22 A I was shot at too many times, and there's too many
23 fights and broken noses, and I thought I could do a better
24 job going back into prevention.

25 Q Were you ever injured while working as a trooper,

1 other than little cuts and abrasions?

2 A Not -- not that I recall.

3 Q Ever file any workers' compensation claims?

4 A Not that I recall.

5 Q Did you ever file any workers' compensation claims
6 when you worked at Lake Brantley for that six months?

7 A No, sir.

8 Q All right. And then after you resigned from the
9 Florida Highway Patrol, where did you work?

10 A I came back into -- let me see. Highway Patrol.
11 It was either in Marion County or Seminole County. I don't
12 recall.

13 Q And what were you doing in either Marion County or
14 Seminole County?

15 A I was hired as a teacher and football coach.

16 Q Do you remember the name of the school, high
17 school?

18 A Lake Weir High School. I worked up there in
19 Vanguard High School. And I believe I also -- I believe I
20 might have come back to Lake Brantley High School 'cause
21 that's where I left from.

22 Q What do you mean that's where you left from?

23 A Remember the first six months I left, and after
24 two years in highway patrol, I think I might have come back
25 to Lake Brantley, too. I just don't remember the time

1 frames.

2 Q Okay. How long would you have been working at
3 Lake weir High School?

4 A Well, I bounced. I mean, I stayed within the same
5 county but I think I was there like three years the first
6 time. Then I transferred to Vanguard High School, stayed
7 there a couple of years, went back to Lake weir High School
8 as the head football coach. I mean, it's just -- that's
9 what we do in education. We just bounce --

10 Q Sure. So how long would you have worked in the
11 Marion County school system either at Lake Weir or Vanguard
12 or any other high school?

13 A Probably seven years.

14 Q And the only schools you worked at in Marion
15 County would have either been Lake Weir or Vanguard?

16 A And Lake weir Middle School.

17 Q So you probably got to coach a team against Scot
18 Brantley and some of those Ocala Forest teams?

19 A When I was the coach at Ocala Vanguard, that was
20 the year we beat Ocala Forest with Scot Brantley.

21 Q During the seven years you worked with the Marion
22 County school systems or school board, were you ever injured
23 on the job?

24 A No.

25 Q Did you ever file a workers' compensation claim?

1 A No.

2 Q Were you ever disciplined for any reason at all
3 while working with Marion County school board?

4 A When you say "disciplined," what does that mean?
5 Like a letter of reprimand or anything like that?

6 Q A letter of reprimand, suspension, anything at
7 all.

8 A I was reassigned to Lake Weir Middle School.

9 Q From --

10 A From Ocala Vanguard.

11 Q And why?

12 A The principal at the time, Henry Lambert, Dr.
13 Henry Lambert, offered me the head coaching job at Ocala
14 Vanguard, head football coaching job; so my wife and I
15 bought a home for our first son to be born and I'd made all
16 these financial commitments, and then after we purchased a
17 home, the principal told me that the decision was taken out
18 of his hand, and he apologized. He said, "I'm sorry,
19 Wolfgang, but they took it out of my hands." And it was
20 very frustrating to me 'cause we just made this financial
21 commitment; otherwise, I wouldn't have done it.

22 Q So you transferred to --

23 A No, I didn't transfer. I questioned the
24 superintendent as to why he would do that and the answer is,
25 "None of your business." And he thought since he appointed

1 the new head football coach, that it would be best for me
2 not to be there, and so he assigned me to Lake Weir Middle
3 School.

4 Q who was the football coach?

5 A Jim Yansey, who is now the school superintendent.

6 Q Played football at Florida?

7 A Yes, he did.

8 Q All right. So you go from Lake Weir or Vanguard
9 to Lake Weir, then to Lake Weir Middle. Basically that's
10 how it went?

11 A Right.

12 Q And when you last worked at Marion or for the
13 Marion County School Board, which school were you working
14 at?

15 A It would have been probably Lake Weir Middle
16 School.

17 Q And the whole conversation we just had about you
18 not getting the head football coach position and all of
19 that, you gave me that answer in response to the question I
20 asked you about had you ever been disciplined for any reason
21 at all.

22 was it your understanding you were being
23 disciplined and that's why you didn't receive the head
24 football coaching position at Vanguard?

25 A I don't consider that being a discipline. I

1 believe I saw that when you question the superintendent as
2 to why, you know, he picked the head coach -- I mean, the
3 conversation was that -- I mean, I was -- I was told I had
4 the job. I mean --

5 Q All right. Let me just stop you. And I
6 appreciate all that.

7 A Go ahead.

8 Q My question is just, very simply, during the time
9 that you worked with the Marion County School Board or
10 school system, were you ever disciplined for any reason?

11 A I don't look at that as a discipline, no.

12 Q Okay. So the answer is no?

13 A No.

14 Q All right. From Marion County, where did you go?

15 A Back to Seminole County. Please correct that.
16 sorry. I left there and I went to Highlands County as the
17 head football coach, Sebring, Florida. Sorry.

18 Q So if I've got my time periods correct here, you
19 would have worked with the Marion County School Board system
20 from approximately -- approximately 1976 to approximately
21 1983?

22 A Correct.

23 Q Then from there, you would have gone to Highlands
24 County?

25 A Correct.

1 Q And became the head football coach at Sebring
2 High?

3 A Correct.

4 Q How long did you work with the Highlands County
5 School Board in any capacity?

6 A Three years.

7 Q So from about 1983 till about 1986?

8 A Correct.

9 Q And always did you work at Sebring High School?

10 A Two years at Sebring High School, one year at Avon
11 Park High School.

12 Q During your tenure at Sebring High School, you
13 were the head football coach?

14 A Two years, yes.

15 Q And then why did you transfer from Sebring to Avon
16 Park?

17 A I was not reappointed as the head football coach
18 in my third year, and I was asked to work as a defensive
19 coordinator at Avon Park High School.

20 Q During the three years that you worked with the
21 Highlands County School Board, were you ever injured on the
22 job?

23 A Yes.

24 Q What happened?

25 A Sebring High School, practicing on the stadium

1 field, major weather front moved through. We have, you
2 know, these steel bleachers, aluminum bleachers. I was at
3 the top trying to watch the offense work, you know, with the
4 coaches on the sideline, and lightening really struck really
5 severe and very close and the rains just came pouring. I
6 cleared the field and I was trying to get off the bleachers
7 as quickly as possible, and I slipped all the way down the
8 bleachers. And I did file a workers' comp.

9 Q So you slipped from the top row down to the bottom
10 row?

11 A Not all the way down. Probably five, six rows
12 down.

13 Q What injuries did you receive?

14 A I injured my lower back.

15 Q And what was the nature of the injury?

16 A Severe bruising, muscle spasms, 'cause they put me
17 on one of those electrode things, stimulating machines, for
18 about four months.

19 Q Yes, sir.

20 A And a lot of medication.

21 Q Who was the doctor that treated you for that
22 injury?

23 A Indian doctor. I don't recall his name, but he
24 has offices in Sebring.

25 Q And you say you filed a workers' compensation

1 claim?

2 A I did.

3 Q Was that claim settled?

4 A Never asked for monetary expenses.

5 Q You just wanted --

6 A Just my medical. I mean -- okay.

7 Q You just brought a workers' compensation to have
8 your medical care and treatment paid for?

9 A Correct.

10 Q Did you ever receive any lump sum payment as a
11 result of that claim?

12 A No.

13 Q Did they take any imaging studies of your low
14 back?

15 A Yes.

16 Q X-rays, MRIs, or both?

17 A Both.

18 Q All right. And what did they show, if anything,
19 as you recall?

20 A I think the way he explained it is that bruising
21 of my disc, we were talking about the disc and stuff, but
22 the problem was I had severe spasms. I don't know where
23 that was triggered from, but he could feel the spasms, you
24 know, and he gave me muscle relaxers, a lot of pain
25 medication. He put me on a TENS unit. I can't recall.

1 Q He put you on a TENS unit?
2 A Yes, sir.
3 Q For how long?
4 A Probably three months.
5 Q Did you have a lawyer representing you for that
6 matter?
7 A No.
8 Q All right. Any other injuries while working for
9 Highlands County School Board, other than that, Mr. Halbig?
10 A No.
11 Q Did you voluntarily resign from the Highlands
12 County School Board?
13 A Yes, sir.
14 Q Where did you go from there?
15 A Lake Brantley High School.
16 Q Mr. Booth was still the principal?
17 A He's still there.
18 Q So back to Seminole County School Board?
19 A Correct.
20 Q That's going to be at about approximately 1986,
21 1987?
22 A Correct.
23 Q And what do you do at Lake Brantley High School?
24 A Teacher, American Government, American History,
25 football coach. That's it at that time.

1 Q And who's the head football coach at that time?
2 A I see his face. I just can't -- I can't remember.
3 Q Let me ask you this: Back at that time, did they
4 run the option out of the wing set all the way back then?
5 A Right. They ran the option.
6 Q Okay.
7 MR. PENDLEY: Off the record.
8 (A discussion was held off the record.)
9 A Fred Almon.
10 Q Fred Almon was the head football coach back in
11 that time?
12 A Yes.
13 Q How long did you work at Lake Brantley High School
14 on that occasion?
15 A Till 1990.
16 Q And where did you go from there?
17 A I went to Lyman High School.
18 Q During the time that you worked at Lake Brantley
19 High School from about 1987 till 1990, did you ever file a
20 workers' compensation claim?
21 A No, sir.
22 Q Were you ever injured on the job?
23 A No, sir.
24 Q You go to Lyman High School. How long are you
25 there?

- 1 A Three years.
- 2 Q Until about 1993?
- 3 A Correct.
- 4 Q Who was the principal there then?
- 5 A Carlton Henley.
- 6 Q And what did you do at Lyman High School?
- 7 A I was an assistant school principal.
- 8 Q During the time you were at Lyman High School,
- 9 were you ever injured on the job?
- 10 A No, sir.
- 11 Q Ever file a workers' compensation claim?
- 12 A No, sir.
- 13 Q And why did you leave Lyman High School?
- 14 A I was transferred to Lake Mary high school.
- 15 Q In what capacity?
- 16 A Assistant principal.
- 17 Q When you were at Lyman High School, did you have
- 18 any additional duties other than administration such as
- 19 coach, anything like that at all?
- 20 A No.
- 21 Q What about at Lake Mary?
- 22 A No. Assistant principal only.
- 23 Q And how long were you at Lake Mary High School?
- 24 A One year.
- 25 Q And where did you go from there?

1 A The superintendent at Hagerty asked me to open up
2 an alternative school, start a brand new alternative school
3 for kids who have been expelled called Project Excel. It
4 was a partnership between the Private Industry Council and
5 the school board looking for kids with felony arrest records
6 who had been kicked out of the school system.

7 Q I may be getting this confused but is Crooms --

8 A No.

9 Q Different thing?

10 A Different.

11 Q What was Crooms?

12 A Well, Crooms in those days was just a school but,
13 you know, now it's an academy, you know, technology school.

14 Q Okay.

15 A But it's completely different.

16 Q All right. During the time that you worked at
17 Lake Mary that one year, ever file a workers' comp claim?

18 A No, sir.

19 Q Ever injured on the job?

20 A No, sir.

21 Q Were you ever disciplined there for any reason?

22 A No.

23 Q And what about when you worked back at Lake
24 Brantley High School from '87 to 1990? Any discipline
25 problems there?

1 A No, sir.

2 Q All right. And where is Project Excel?

3 A Project Excel was on Lake Mary Boulevard in a
4 four-story business building. I don't remember the correct
5 address, but we rented the entire top floor and we made it a
6 school.

7 Q And how long were you there?

8 A A year.

9 Q And then what happened?

10 A Then the superintendent hired me as the director
11 of school safety for the Seminole County School Board.

12 Q During the time that you worked at Project Excel,
13 were you ever injured on the job?

14 A I was injured, but I did not file a workers' comp.

15 Q Okay. What was the nature of your injury?

16 A I was attacked by about a 6'6" boy. Took me
17 through the wall.

18 Q Were you injured?

19 A I had headaches for several days.

20 Q So you received some type of closed-head injury?

21 A I think -- I had a big knot on my head and, you
22 know, I would consider I had a knot on my head.

23 Q He was a big kid?

24 A Very big kid.

25 Q Did you receive any medical care and treatment as

- 1 a result of that attack?
- 2 A No, sir.
- 3 Q Any criminal charges pressed against the kid?
- 4 A No, sir.
- 5 Q Did you report it to the school board?
- 6 A Yes, sir. It's a discipline issue.
- 7 Q What do you mean?
- 8 A It was -- well, you know, we wrote it up as a
9 discipline referral.
- 10 Q And other than having some type of head injury,
11 and you say he crashed you through the wall --
- 12 A Went together through the wall.
- 13 Q Literally?
- 14 A Literally to the next classroom.
- 15 Q Okay. And was it a regular wall or a --
- 16 A Drywall.
- 17 Q I mean, this was a serious fight?
- 18 A It wasn't a fight as I was breaking up a fight; so
19 when I grabbed him, you know, he was trying to go back and
20 fight and the momentum of our -- so it wasn't that he was
21 attacking me. It was just I was trying to break the fight
22 up.
- 23 Q Right. Okay. Then the school superintendent
24 makes you the director of school safety?
- 25 A Safety.

1 Q And how long do you hold that position?

2 A From 2000 -- when I left Lake Mary --

3 Q Now I'm a little confused. Let me just stop you
4 there.

5 A Stay with Lake Mary.

6 Q Well, we left off where you were at Project Excel
7 on Lake Mary Boulevard for one year from 1994 until 1995.

8 A From 1995 to 2009 I am the director of school
9 safety for the Seminole County School Board.

10 Q 1995 until 2009?

11 A Correct.

12 Q Where would your office be located?

13 A Wait a minute. We're way off.

14 Q Okay.

15 A We're way off. We're still -- no, no. Go back to
16 Lake Mary. It's 1994 --

17 Q Yes.

18 A Okay. 1994, I am now appointed as the director of
19 school safety. I'm the director of school safety from that
20 time through 1999.

21 Q Okay. And then what happens in 1999?

22 A In December of 1999, I retired with 30-some-odd
23 years of education experience. I do retire from the
24 Seminole County School board.

25 Q Okay. And so when would you have been appointed

1 to start up Project Excel?

2 A It would have been -- I had left Lyman '93. '93,
3 '94 I was at Excel, and then the next school year I started
4 the director of school safety for four years, '95 through
5 '99.

6 Q Okay. And did you ever work as a teacher after
7 that?

8 A Not as a -- yes, I did.

9 Q Okay. Let's kind of take it chronologically. Did
10 you come out of retirement at some point in time?

11 A I did, in 2004 through 2005.

12 Q So you're in retirement from 1999 until 2004?

13 A Correct, from the school system.

14 Q Yes. And then you come out of retirement. And
15 what happens then?

16 A I was hired as an assistant school principal at
17 Sanford Middle School.

18 Q In 2004?

19 A Correct. 2004 through -- yup.

20 Q And how long do you work at Sanford Middle School?

21 A One year.

22 Q Until about 2005?

23 A Correct.

24 Q Then where do you go?

25 A From June of 2005 through June of 2009, I work for

1 the Lake County School Board.

2 Q During the time that you worked at Sanford Middle
3 school as an assistant principal, were you ever injured on
4 the job?

5 A Yes, I was.

6 Q What happened?

7 A Teacher was getting beat up, school administrators
8 and security officers were having a problem. I intervened.
9 I took the kid to the ground and it was a concrete ground
10 and I injured my right knee 'cause I went down with my right
11 knee. And I had a -- what do you call it? --
12 arthroscopic -- cartilage.

13 Q Torn medial meniscus?

14 A Just a cartilage. Yeah.

15 Q Torn cartilage of some type?

16 A Yeah.

17 Q Did you file a workers' compensation claim?

18 A I was required to.

19 Q Were you represented by an attorney?

20 A Yes.

21 Q Did you ever receive a lump sum payment?

22 A I did.

23 Q How much?

24 A 10,000.

25 Q Your attorney would have been with Morgan &

1 Morgan?

2 A That's correct.

3 Q And it looks like the total settlement was
4 \$11,750, of which out of that I assume you had to pay your
5 attorney?

6 A Yes.

7 Q what kind of problems were you having with your
8 right knee back in that time?

9 A well, at the time I was running and chasing. I
10 mean, I had no problems, I mean, until after the injury, and
11 I went right back to having to deal with swelling, deal with
12 pain, putting weight on the foot, and, again, a lot of -- a
13 lot of medication, pain medication.

14 Q That would have been back in the 2004, 2005 time
15 frame?

16 A Right. It's 2004, 2005.

17 Q Your doctor was with Jewett Orthopaedic Clinic
18 back at that time?

19 A No, he was not.

20 Q who was with he with?

21 A I think it was a Dr. Rosen with Orlando -- Dr.
22 Rosen, Orlando Orthopedics.

23 Q And what did Dr. Rosen tell you about the
24 continuing or future care and treatment you would need as a
25 result of this injury to your right knee back in the 2004,

1 2005 time frame?

2 A well, he said I could go back to duty full-time,
3 you know, it's just a matter of just healing it, you know,
4 and getting the swelling down. And I went back to work
5 after three months full speed, chasing kids, playing
6 basketball, playing tennis, so obviously he must have done a
7 good job.

8 Q Did you ever read any medical reports from him
9 where he thought you would need continuing medical care and
10 treatment and estimated the value of the future treatment?

11 A I don't even know what that means. I didn't -- I
12 didn't read anything.

13 Q Were you ever told by Dr. Rosen that you would
14 need continuing medical care and treatment for your right
15 knee?

16 A Not that I recall.

17 Q Did you ever sign anything acknowledging that you
18 would need continuing medical care and treatment for your
19 right knee as a result of that injury?

20 A I don't believe I would ever -- I think he would
21 tell me "You need to sign this showing that you're going to
22 need this." I don't believe I signed anything telling me I
23 need that; otherwise, I would have kept seeing him.

24 Q All right. So you were at Sanford Middle School
25 for one year. We talked about your right knee injury there.

1 Then in 2005 you leave Sanford Middle School. And why do
2 you leave Sanford Middle School?

3 A Because my wife took a job at Lake County as the
4 technology manager and for the first time, I get to follow
5 her. She's always had to follow me, being the coach and
6 teacher, so --

7 Q Where was she working before she went over to Lake
8 County?

9 A Seminole County.

10 Q And what position do you take in Lake County?

11 A Director of risk management.

12 Q And how long were you in that position?

13 A Four years.

14 Q From approximately --

15 A 2005 through June of 2009.

16 Q During the time that you're there, are you injured
17 on the job?

18 A I filed a workers' comp 'cause I was required to,
19 yes.

20 Q And why did you file a workers' comp claim?

21 A I stubbed my toes on a concrete parking block that
22 nobody saw, and the two people that were with me actually
23 caught me, but -- so I was treated for toe. I had -- the
24 swelling in my toes was severe.

25 Q Right foot or left foot?

- 1 A Right foot.
- 2 Q And who treated you for that?
- 3 A A workmen comp doctor. I don't recall the name.
- 4 Q In Lake County?
- 5 A Lake County.
- 6 Q Did you have an attorney represent you in that
- 7 matter?
- 8 A No, sir.
- 9 Q Did you receive any lump sum payment?
- 10 A No, sir.
- 11 Q And so you voluntarily resigned from your position
- 12 as assistant principal at Sanford Middle School?
- 13 A Yes, sir.
- 14 Q During the time that you were at the Lake County
- 15 School Board as their risk manager, were you ever
- 16 disciplined for any reason?
- 17 A No, sir.
- 18 Q You left that job in 2009?
- 19 A Left in 2009.
- 20 Q Did you voluntarily resign or quit?
- 21 A I was not reappointed because there was a new
- 22 superintendent and she hires her own administrative staff.
- 23 Q Who was the new superintendent?
- 24 A Doctor -- I don't think -- it's Dr. Susan Moxley.
- 25 Q Okay. Up until 2009, had you ever filed a claim

1 of discrimination with the Equal Employment Opportunity
2 Commission, the Florida Commission on Human Relations, or
3 any other government, state or local agency?

4 A Absolutely, I did.

5 Q Before 2009?

6 A No, no. After 2009.

7 Q That was my question. Before.

8 A Yeah. After -- no, never.

9 Q Okay. So Dr. Susan Moxley comes in as the new
10 superintendent for the Lake County School Board and she
11 appoints her own administrative staff, correct?

12 A Um-hmm.

13 Q Is that a yes?

14 A Yes.

15 Q Which includes allowing you to go, and I assume
16 she hired a new risk manager?

17 A She did.

18 Q All right. And you filed an EEOC complaint?

19 A I did.

20 Q Why?

21 A Let's take a break for a minute.

22 Q Sure.

23 A I want to make sure I say this in the right way.

24 (A seven-minute recess was had.)

25 (Defendant's Exhibit 1 was marked.)

1 Q Mr. Halbig, when we took a break, I had asked you
2 a question about why you had filed a charge of
3 discrimination with EEOC against the Lake County School
4 Board and you wanted to take a break so you could make sure
5 you said this right. I think those were, in summary, your
6 words.

7 A Right. It started in 2000 -- it started in August
8 of 2005 when a Florida senator, Anna Cowin, who was then the
9 school superintendent, asked me to investigate fraud that
10 was unfolding within the Lake County School Board regarding
11 insurance, workers' compensation, group health insurance.
12 She thought there was a serious issue of some misuse and
13 abuse of taxpayer dollars and she asked me to investigate,
14 keep it confidential.

15 Part of my investigation showed that where Dr.
16 Susan Moxley was in charge of risk management prior to me
17 taking over the job and she approved a lot of these
18 contracts and relationships. And so, knowing all of that by
19 the time she came back as a school superintendent, I had
20 eliminated some of those insurance companies that she did
21 business with. I saved the district about \$18 million by
22 going out and going to other insurance companies and being
23 responsible with taxpayer dollars.

24 And when she came back, basically I was called in,
25 and she says, "whatever you do, you don't give Anna Cowin

1 any credit whatsoever. I'm your superintendent and you do
2 what I do. Don't say anything about what happened."

3 And basically I think she didn't want anybody to
4 know what I discovered, and basically I think that's the
5 reason I filed my EEOC complaint, because I think the
6 harassment I was getting by the time she was hired -- from
7 the time she was hired I was harassed. She had an assistant
8 superintendent there who harassed me and it was continuous.

9 And what was ironic about the whole process, in
10 April, my boss, who's the chief financial officer, called me
11 in and said, "Wolfgang, you're doing an outstanding job for
12 Lake County School Board. You have saved us a ton of
13 money." She says, "I'm appointing you as the risk manager."

14 Three weeks later she's the same person, comes
15 back to me again and says, "Wolfgang, I'm sorry, but you're
16 not going to be appointed. The superintendent has made that
17 decision."

18 And that's why I went through the process to file
19 a complaint of harassment, discrimination; so -- and my wife
20 was very frustrated that I did that.

21 Q why was your wife very frustrated?

22 A She works at the school board. She thought that
23 there would be possible retaliation against her and, you
24 know, she just didn't think I should have done that, which I
25 was angry, I was frustrated because after saving the

1 district, you know, after -- after -- after renegotiating
2 all of the group health insurance, saving the district \$16
3 million, going through all of our liability insurance,
4 general liability, property liability, we went from 6.3
5 million to less than 3, huge savings, and it's because of
6 the dealings she had with certain people when she used to be
7 there as assistant superintendent. I changed that but it
8 was done under a new superintendent, and when she came back
9 I'm assuming that she heard from those people that they
10 didn't -- I guess they didn't like what I did.

11 Q Okay. Who was your boss?

12 A My boss was Carol MacLeod. She was the chief
13 financial officer.

14 Q And is Carol still with the Lake County School
15 Board?

16 A Yes, she is.

17 Q Still the CFO?

18 A Yes, she is.

19 Q All right. And I appreciate all that information
20 and maybe I just didn't ask a very good question. I'm just
21 trying to find out what the discrimination was. Was it
22 race, sex, national origin? What was it based upon, what
23 protected class?

24 A Hostile work environment.

25 Q Anything else?

1 A Harassment. Those two are the basic factors.

2 Q Were there any other minor factors?

3 A I was hoping that they would discover the things
4 that were happening under her watch because it had to be
5 brought to the attention. For me to be promised a job and
6 then for it not to be --

7 Q I'm sorry. I'm just trying to find out --

8 A It was harassment. It's just harassment.

9 Q And hostile work environment?

10 A Hostile. Unbelievable.

11 Q And what happened to your claim with the Equal
12 Employment Opportunity Commission or --

13 A I actually dropped it.

14 Q Why?

15 A Because my wife was gonna -- she told me to drop
16 it.

17 Q Did that create some marital discord between you
18 and your wife, the fact that you had filed a complaint with
19 the EEOC?

20 A For a week.

21 Q And it's all been fine since you dropped it?

22 A Oh, yeah --

23 Q And it's all been fine since you dropped it?

24 A Yes.

25 Q Backing up for a second, when did you come to the

1 U.S.?

2 A In 1958.

3 Q And where did you attend school before going to
4 Avon Park High School?

5 A In 1958?

6 Q Well, you went to Avon Park High School, correct?

7 A Well, in 1958, I was 12 years old. I went to a
8 elementary, middle school. I graduated from Avon Park High
9 school.

10 Q Right. You went to what elementary and middle
11 school?

12 A Avon Park Elementary.

13 Q And what about middle school or junior high?

14 A It was combined in those days.

15 Q And during that entire time, you couldn't speak
16 any English at all?

17 A It was -- there was no ESO -- nobody spoke German.
18 The only person I had was my mother. I did not speak one
19 word of English when I came to this country.

20 Q I understand that, but from 1958 until the time
21 you entered high school, you didn't learn to speak English
22 during that time?

23 A I learned it off watching television, broken
24 English. I was not taught English in the public schools. I
25 did --

1 Q I understand that. A lot of people learn a second
2 language by never being taught it. They just learn it. And
3 my question to you is you're telling me you couldn't speak
4 any English at all in high school and that's why you went to
5 the junior college?

6 A well, let me rephrase that. I couldn't speak it
7 fluently, I couldn't write it fluently; therefore, I had D
8 grades, and that's why I wound up going to junior college,
9 because I didn't have the GPA, even -- they gave me a --
10 Florida State came, they signed me, had a full a
11 scholarship, and then they were nice enough to get me to
12 Coffeyville. Florida State actually got me to Coffeyville
13 'cause they didn't want to lose me.

14 Q And why did you move to the U.S. when you were 12
15 years old?

16 A well, I never knew my mother till age 12. The
17 week that I was confirmed in the Catholic Church, she shows
18 up with this military guy. They're married, and she tells
19 me and my grandparents, who raised me up to this point, that
20 "You're going to the United States;" so I saw my
21 grandparents having a huge fight. And the next thing I
22 know, I'm headed to Ramstein Air Base and I'm coming to the
23 United States. I got my shots and I was displaced from my
24 grandparents and I was not very happy about it, 'cause I
25 never knew her. I didn't know what the hell I'm doing with

1 her, you know?

2 Q Is your mom still alive?

3 A She died.

4 Q When did she pass away?

5 A 2005.

6 Q Ever go back to Germany after you came to the
7 U.S.?

8 A I'd take my children when they were in high school
9 about every two years. I took them 'cause I wanted them to
10 see where I lived and where I grew up and where I went to
11 school in Germany.

12 Q All right. So you say you dropped your EEOC
13 claim?

14 A I did.

15 Q At the request of your wife?

16 A Both of us. Mutual agreement.

17 Q And then in 2009 when you stopped working as the
18 risk manager for the Lake County School Board, what do you
19 do?

20 A I wrote a movie script. Since I was an American
21 government teacher, I thought this would be a good time,
22 since I was dealing with the EEO complaint and I was working
23 at home and I was working on some expert witness cases, you
24 know, with attorneys and I was writing a movie script.

25 Q Did you make any money from it?

1 A Not yet, but I'm getting close.

2 Q So for income, what did you do?

3 A Expert witness.

4 Q What did you hold yourself out to be an expert in?

5 A School safety, workplace safety.

6 Q Did you list in your answers to interrogatories

7 all the cases that you were retained as an expert in?

8 A I believe so.

9 Q And, actually, it looks like it started back in
10 1996?

11 A Absolutely, yeah.

12 Q So if I count all of them from 1996 until the
13 present, it looks like you were an expert witness in 10
14 cases?

15 A I just closed three more.

16 Q So 13 total?

17 A 13, yeah. I don't go looking for that business.
18 I just only answer my phone when they call.

19 Q Did you have any corporate name or a business name
20 through which you provided your expert services?

21 A Sometimes it was WK and Associates, and then after
22 I closed that business, I just basically did it on my own
23 Social Security number.

24 Q The Real Hero Foundation, what was that?

25 A It was a nonprofit organization that we tried to

1 get started in helping school districts fund the
2 Save-A-Friend Hotline where parents or children had a chance
3 to dial an 800 number and if they saw something or if they
4 heard something about a kid with drugs or getting in trouble
5 or thinking about suicide, they could dial the 800 number.

6 Q It looks like that company has been inactive since
7 about 2002?

8 A well, there was just too many other things going
9 on at the time. You know, we were trying to do a national
10 company. We just got a half-a-million-dollar contract in
11 Anne Arundel County, Maryland, where Dr. Eric Smith, who
12 used to be the Winter Park principal, is now the
13 superintendent, he gave us a half-million-dollar contract to
14 evaluate all of his schools.

15 Q When was that, now?

16 A That was in 2002. It was just -- there was just a
17 lot of work in that day.

18 Q Business is no longer in existence?

19 A No.

20 Q Hasn't been for some time?

21 A It sort of shut down in 2004.

22 Q Okay. So before this accident?

23 A Right.

24 Q National Institute for School and Workplace
25 safety, Inc., it looks like it became inactive in 2003?

1 A Right.

2 Q What was that business?

3 A It was, again, a school workplace safety, working
4 with AT&T and a lot of school districts primarily in
5 assessing schools about safety, risk, you know, potholes, I
6 mean, anything that could hurt somebody, to reduce the risk.

7 Q Again, that business was shut down before this
8 accident in January of 2010?

9 A Correct.

10 Q WK and Associates, Inc., it looks like it ceased
11 doing business in about 2006?

12 A Correct.

13 Q What kind of business was that?

14 A Again, school safety, workplace safety. What
15 happened, I think ever since Columbine -- correction -- ever
16 since the Trade Towers coming down, school safety and the
17 money really dried up really quick and schools weren't
18 interested in doing things like that.

19 Q Any particular reason why you opened different
20 companies and then would operate them and shut them down,
21 operate them and shut them down or -- why not just keep the
22 same business name?

23 A Never thought about that. I mean, there is no
24 financial reason. I mean, we never went financially
25 bankrupt, we always made money; so there was no -- it's just

1 that people wanted to do something like that, like the
2 people who were my business partners just chose to go
3 somewhere else; so I thought I'd do it myself.

4 Q Bullies-Beware, Inc., it looks like it's been
5 inactive for some time.

6 A Yes.

7 Q And before this accident in January of 2010?

8 A Yes.

9 Q In January of 2010, were you providing any type of
10 services, expert or otherwise, through any companies? The
11 ones we found look like they had been shut down before
12 2000 --

13 A Not through a company but through my Social
14 Security number.

15 Q Okay.

16 A The tax return will show you my 1099 that I had to
17 file, so you have all those.

18 Q All right. So from 2009 when you left the Lake
19 County School Board, were you ever employed any place else?

20 A 2009, I was hired again in January of 2011 through
21 June of 2011 at Sanford Middle School as a teacher.

22 Q How long was your contract?

23 A Six months contract for the FCAT, helping at-risk
24 kids.

25 Q During that time, were you ever injured on the

1 job?

2 A No.

3 Q File a workers' comp claim?

4 A No.

5 Q And since June of 2011, have you been employed any
6 place?

7 A Just as an expert witness.

8 Q And during that time or since that time, since
9 June of 2011, how many cases have you had, if any?

10 A Two.

11 Q What sources of income do you have now?

12 A I have retirement, I have Social Security, and I
13 have expert witness, or if I'm working for a school
14 district.

15 Q How much do you receive in retirement benefits?

16 A From the state, 52,000.

17 Q Per year?

18 A Yes.

19 Q All right. From Social Security?

20 A About 20,000.

21 Q And doing other work, how much do you receive --

22 A About 42, 43,000.

23 Q Do you hold any professional licenses or
24 certificates of any type now?

25 A Yes. I'm a Florida state -- Florida certified

1 claims adjuster.

2 Q How long have you been a certified claims
3 adjuster?

4 A For about eight years.

5 Q Any others besides that?

6 A That's all I needed.

7 Q I know that's all you need, but do you have --

8 A No, I don't have any other certifications.

9 Q Do you belong to any social clubs or
10 organizations?

11 A No.

12 Q Did you back in January of 2010 when this accident
13 occurred?

14 A No.

15 Q Member of any church?

16 A No.

17 Q Besides the workers' compensation claims we've
18 talked about and your EEOC claim and this lawsuit, have you
19 filed any other claims, lawsuits of any type whatsoever up
20 until this very moment in time?

21 A I think there was an automobile accident. I don't
22 recall the date and time, but I did -- I think it was
23 Morgan & Morgan, and they had -- somebody ran into the back
24 of us and destroyed the back of our car.

25 Q And about when was that?

- 1 A 2004, 2005.
- 2 Q where did the accident occur?
- 3 A In Longwood, Florida.
- 4 Q what law enforcement agency investigated it?
- 5 A The City of Longwood.
- 6 Q who was in your vehicle?
- 7 A I was driving, my wife was a passenger.
- 8 Correction. My wife was driving, I was the passenger.
- 9 Q what injuries did you receive in that accident?
- 10 A Neck.
- 11 Q Any others?
- 12 A Just neck injury.
- 13 Q who treated you?
- 14 A I cannot think. Schwartz. There was an
- 15 orthopedic doctor named Schwartz, in Orlando.
- 16 Q where was his office?
- 17 A I don't know the address but he was located --
- 18 he's got an office in Orlando, Florida.
- 19 Q what street?
- 20 A I have no idea.
- 21 Q what did he do for you?
- 22 A Injections.
- 23 Q Epidural steroid injections?
- 24 A Correct.
- 25 Q Into your neck?

1 A Yes. Pain medication, muscle relaxers.

2 Q Did you and your wife file a lawsuit either
3 separately or jointly?

4 A I think we did it separately.

5 Q In what county? Seminole?

6 A Seminole County.

7 Q Did you give a deposition in that case like you're
8 doing here today?

9 A No, I did not.

10 Q Did you testify in court?

11 A No, I did not.

12 Q What happened to the lawsuit?

13 A There was a settlement.

14 Q How much did you receive?

15 A I think about \$12,000, I think.

16 Q The doctors you listed that treated you for the
17 injuries you received in this accident were Dr. Alan Mostov,
18 at Countryside Medical, Hilton with Seminole Primary Care,
19 and Drs. Mintzer, Beckner and Fenichel with Jewett
20 orthopaedic clinic.

21 Did any of those doctors treat you for this neck
22 injury from the accident you had in 2004, 2005?

23 A Dr. Mostov would have. He's my family doctor. I
24 mean, I always see him if something happens to me.

25 Q Then we asked you to list the name of any other

1 doctors with whom you have treated in the past 10 years and
2 for each doctor, to note the dates of examination or
3 treatment and the condition or injury for which you were
4 examined or treated. I see Dr. Alan Mostov's name again,
5 and Hilton at Countryside Medical, and then Seminole Primary
6 Care. I don't see a Dr. Schwartz or anybody of an
7 orthopedic nature that might have treated you.

8 A I just don't recall -- I just don't recall who
9 that orthopedic doctor was at that time. I just don't
10 recall.

11 Q would you have something at your house, a record,
12 a note, a calendar, some document from which you can obtain
13 that doctor's name?

14 A well, I guess I'd have to go back and call the
15 attorney who represented me. He would probably have the
16 records. I'll do that for you.

17 Q what type of car were you a passenger in at the
18 time of the accident?

19 A Ford Explorer.

20 Q On what street did the accident occur?

21 A 434, State Road 434.

22 Q Near what intersection or place?

23 A County Road 427.

24 Q Longwood Police Department investigated it, you
25 said?

1 A Yes, sir.

2 Q Did emergency medical personnel or fire rescue
3 respond?

4 A Yes, they did.

5 Q Did you receive care and treatment from them?

6 A Yes, I did.

7 Q At the scene?

8 A At the scene.

9 Q Were you transported from the scene in an
10 ambulance?

11 A I was not.

12 Q Okay. why did it take you so long to think about
13 that?

14 A To be honest with you, ever since I tripped and
15 fell, my memory's gone, and you'll see that as we go through
16 this.

17 Q Was your wife transported from the scene of the
18 accident by ambulance?

19 A She was not.

20 Q Was your car drivable or the Explorer that you
21 were in, was it driven from the scene of the accident?

22 A It was.

23 Q And who drove it away?

24 A My wife.

25 Q And then the only doctor you remember being seen

1 by is Dr. Schwartz, an orthopedic doctor?

2 A He pops up in my head for some reason but, like I
3 said, I will find out for you who the orthopedist was.

4 Q Besides epidural steroid injections into the neck
5 that that doctor gave you, what else did he do for you?

6 A I know muscle relaxers.

7 Q Painkillers, you told me --

8 A I live on -- yeah, I've been on painkillers.

9 Q How long did you treat with him?

10 A I really don't recall. I think I only saw him a
11 couple of times.

12 Q When did he discharge you from his care and
13 treatment?

14 A I don't recall.

15 Q Did he assign to you any type of permanent
16 impairment rating?

17 A No.

18 Q And you're certain about that?

19 A Let's put it this way. I don't know. I'll get
20 the records for you.

21 Q Did he place any type of permanent limitations and
22 restrictions on your activities?

23 A No.

24 Q And you're certain about that?

25 A Yes.

1 Q All right. Any other lawsuits or workers'
2 compensation claims other than those we've talked about and
3 this one here that we're here on today?

4 A To the best of my knowledge, I think we've covered
5 it.

6 Q Okay. Little bit different question, okay? Have
7 you ever made a claim against some person, corporation,
8 entity, someone or somebody at all, not filing a lawsuit but
9 made a claim whereby you claimed injuries as a result of
10 somebody else's negligence or some company's negligence?

11 A No.

12 Q Ever been arrested?

13 A No.

14 Q Ever been convicted of any crime?

15 A No.

16 Q Ever applied for social security income disability
17 benefits?

18 A No.

19 Q Have you ever applied for disability benefits in
20 any federal, state or local agency?

21 A No.

22 Q Ever applied for disability benefits with any
23 insurance company, whether group, private or otherwise?

24 A No.

25 Q Other than your job at the Seminole County School

1 Board from January of 2011 till June of 2011 where you
2 helped in, I guess, preparation for the FCAT, have you been
3 employed with any other company, corporation or entity since
4 this accident in January of 2010?

5 A No.

6 Q Okay. Little different question. Have you
7 applied for employment with any company or entity since the
8 accident in January of 2010 but, for whatever reason, you
9 weren't hired for the position?

10 A Yes.

11 Q Where?

12 A Seminole County.

13 Q School Board?

14 A School Board.

15 Q All right. What positions did you apply for
16 Seminole County School Board since this accident?

17 A Assistant principal, teacher. Two.

18 Q All right. Can you give me, Mr. Halbig, some
19 approximate time frame when you would have applied?

20 A As late as two weeks ago.

21 Q And where would you have gone to apply?

22 A Online. I do my applications online.

23 Q That was the last time you applied out of the two.
24 When was the first time you applied?

25 A Two months ago, for a teaching position which I

1 got an interview. I think I've applied for three other jobs
2 besides the assistant principal job, within -- within the
3 last nine months.

4 Q All with Seminole County School Board?

5 A All with Seminole County School Board.

6 Q All applications filed online?

7 A Yes, sir.

8 Q Did you print a copy of those applications for
9 your file for later reference?

10 A No, because the way the process is I'm in the
11 administrative pool in Seminole County; so all I have to do
12 is put in my social security number and the number of the
13 job code and it automatically registers me and I have to
14 update my resume, and that's all I do. It doesn't go back
15 to my, you know, updating the file.

16 Q Do you have to complete an application of any type
17 or is it merely submitting a resume?

18 A Submitting a resume.

19 Q So you don't have to complete an application that
20 we traditionally think of where they would ask about prior
21 jobs, reasons for leaving those jobs, anything like that at
22 all?

23 A No.

24 Q On the resumes that you submitted to the Seminole
25 County School Board for these various positions, do you

1 include a section concerning your health or physical and
2 emotional condition?

3 A No. But the last job I had, remember in June of
4 2011 -- I mean in January 2011 through June of 2011, they
5 require you to get a physical. Every job, when you come
6 back into it, they will not hire you unless you get approved
7 by a doctor.

8 Q Once you're offered the job or once you were
9 offered the job from January 11 through June 11, once you
10 were offered that job, did you have to complete some type of
11 post-offer medical questionnaire?

12 A No.

13 Q Did you have to complete any type of medical
14 history form at all after you were offered the job?

15 A No.

16 Q But you were given a physical examination?

17 A Yeah. There's a document that you have to take to
18 your doctor and, yes, they give you a physical.

19 Q Okay. Which doctor would you have gone to?

20 A Dr. Mostov in Ocala.

21 Q Is that different than your Dr. Mostov?

22 A No. It's the same one.

23 Q Same guy?

24 A Same guy.

25 Q Okay. Did you keep a copy of that form?

1 A No, sir.

2 Q All right. And did the physical examination Dr.
3 Mostov did for your job, which commenced in January of 2011
4 with the Seminole County School Board, find any type of
5 limitations, restrictions that you may have had which would
6 have prevented you from doing that job?

7 A He was aware that I had a difficult time standing
8 for long periods of time, but, again, I think what the
9 physical was asking is whether I have -- you know, he gave
10 me a -- what do you call it? -- tuberculosis shot, checked
11 my heart, checked my ear, my blood pressure. But based on
12 my history he says, "You know, you need to be careful about
13 standing for long periods of time," because he was still
14 prescribing my pain medication to me, so I just listened to
15 my doctor.

16 Q So I assume he didn't find any type of physical or
17 emotional limitations which would prevent you from doing
18 that job, fair?

19 A Fair to say.

20 Q And tell me specifically what your duties were
21 when you had that job from January of 2011 until June of
22 2011.

23 A Classroom seven days -- seven periods a day with
24 about 12 students in it, had them in the computer which
25 allowed me to sit in a chair and do individual, you know,

1 mentoring with the kids, English, math, get them ready for
2 FCAT; so I really didn't walk -- in a lot of ways, I didn't
3 have those administrative duties. I was actually sitting.

4 Q which school did you work at?

5 A Sanford Middle.

6 Q where was your classroom located?

7 A It's in the front of the school to the right. I
8 think it's like Room 112.

9 Q On the first floor?

10 A First floor, yes.

11 Q Did you think you had any type of physical or
12 emotional limitations which would prevent you from doing
13 that job?

14 A Not tutoring. Just like expert witness, it's
15 basically you're teaching. It's verbal, it's not physical.

16 Q Do you think you have any type of physical or
17 emotional limitations which would prevent you from being an
18 administrator such as an assistant principal or a principal?
19 I assume not since you've been applying for the jobs; am I
20 correct?

21 A well, I think unless they ask me for my medical
22 history, then they would find out, but since they're not
23 going to ask me for a medical history, I need the job, I
24 need the work, I need the income.

25 Q My question, though, is you've applied for

1 positions as assistant principal and principal, correct?

2 A Right.

3 Q You've done that in the past nine months?

4 A Right.

5 Q So is it a fair statement, then, that you think
6 you are physically and emotionally capable of performing the
7 job duties of an assistant principal or a principal in a
8 school?

9 A I think if I was given the job, I would explain to
10 the person hiring me that I do have limitations. First of
11 all, I got to get a job but it doesn't mean they're going --
12 I would explain I'm a very honest person and I would tell
13 them of my past and my history. I'm just telling you --
14 it's a yes or no, but I'm saying even though I applied, I
15 need a job. I need a job. I need to work. I have kids, I
16 have grandkids. If I was hired in the job, I think my
17 responsibility would be to let them know what my limitations
18 are. That's --

19 Q You're really reading too much into my question,
20 okay? I mean, you've been an assistant principal, yes?

21 A Absolutely.

22 Q You've been a principal, yes?

23 A Yes, I have. And I know what the jobs are.

24 Q You know what the jobs are and the job duty
25 requirements, correct?

1 A Absolutely.

2 Q So my question is very simply then, I mean,
3 regardless of whether you've got limitations or not, do you
4 think you're physically and emotionally capable of
5 performing the job duties of an assistant principal or
6 principal?

7 A Not since the injury. No, I'm not.

8 Q Then why are you applying?

9 A Because I need the work. We've had a classroom
10 teacher who had stomach surgery, stomach replaced, could not
11 work but yet we let him work because he needed the work and
12 the kids respected him and he did his work.

13 Q So you're applying for jobs that you don't think
14 you're physically capable of performing; is that a fair
15 statement?

16 A I'm --

17 Q Yes or no.

18 A Yes.

19 Q Have you applied for any jobs that you think you
20 are physically capable of performing?

21 A Expert witness.

22 Q Anything else?

23 A No.

24 Q And you thought you were physically capable of
25 performing the job that you held from January of 2011

1 through June of 2011?

2 A Tutoring, yes. That's mental. It's not physical.

3 Q All right. Do you have any outstanding
4 applications now for a job in any capacity with the Seminole
5 County School Board?

6 A Yes, I do.

7 Q In what capacity?

8 A Teacher.

9 Q Anything else?

10 A That's it.

11 Q Do you think you're physically capable of
12 performing the job duties of a teacher with the Seminole
13 County School Board?

14 A No.

15 Q Then why have you applied?

16 A Because I would disclose my limitations, and
17 administrators, we work around some of those when there's a
18 need for certain people.

19 Q So you're thinking if you apply, even though you
20 think you have physical limitations, and you're offered the
21 job and you disclose to them whatever physical limitations
22 you think you have, that they will somehow accommodate those
23 physical limitations and hire you?

24 A Yes, yes.

25 Q Okay. And would that be true whether it was

1 assistant principal, principal or teacher, correct?

2 A Are you going to discriminate because of my
3 accommodations?

4 Q Just back up for a second. I get to ask the
5 questions, okay?

6 A well, I'm just saying --

7 MR. PENDLEY: Could you go back and read my
8 last question to him?

9 A I can't believe you'd say that.

10 MR. PENDLEY: Let me move to strike the
11 comment.

12 Q I'm not saying anything. I'm trying to understand
13 why you're applying for jobs you feel you're not physically
14 capable of performing. And now I understand that based upon
15 your past experience, you would be physically capable of
16 performing them because you would expect and anticipate the
17 school board of Seminole County to accommodate whatever
18 physical limitations you believe you have; is that correct?

19 A That's true.

20 Q Perfect. Thank you. All right.

21 And that would be true whether it was the position
22 of principal, assistant principal or a teacher, correct?

23 A Correct.

24 Q Okay. Good. All right. Other than applying with
25 the Seminole County School Board, have you applied for any

1 other positions with any other entity since June of 2011?

2 A No. Correction. Before the injury, I applied for
3 a job with ICS which is Instructional Component Company.

4 Q we'll talk about that. I've asked since June of
5 2011 have you applied?

6 A Since, no.

7 Q Okay. Other than the automobile accident in
8 Longwood, have you been involved in any other automobile
9 accidents at all?

10 A No.

11 Q Have you been involved in any other slip and
12 falls, trip and falls, any type of accidents at all where
13 you sustained some type of injury, regardless of how small
14 or insignificant it may have been?

15 A Not since June 26, 2010.

16 Q Have you ever broken any bones?

17 A No.

18 Q Have you ever had any stitches?

19 A Yes.

20 Q What for?

21 A Volleyball injury.

22 Q Anything else besides that?

23 A That's it.

24 Q You've had how many surgeries on your right knee?

25 A Three.

1 Q Okay. The first one was back when you played
2 college football at Abilene Christian?

3 A Correct.

4 Q When was the second one?

5 A Sanford Middle School.

6 Q And what was the time frame there again?

7 A That was -- Sanford Middle School would have been
8 2004, 2005.

9 Q And, again, that's on the right knee, correct?

10 A Right knee, right.

11 Q And that was for some type of torn cartilage?

12 A Right.

13 Q And when was the last surgery?

14 A I'm sorry. Two would have been at Abilene
15 Christian, meniscus and ACL at Abilene Christian; and the
16 knee surgery would have been at Sanford Middle School for
17 the meniscus in 2004.

18 Q And that was Dr. Rosen?

19 A Dr. Rosen.

20 Q Any other surgeries besides those three knee
21 surgeries?

22 A No.

23 Q Any other injections into your neck, middle or low
24 back other than the injections that the doctor gave you, the
25 epidural steroid injections that the doctor gave you as a

1 result of the 2004, 2005 auto accident?

2 A No.

3 Q Any other surgeries of any type whatsoever besides
4 surgeries on the right knee?

5 A No.

6 Q Do you have any health issues?

7 A High blood pressure.

8 Q Okay. what else?

9 A Severe back pain, right knee pain, neck pain, hand
10 pain.

11 Q Okay. Hang on. Okay. High blood pressure,
12 severe back pain, severe neck pain.

13 A Right knee, severely swollen to this day. Neck
14 injury, left and right side. And I think what's happened,
15 that trip and fall exacerbated my arthritis, as they would
16 call it.

17 Q Okay. So your health problems that you have now
18 are high blood pressure; severe back pain; neck pain, right
19 and left side; right knee pain with swelling?

20 A Correct. And headaches.

21 Q Headaches?

22 A Correct.

23 Q And you feel there's been an aggravation of your
24 arthritis?

25 A I think the trip and fall -- because when you

1 asked the questions prior to that, my family doctor will
2 tell you I had good health.

3 Q So your family doctor -- who is Dr. Mostov, yes?

4 A Yes.

5 Q -- you're confident will testify that you were in
6 good health before the accident of January 2010?

7 A Besides the blood pressure.

8 Q Okay. Diabetic?

9 A Prediabetic.

10 Q What do you mean by that?

11 A Well, the doctor tells me I need to lower my
12 cholesterol, eat more healthy and jog, exercise.

13 Q Do you smoke?

14 A No.

15 Q Ever have?

16 A Never have.

17 Q Drink any alcoholic beverages?

18 A Don't drink.

19 Q Ever been treated by a chiropractor as of this
20 point in time?

21 A Yes, I have from the car accident in 2004, 2005.

22 Q And who was the chiropractor you treated with?

23 A Got me. I went -- well, wait. I went -- the car
24 accident with the primary care I was referred by her, an
25 Indian doctor, to a chiropractor. He's in Altamonte

1 Springs. But again, this should be somewhere in the medical
2 records.

3 Q which primary care did you go to after the
4 automobile accident?

5 A Primary Care in Longwood front by I-4.

6 Q On 434?

7 A 434.

8 Q What is it next to?

9 A Kobe's Steakhouse.

10 Q Is it still there?

11 A No. They moved because of the -- I think they're
12 in Lake Mary now, but they're still called Primary Care.
13 And they should have the medical records for that car
14 accident. She's the one that sent me to the chiropractor.

15 Q Other than being treated there for injuries you
16 received in the car accident, were you ever treated there
17 for any other reason?

18 A Health, you know -- Mostov used to be in Primary
19 care, he used to work there and then he moved to Ocala, and
20 I wanted to stay with my family doctor because we have this
21 long 20-year history, okay; so I'm willing to drive to Ocala
22 to see him.

23 Q Okay. Other than being treated by a chiropractor,
24 as a result of the injuries you received in the car accident
25 in about 2004, 2005, have you ever been treated by any other

1 chiropractor?

2 A Not that I recall.

3 Q And I'm talking about up until this moment in
4 time.

5 A No.

6 Q Up until this moment in time, have you ever been
7 treated at the emergency room for any reason and then
8 released?

9 A Trip and fall on January 26th --

10 Q Other than that occasion?

11 A No.

12 Q Ever been transported by ambulance for any reason
13 at all up to this very moment in time?

14 A No. Best of my knowledge, no.

15 Q Up until this very moment in time, have you ever
16 used any orthopedic appliances such as knee brace, neck
17 brace, back brace, cervical collar, anything at all?

18 A No. Just wrap, ice.

19 Q For your --

20 A Knee, for the knee, support. You know how you buy
21 a support brace, you know.

22 Q Have you ever been treated by a psychiatrist,
23 psychologist or any type of mental healthcare counselor?

24 A Psychiatrist.

25 Q who?

1 A Dr. Baxley in Ocala.
2 Q when?
3 A Probably seven months ago.
4 Q who referred you to Dr. Baxley in Ocala?
5 A Dr. Mostov.
6 Q Your family doctor?
7 A Correct.
8 Q And how many times have you seen Dr. Baxley?
9 I assume he's a doctor?
10 A Twice.
11 He's a doctor.
12 Q Is he a psychiatrist or psychologist?
13 A Psychiatrist.
14 Q When was the last time you saw him?
15 A Three months ago.
16 Q Are you scheduled to see him again?
17 A No.
18 Q And what did Dr. Baxley do for you?
19 A Put me on Cymbalta, antidepressants, and
20 wellbutrin.
21 Q Cymbalta is an antidepressant. why is wellbutrin
22 prescribed for you?
23 A I have no idea.
24 Q You didn't ask? I would want to know what type of
25 medication --

1 A I can't remember.

2 Q Are you taking any type of medication today that
3 would affect your memory?

4 A I take the same medication every day.

5 Q Okay. Are you taking any type of medication today
6 that would affect your memory?

7 A Not that I can say, 'cause I used to have a great
8 memory before the fall.

9 Q So you're blaming a lack of a great memory now on
10 the fall?

11 A Absolutely.

12 Q Okay. So my question simply is this: Are you
13 taking any type of medication that would affect your memory
14 here today?

15 A No.

16 Q Prior to Dr. Baxley, had you ever seen or treated
17 with any type of psychiatrist or psychologist or mental
18 healthcare counselor?

19 A No.

20 Q Had you ever requested, prior to Dr. Baxley, to
21 see any type of psychiatrist, psychologist or mental
22 healthcare counselor?

23 A I think Dr. Rosen at one time thought I should see
24 a psychiatrist to have a conversation with him 'cause of my
25 frustrations with the knee injury at Sanford Middle School.

1 I was very angry because I should not have had to get
2 injured the way I did. You had to see the fight. It was
3 just -- I was very angry.

4 Q Okay. Did you see someone?

5 A No, I did not.

6 Q Why not?

7 A I have a hard time going to see psychiatrists. I
8 feel like I'm strong enough to handle my mental problems.
9 Always have been. I'm an athlete. I'm supposed to take
10 care of myself.

11 Q Prior to Dr. Baxley prescribing you wellbutrin and
12 cymbalta, had any doctor at any point in time ever
13 prescribed to you any type of antidepressant or psychotropic
14 drugs?

15 A Hilton, Dr. Mostov. They have.

16 Q Prior to the accident?

17 A Not prior to the accident. Sorry. I missed that
18 word. After the accident. No. Prior to the accident, I
19 did have antidepressants.

20 Q Why were you being prescribed antidepressants
21 prior to the accident in January of 2010?

22 A Susan Moxley, Lake County School Board.

23 Q So it's your testimony that any antidepressants
24 that you would have taken before the accident in January of
25 2010 would have been caused by your relationship with

1 Ms. Moxley?

2 A Correction. That would be correct but -- but what
3 had happened to me on January 26th, though, that
4 antidepressant, my anger was not being able to control, and
5 that's why I went to see Dr. Baxley, because I didn't think
6 it was sufficient. That's why he prescribed Cymbalta
7 instead of Effexor. He stated that, "You need to have
8 wellbutrin and you need to have Cymbalta, which is a more
9 powerful antidepressant, to help you deal with your anger
10 and frustrations."

11 Q And when did you start having problems with Dr.
12 Moxley?

13 A 2009.

14 Q Had you ever been diagnosed with depression prior
15 to that time?

16 A No. I'm a happy person.

17 Q I'm sorry?

18 A I'm a happy person.

19 Q All right. Let me see if I can get this right
20 now. In 2009, you start having problems with Dr. Moxley,
21 the school board --

22 A Superintendent.

23 Q -- superintendent for Lake County, yes?

24 A Yes.

25 Q And as a result of her harassment of you in 2009,

1 you filed an EEOC complaint, yes?

2 A Yes.

3 Q And at that point in time, that is when you were
4 first given some type of antidepressant drug?

5 A It was when she first came on board. It's not at
6 the end. It's when she came on board and --

7 Q when would that have been?

8 A She was hired six months earlier. She would have
9 been on July 2009.

10 Q And up until July 2009, you say you were a happy
11 person and not having any type of depression or anxiety or
12 anything of that nature; fair statement?

13 A Fair statement.

14 Q All right. Have you ever been treated for drug or
15 alcohol abuse?

16 A Don't take drugs or drink.

17 Q Have you ever been treated for drug or alcohol
18 addiction?

19 A Don't drink or use drugs.

20 Q So the answers to both of those questions would be
21 no?

22 A No.

23 Q Okay. Have you ever been institutionalized for
24 any reason at all, for any type of emotional or mental
25 health problems?

1 A No.

2 Q What type of vehicle do you currently own?

3 A 2006 Ford Explorer.

4 Q Same one that you were involved in the accident?

5 A Different one.

6 Q Different?

7 A Remember, that accident happened in 2004, 2005.

8 Q What type of vehicle does your wife own?

9 A She owns a 2007 Volkswagen.

10 Q Other than those two vehicles, do you and your
11 wife either own jointly or separately any other vehicles?

12 A My son's truck.

13 Q Any others?

14 A That's it.

15 Q Do you own any type of recreational vehicles,
16 boats, watercraft, four-wheelers, anything at all?

17 A No.

18 Q Have you since the date of this accident in
19 January of 2010?

20 A Have I what?

21 Q Owned any other type of recreational vehicles.

22 A No.

23 Q You mentioned some of the health problems you're
24 having now. What are the injuries that you're claiming from
25 this trip and fall accident, Mr. Halbig?

1 A I believe that this trip and fall -- what I'm
2 claiming is I have injuries to my back, to my neck, to my
3 right knee, to my right hand that is now limiting me from
4 doing certain job functions.

5 Q So we've got back, neck, right knee and right
6 hand; is that correct?

7 A Correct.

8 Q Any other injuries besides that?

9 A And I'm totally depressed because of this crap.

10 Q And "this crap" being what?

11 A Me having to go to a psychiatrist. That's it, me
12 going to a psychiatrist. I've just never believed in having
13 to go to a psychiatrist. That's what I mean by that. I've
14 never thought the day would come that I would have to resort
15 to seeing a psychiatrist.

16 Q Okay. So the "this crap" you're referring to is
17 having to see a psychiatrist?

18 A Yeah.

19 Q Okay.

20 A It's embarrassing for me.

21 Q All right. What part of your back are you
22 claiming was injured in this accident?

23 A My lower back. If you'll see the pictures, my
24 entire --

25 Q Just --

1 A Okay. My lower back.

2 Q Okay. Perfect. Thank you. Okay.

3 What part of your neck?

4 A My left side and the right side of my neck. I
5 can't hardly -- I've a difficult time turning it when I'm
6 driving and having to look for people in blind spots.

7 Q And when you say the left side and the right side
8 of your neck, are you talking about above the shoulder line
9 and below the skull baseline?

10 A It's turning. (Indicating.) It's turning to have
11 to turn your head. I'm limited in how far I can turn my
12 head without having some kind of pain in it, like -- nerve
13 triggers it. Same thing when you look to the right; you
14 can't look all the way back like I used to.

15 Q You're just kind of demonstrating for me looking
16 to the right and to the left as we sit here today, correct?

17 A Based on your question, yes.

18 Q And so when you're looking straight at me, are you
19 experiencing any pain in your neck?

20 A No.

21 Q Is it a fair statement, then, that you only
22 experience some pain and discomfort in your neck when you
23 attempt to look to the left or to the right?

24 A When I look -- when I take a deep turn to the left
25 and deep turn to the right. Not just short. It's when you

1 really have to use -- especially when you're driving.

2 Q Let me rephrase the question. The only time you
3 experience any pain or discomfort with your neck is when you
4 make a deep turn to the left or a deep turn to the right?

5 A Correct.

6 Q All right. And no other time; is that correct?
7 Yes?

8 A Yes.

9 Q All right. And in regard to your low back, what
10 type of problems are you having with your low back?

11 A Every time you sit on the toilet and you get up,
12 you think about the day you tripped and fell. I even had to
13 buy new toilets to raise the toilet seat so I wouldn't have
14 the pain in my lower back.

15 Q So is it a fair statement, then, that the only
16 time you have pain in your low back is when you get up from
17 sitting on the toilet?

18 A It's whenever you get out of a chair. It's when
19 you get off the couch. It's anything you do sitting you
20 have a pain back there which didn't exist prior to the
21 accident.

22 Q Okay. So is it a fair statement, then, that the
23 only symptoms you have with your low back is when you're
24 getting up from a seated position to a standing position you
25 experience pain and discomfort in your low back?

1 A That's one. Can't do yardwork, can't play golf.
2 I mean, we can sit here and talk all kinds of things I'm
3 limited doing now. I mean, you're trying to narrow it down
4 to one little item. I can't do yardwork, I can't push the
5 mower, I can't play golf, I can't play tennis. What else
6 would you like?

7 Q Well, I want to hear it now --

8 A Well --

9 Q Wait just a second. What I want to hear is what
10 the problems are you're having with your low back now and
11 not when you're sitting in the witness stand at trial, okay?

12 A Absolutely. I will tell you the same thing.

13 Q Okay. So as I understand it, then, you experience
14 pain in your low back; is that correct?

15 A I have pain in my lower back and it gets
16 increasingly more difficult. When you're trying to get up,
17 you sit down. If we'd be sitting for a long period of time
18 trying to get up, trying to get out of the car, trying to
19 get in the car, playing golf, tennis, all my recreational,
20 trying to get on the floor and play with my grandchild, I
21 can't do that. I've been restricted but I'm trying to play
22 with my own grandchildren. I don't know what else you'd
23 like. I can't do certain things in my lifestyle I used to
24 be able to do.

25 Q All right. So you experience pain in your low

1 back; is that a fair statement?

2 A Yes.

3 Q Are you ever pain free?

4 A I used to be.

5 Q That's not my question. Are you ever pain free in
6 your lower back?

7 A No. Because I'm having to take Tramadol and pain
8 medications so I wouldn't have the pain which would be nice
9 not to have to depend on.

10 MR. LAMBE: Let's take a few minutes.

11 Q Do you need to take a break?

12 A Yeah.

13 MR. PENDLEY: Okay.

14 (A four-minute recess was had.)

15 Q All right. Mr. Halbig, we were talking about your
16 low back and the symptoms you had with your low back, and
17 you told me that you have pain in your low back and we'll
18 discuss some of the things that it may limit or may not
19 limit you in doing. But you have pain in your low back and
20 you take Tramadol and some other type of medication for the
21 pain; is that correct?

22 A Correct.

23 Q What is the other medication?

24 A Cymbalta.

25 Q And does the Cymbalta and Tramadol help the pain

1 in your low back?

2 A It's supposed to, yes, and it does help.

3 Q Okay. Does it eliminate it or alleviate it?

4 A It doesn't eliminate it, but it alleviates.

5 Q Is it a fair statement, then, that you experience
6 pain in your low back all the time regardless of what you're
7 doing?

8 A Only when bending, only when sitting. There are
9 times -- when I'm walking there are times you don't have the
10 pain, you don't feel it. It's when you exert yourself --

11 Q So there are times -- let me finish my question or
12 this --

13 MR. LAMBE: He's just answering the question.

14 MR. PENDLEY: I wasn't finished with mine.

15 Q So there are times, then, when you are pain free
16 in your low back; is that correct?

17 A Yes.

18 Q All right. Tell me the times when you are pain
19 free in your low back.

20 A When I'm sleeping.

21 Q Okay. What about waking hours so you're cognitive
22 or conscious of what's going on? Are you ever pain free
23 during your waking hours?

24 A When I'm walking --

25 Q So the answer is yes --

1 A The answer is --

2 MR. LAMBE: Let him finish your -- oh.

3 Q Wait a second. My question is are you ever pain
4 free in your waking hours? And you started to tell me with
5 walking. It's really a yes or no question. Are you ever
6 pain free in your low back during your waking hours?

7 A Yes.

8 Q Okay. Now, tell me the times that you are pain
9 free in your low back during your waking hours.

10 A When I'm lying flat on the floor, no pillow, and
11 I'm just laying still and not moving, I am pain free.

12 Q Okay. You mentioned walking. Are you pain free
13 when you're walking --

14 A No, I'm not.

15 Q Then why were you telling me that earlier --

16 A Repeat the question.

17 Q Okay. I thought when I asked you earlier if you
18 are ever pain free during your waking hours, instead of
19 saying yes or no, you were telling me that when you're
20 walking you're -- I thought you were going to tell me when
21 you're walking --

22 A No. You interrupted me.

23 Q Well, actually you interrupted me; so let's stop
24 right there and let's go back and just make sure we have the
25 record correct.

1 A Okay. Good.

2 Q Have you ever been pain free during your waking
3 hours?

4 A When I'm laying -- yes -- no. I am pain free
5 during my waking hours under certain conditions.

6 Q Okay. So the answer is yes?

7 A Yes.

8 Q Okay. When?

9 A When I'm lying flat on the carpet, no pillows,
10 flat, lights out, and I'm trying to medicate and I'm trying
11 to relax.

12 Q So the rest of the time during your waking hours,
13 you have pain in your low back of some degree?

14 A Yes.

15 Q So unless you're laying flat on the floor like
16 you've just described, you're pretty much telling me you
17 experience pain of some degree in your low back every second
18 of every day of every hour that you're awake except when
19 you're in that position that you described for me?

20 A I'm experiencing it right now --

21 Q Just answer yes or --

22 A Yes, I'm experiencing it now.

23 Q Are you experiencing pain now in your back?

24 A Yes, I am.

25 Q And the doctor has prescribed you Cymbalta and

1 Tramadol for that; correct?

2 A Tramadol, yes.

3 Q Okay. Do you have any symptoms radiating out from
4 your low back into your butt or into your legs, either
5 tingling, pain, numbness, anything at all?

6 A Only when I'm exerting myself.

7 Q Okay. And tell me, when you say that, what you
8 mean.

9 A If I'm asked to take out water bottles from the
10 grocery store, pick up a case of water bottles, I'm at the
11 point now where I don't do even do it anymore, but if I do
12 and I pick it up and I drop it down, I'm exerting pain and
13 you see the tingling going down my leg.

14 Q You've let your doctors know about that?

15 A I have.

16 Q Including the doctors at the Jewett Orthopaedic
17 clinic?

18 A I have.

19 Q Other than pain in your low back, which we've
20 described, and the symptoms you experienced radiating out
21 from your low back into your butt and legs that you've
22 described when you exert yourself, do you have any other
23 symptoms related to your low back?

24 A Just throbbing pain when I am exerting myself.

25 Q And who are the doctors that have treated you for

1 your low back pain?

2 A The doctor at Jewett.

3 Q Anybody else?

4 A I believe that's the one that I can remember. I
5 don't --

6 Q Dr. Mostov, has he?

7 A Dr. Mostov knows, but basically for my back I go
8 to Jewett. And also, remember in Highlands County when I
9 injured my lower back, that doctor up there, he'll have the
10 records for you there.

11 Q Okay. But for the injuries you received from this
12 accident --

13 A Jewett. Only Jewett.

14 Q You're interrupting me.

15 A Okay. Sorry.

16 Q The injuries you received in this accident in
17 January of 2010, the only doctors to have treated your back
18 were the doctors at Jewett Orthopaedic Clinic?

19 A Right.

20 Q All right. Now, prior to January 26th of 2010,
21 did you have any low back pain at any point in time?

22 A I would believe, yes, and I would have shared that
23 with the workers' comp doctor after breaking up the fight at
24 Sanford Middle School.

25 Q What type of low back problems did you have prior

1 to January 26, 2010, when this accident --

2 A Just some bruising, because we went to the
3 concrete.

4 Q Other than the bruising to your low back from
5 breaking up the fight at Sanford Middle School -- and when
6 was that again? I forget.

7 A 2004, 2005.

8 Q Okay. And other than your workers' compensation
9 claim when you worked at Highlands County School Board --
10 that involved your low back, right?

11 A Correct.

12 Q Other than those two times, did you have any low
13 back pain or problems prior to the date of this accident in
14 January of 2010?

15 A Car accident we talked about.

16 Q I thought that was just your neck. Did it involve
17 your low back, too?

18 A Car accident was my neck, correct.

19 Q Okay. So other than Highlands County School Board
20 when you worked there and had the on-the-job injury to your
21 low back and Sanford Middle School when you worked there
22 breaking up a fight and had the injury to your low back, did
23 you have any other problems with your low back prior to this
24 accident in January of 2010?

25 A No.

1 Q Had you ever been prescribed pain medication for
2 your low back prior to January 26 of 2010?

3 A Yes.

4 Q When?

5 A Car accident.

6 Q Which car accident?

7 A For the neck.

8 Q No. I'm talking about your low back.

9 A No.

10 Q Okay. So prior to January 26th, 2010, when this
11 accident occurred, had you ever been prescribed pain
12 medication for your low back?

13 A Yeah, in Highlands County.

14 Q Other than Highlands County --

15 A No. In Highlands County.

16 Q You're interrupting me. Other than Highlands
17 county when you injured your back working for the school
18 board there and you received some pain medication for your
19 low back, on any other occasion had you been prescribed pain
20 medication for your low back before this accident in January
21 of 2010?

22 A No.

23 Q Okay. Prior to January of 2010 when this accident
24 occurred, had you ever been diagnosed with chronic low back
25 pain?

1 A No.

2 Q We're moving to your neck now, okay? Prior to
3 January 26th, 2010, did you have any problems with your neck
4 other than from the car accident which occurred in 2004 or
5 2005?

6 A No.

7 Q What type of problems were you having with your
8 neck as a result of the car accident?

9 A It was sending pain down my right arm, electrical
10 impulses, tingling to my fingers.

11 Q Okay. As a result of the car accident in 2004,
12 2005, you had pain in your neck which radiated down into
13 your right arm and right fingers which also included
14 tingling?

15 A Right.

16 Q Any other injuries or symptoms that you had from
17 the car accident?

18 A No.

19 Q Any other problems you had with your neck, other
20 than those related to the car accident in 2004 and 2005,
21 prior to this accident in January of 2010?

22 A Again, it would go back to Highlands County
23 because the back and the neck were both issues in that fall
24 on the bleachers.

25 Q Okay. All right. What kind of problems were you

1 having with your neck as a result of the fall in the
2 bleachers?

3 A Just pain.

4 Q How long did the pain in your neck last after the
5 2004 car accident?

6 A Probably three and a half months.

7 Q How long did the tingling in your fingers continue
8 in your right hand after the 2004 car accident?

9 A Probably about the same time period.

10 Q And how long did the numbness radiating out from
11 your neck into your right arm continue after the 2004
12 accident?

13 A About the same time period.

14 Q And so from approximately 2004 or 2005 until the
15 date of this accident in January of 2010, you would not have
16 had any symptoms involving your neck; is that a fair
17 statement?

18 A That's a fair statement.

19 Q And we've already discussed when you have problems
20 with your neck as a result of this accident in January of
21 2010, and that's when you turn to the extremes to the left
22 and to the right?

23 A Correct.

24 Q Otherwise, you're okay; is that a fair statement?

25 A Fair statement.

1 Q Okay. Your right knee, you said you injured your
2 right knee in this accident in January of 2010. What type
3 of symptoms are you having with your right knee, or
4 problems?

5 A Cannot fully extend it, cannot fully retract it,
6 and there is constant severe swelling in my right knee. As
7 we sit here today, it's twice the size of my left knee.

8 Q Did you have any problems fully extending your
9 right knee before this accident in January of '10?

10 A No. Because I was jogging two miles that day.

11 Q Did you have any problems fully retracting it
12 prior to the accident in 2010?

13 A No. I was jogging two miles that day. No.

14 Q And did you have any problems with swelling in
15 your right knee before January of 2010?

16 A Not on that day.

17 Q What about in the week before?

18 A No. I was jogging; I was ready to go.

19 Q Did you have any problems at all with swelling,
20 say, in the three -- in your right knee in the three years
21 leading up to this accident?

22 A Not that I can recall.

23 Q Okay. Let me just expand the question. Did you
24 have any problems with your right knee swelling in the 10
25 years leading up to this accident?

1 A I think I've had swelling there before. I've had
2 some swelling when I -- when I was walking too much,
3 climbing stairs. When I have to inspect the fire towers,
4 climbing four stories straight up, I've had some swelling.
5 I'd ice it down and the swelling would disappear. But to be
6 fair, I did have some swelling.

7 Q Is that something that occurred with any
8 regularity?

9 A Only if I used my legs in excessive, you know.

10 Q What would you have to do in order to cause or get
11 swelling in your right knee?

12 A I'd ice it. I mean, what would I do?

13 Q Bad question. What type of activities would you
14 engage in that would cause swelling in your right knee?

15 A Extreme -- extreme climbing. As a director of
16 risk management, I'm required to inspect all facilities,
17 have to go up on the roof, climb ladders. And, yeah, I can
18 sense the swelling, and common sense tells you you need to
19 slow down. And at nighttime I had ice to try to control it,
20 and, you know, take Aleve to reduce the discomfort, but I
21 would ice it at night. I used as a coach to ice it.

22 Q Can you give me any sense, Mr. Halbig, about how
23 many times you would have to go up and down a flight of
24 stairs or how many times you would have to climb up and down
25 a ladder in order to have some swelling in your right knee

1 before this accident in January of 2010?

2 A I think after about -- you know, it depends on our
3 inspections in our facilities. You know, after three days
4 you can see some swelling.

5 Q So three days may mean you only climb a set of
6 stairs once in three days. See what I'm saying? That's why
7 I'm trying to get some sense --

8 A In the three days -- when I say three days, we
9 have a heavy schedule of inspections and each of those days
10 there's heavy concentration of climbing, whether we inspect
11 the catwalks in the auditoriums, the roofs, fire towers,
12 it -- I can sense that my knee is getting discomfort, you
13 know, and I'd let the other people go on and do it and I
14 would retreat.

15 Q Do you take any type of medications for the
16 swelling you have in your right knee?

17 A No. Just muscle relaxers.

18 Q Do you have any pain in your right knee?

19 A I have now, yes.

20 Q And do you causally relate the pain in your right
21 knee to this accident in January of 2010?

22 A Yes.

23 Q Are you given any pain medications for the pain in
24 your right knee?

25 A It's the Tramadol they have kept -- I mean, if I'm

1 on vicodin or oxycodone, they say just for it. I just don't
2 believe in oxycodone and Vicodin.

3 Q Did you ever take any pain medication due to right
4 knee prior to the date of this accident?

5 A No.

6 Q And, obviously, I understand you would have taken
7 probably some pain medication when you had your ACL surgery
8 and your arthroscopic surgery, but I'm talking about in the
9 10 years leading up to this accident, would you have taken
10 any type of pain medication for your right knee?

11 A Not for my right knee.

12 Q Okay. Had you taken any for your left knee? The
13 way you said --

14 A No, not for the left knee.

15 Q Just so the record is clear, even though you may
16 have missed something, even though she's very good at what
17 she does, within the 10 days prior to the date of this
18 accident in January of 2010, did you ever take any pain
19 medication for your right knee?

20 A No.

21 Q Okay. What kind of problems or symptoms are you
22 having with your right hand?

23 A Lack of strength, it hyperextended. And the
24 Jewett orthopedist wanted to do surgery. The problem was he
25 couldn't promise a hundred percent success. He said, "You

1 may lose more strength in it by having the surgery," so I
2 chose not to have it. I'd rather have what I have now and
3 deal with the pain than have to have surgery and probably
4 lose more strength.

5 Q Do you belong to any health clubs at this time?

6 MR. LAMBE: Object to the form. What time?

7 Just clarify --

8 MR. PENDLEY: Right now.

9 MR. LAMBE: Okay.

10 A We have our own gym at Heathrow, we have our own
11 health club, gym out there, massage and swimming pool.

12 Q Do you use the facilities there?

13 A I use it. I try to use as much as I can within
14 the limits of my injuries.

15 Q And what do you do at the health club there at
16 Heathrow?

17 A I'm trying to get my upper body here back into
18 shape a little bit.

19 Q So what kind of exercises or lifting do you do?

20 A Just curls for the biceps, triceps, very small
21 bench press. But, again, you're laying flat on the bench.

22 Q How often do you get to workout there at the
23 health club at Heathrow?

24 A Just when I feel like it, I'll go ahead and feel
25 good. Two days, two days a week.

1 Q So you try and get in there twice a week?

2 A I use the pool as much as I can --

3 Q Let's just --

4 A Twice a week.

5 Q Let's stop. You lift weights on occasion at the
6 health club there at Heathrow, correct?

7 A Well, it's not -- yeah, I lift weights, but it's
8 not loose weights. It's those machines that --

9 Q You use some type of either weightlifting machine
10 or apparatus there at the health club at Heathrow?

11 A Right.

12 Q And you try and get in and lift weights on the
13 weightlifting machine approximately twice a week?

14 A If I can, yes.

15 Q Okay. I assume there are some weeks where you can
16 only get in there one time a week, correct, depending upon
17 what your schedule may be?

18 A If I can, I would, yes.

19 Q And are there weeks when you can get in as much as
20 three times to lift weights on the weightlifting machine at
21 Heathrow?

22 A You can get in seven days a week.

23 Q Not my question. My question is I'm trying to
24 understand the regularity that you lift weights on the
25 weightlifting machine at the Heathrow health club.

1 A I don't have a regular schedule.

2 Q On average each week, how often do you get in
3 there?

4 A At least once.

5 Q And as many as how many?

6 A No more than two.

7 Q Okay. Do you have a kiosk or a key or card or
8 some type of mechanism to enter the health club?

9 A Absolutely. And you can check that.

10 Q What do you have?

11 A Key card.

12 Q So every time you want to go lift weights --

13 A I --

14 Q Got to finish my question. Every time you want to
15 go lift weights at the health club there at Heathrow at
16 RedTail, you use your key card to access it?

17 A Correct.

18 Q All right. You said you do curls for your biceps.
19 What other lifting exercises do you do? You indicated
20 something about --

21 A Just the chest, just (indicating) compressions.

22 Q You're laying flat on your back?

23 A Sitting straight up.

24 Q I thought you said something about it was easy
25 because it was flat on your back.

1 A well, you -- what you have is -- the bells, when
2 you're laying on your back you can do this with dumbbells.
3 (Indicating.)

4 Q Did you lift weights when you played football?

5 A Absolutely.

6 Q well, I think if you use the regular weight room
7 lifting description of the exercises you do, maybe we'll be
8 able to understand it.

9 You do curls, correct?

10 A Curls, yes.

11 Q You do those using a machine?

12 A Curls with dumbbells.

13 Q So you do use free weights on some exercises?

14 A Some exercises.

15 Q So you use free weights when you do your curls?

16 A Correct.

17 Q How much weight do you use when you do your curls?

18 A Five pounds.

19 Q For each arm?

20 A For each arm.

21 Q And how do you do your curls? Do you do them
22 standing up, sitting down --

23 A I --

24 Q We can't talk at the same time or we will
25 literally be here all day long. And, frankly, as an expert

1 witness, I thought you would be able to just let me finish
2 my question because it's very important, okay?

3 So when you do your curls, how do you do your
4 curls?

5 A Lying flat on the bench because of my neck, simply
6 taking it up. (Indicating.)

7 Q We have to describe that for the record.

8 A You're the expert on that.

9 MR. PENDLEY: Move to strike his response as
10 being unresponsive.

11 Q So you're indicating when you do your curls, you
12 lay flat on your back?

13 A Flat.

14 Q You extend your arms out to your side?

15 A Um-hmm.

16 Q And then you bend your elbows at a 90-degree angle
17 when you do your curls, correct?

18 A You don't bend the elbows. (Indicating.) You
19 bring it in. You rotate it in, you rotate out, you rotate
20 in, you rotate out.

21 Q Okay. Is that something different than like a fly
22 that you would do for your chest?

23 A Because of my restrictions, I adjust to where I
24 don't have pain but yet I'm lifting, which makes me feel
25 good.

1 Q Okay. what else do you do besides curls?

2 A I told you, with the stationary machine. Again,
3 it's just work in the chest area.

4 Q Is that like a bench press that you do with the
5 stationary machine?

6 A No. You're sitting straight up and you're just
7 bringing the bar in, bar out, bar in, bar out.

8 Q Okay. So it's like a fly that you would be doing?

9 A Yup. Very light weight.

10 Q So you do flies, you do curls. what else do you
11 do?

12 A That's it.

13 Q Does anybody workout with you?

14 A Usually it's empty. My wife sometimes goes but
15 it's empty.

16 Q When you leave the workout room, do you have to
17 use your key card to get out?

18 A No. Push the button.

19 Q Is there a sign-in registry or anything like that
20 when you go there?

21 A Key card.

22 Q You also indicate that you swim at the pool?

23 A I don't swim. I lay in the pool in a -- on a
24 raft.

25 Q So you don't use the pool for any type of

1 exercise?

2 A For the relaxation.

3 Q All right. Prior to moving to Heathrow, did you
4 belong to any health clubs?

5 A No.

6 Q And that would be true both before and after this
7 accident; is that correct?

8 A True.

9 Q All right. Are you right-handed?

10 A I'm right-handed.

11 Q And you say you've lost grip strength in your
12 right hand?

13 A I have.

14 Q Did you have any problems with grip strength prior
15 to the date of this accident in January of 2010?

16 A No.

17 Q Did you have any problems with your right hand or
18 right wrist of any type whatsoever prior to this accident in
19 January of 2010?

20 A Being a coach, throwing footballs, baseballs, I've
21 had hyperextended wrist before.

22 Q Prior to the date of this accident in January of
23 2010, had your right hand or wrist ever been x-rayed or any
24 MRIs performed on it?

25 A I think Dr. Rosen did.

1 Q And why would he have done that?

2 A From the fight 'cause, you know, back injury, knee
3 injury, he just -- he just took it, 'cause, again, I'd
4 landed on the concrete.

5 Q Do you know what the findings of the x-ray were
6 that he took of your right hand or wrist?

7 A I don't know.

8 Q Have you ever been told before this accident that
9 you had any type of degenerative or arthritic problems with
10 your right hand or wrist before this accident?

11 A Yup. The word was "arthritis."

12 Q And who told you that?

13 A Every doctor I've ever seen.

14 Q What kind of problems were you having with your
15 right wrist or hand before this accident?

16 A Before this accident, I was playing golf. I mean,
17 I didn't have a problem with it.

18 Q I'm just curious, then, why would doctors be
19 telling you that you have arthritis in your right hand and
20 wrist before this accident then. Unless you were
21 complaining about something, why would they even look at it?

22 A The day of the accident when I went to complain
23 about it they said, "You had arthritis."

24 Q Okay. So prior to the date of the accident, prior
25 to the accident itself, nobody had ever told you you had any

1 arthritis in your right hand or right wrist; is that
2 correct?

3 A No, that's not true. When I see doctors and
4 they've given me a physical and they check out and when I
5 tell them I have certain pain sometimes in certain areas and
6 they say, "well, you know, you're old. Your body's gone
7 through a lot. You've got arthritis. You know, everybody
8 gets it."

9 Q And did they tell you you specifically had
10 arthritis in your right hand and right wrist before this
11 accident in January of 2010?

12 A Yes.

13 Q Which doctors told you that?

14 A I think Rosen, Jewett, I mean -- my family doctor.
15 I've had arthritis in my knee. I mean, they tell me that
16 all the time, "You got arthritis in your knee." But I was
17 still able to function. I mean, you have arthritis, we have
18 arthritis.

19 Q All right. How have the doctors treated -- after
20 this accident, what have the doctors done for your right
21 hand, if anything?

22 A Not really. The choice was "have surgery and
23 possibly lose strength, or just do what you're doing now and
24 just deal with it as it goes."

25 Q Did any doctors send you to physical therapy?

1 A No.

2 Q Did they suggest any exercises to increase the
3 strength in your right hand?

4 A I squeezed a ball.

5 Q Anyone prescribe any type of medication for your
6 right hand or right wrist?

7 A Everything is pain medication.

8 Q So it kind of affects everything?

9 A Everything.

10 Q And prior to the date of this accident in January
11 of 2010, had any doctor prescribed any type of pain
12 medication or other medication for your right hand or right
13 wrist?

14 A I think Tramadol, when you look at the history of
15 it, covers everything.

16 Q So the answer is yes?

17 A Yes.

18 Q So before this accident, pain medication hadn't
19 been prescribed for your right wrist?

20 A Not specifically for the right wrist. They didn't
21 say, "Here's Tramadol for your right wrist. Here's Tramadol
22 in the event you have pain." And I'm assuming pain means if
23 I have it in the right wrist, I can take Tramadol.

24 Q You say that you're totally depressed now?

25 A I am very depressed.

1 Q And do you attribute all of your depression to
2 this accident?

3 A I think the accident has changed me to become a
4 different -- I'm very angry.

5 MR. PENDLEY: Could you read my question
6 back, please?

7 (The question was read by the reporter.)

8 A Not all.

9 Q What are the other contributing factors that you
10 believe are causing your depression besides this accident?

11 A It's the work that I had to do at Lake County
12 public schools, the harassment, intimidations, threats of
13 job loss. That's part of my depression.

14 Q And you said you were being prescribed Wellbutrin
15 and what for your depression?

16 A Cymbalta.

17 Q All right. Have we discussed all of the injuries
18 that you feel are causally related to this accident now,
19 Mr. Halbig?

20 A Headaches.

21 Q Okay.

22 A Brings on depression which is --

23 Q I'm sorry. Go ahead.

24 A It's just -- it's just depression, you know,
25 throws on my headaches.

1 Q How often do you get headaches?

2 A I take two Aleve every day since the accident.

3 Q So how often do you get headaches?

4 A Probably three, four times a week. And my wife
5 will tell you. She sees it.

6 Q And how long do the headaches last when you get
7 them, on an average?

8 A Probably a couple of hours.

9 Q Did you ever have any problems with headaches
10 before the accident?

11 A I was a happy person.

12 Q Any other problems or issues which you have which
13 you believe are causally related to this accident of a
14 physical or emotional nature?

15 A No.

16 Q Looking here in your answers to interrogatories,
17 answer to interrogatory number 11, you state, in part, "This
18 incident has made my life with my wife a very difficult
19 situation. Our relationship has never been the same. She
20 looks at me every day as an old whiner, and since she is 10
21 years younger, that does not understand my daily constant
22 aggravating pain. It has affected our sex life because it
23 now does not exist."

24 Is that still an issue?

25 A Absolutely.

1 Q Any reason why you didn't share that with me
2 earlier or --

3 A Well, my wife is a very private person, okay? And
4 her answer to me is "Our sex life is our business; you don't
5 need to be sharing that with anybody else." For me, it's
6 part of my depression. She's a very private person.

7 Q Are you complaining the nonexistent sexual
8 relationship or sexual life you had with your wife on this
9 accident?

10 A No, no. I think we've discussed that, and, no,
11 it's just basically my injuries and it's my -- it's me just
12 saying, "Hey, I'm not happy about what happened to me." She
13 doesn't want to be involved in any way.

14 Q Prior to this incident, did you have any type of
15 problems at all that would have affected the sexual
16 relations you have with your wife?

17 A We had fun. No. We traveled, we'd go on
18 vacation. I think since the accident the depression has
19 really -- has created a hardship within our home.

20 MR. PENDLEY: Let's go off the record for a
21 second.

22 (A discussion was held off the record.)

23 MR. PENDLEY: We took a break here just for a
24 few moments to give Mr. Halbig an opportunity to
25 talk with his attorney. And as I understand it,

1 at trial there is -- and now, even now, there is
2 not going to be any claim or any testimony at
3 trial from Mr. Halbig or anybody else concerning
4 or to the effect that this accident has in any way
5 harmed his relationship with his wife or has in
6 any way adversely affected their sexual relations
7 or anything of that nature; is that correct?

8 MR. LAMBE: That's correct.

9 A That's correct.

10 MR. PENDLEY: It will be strictly and solely
11 limited to claims related only to Mr. Halbig and
12 his injuries and nothing at all involving his
13 relationship with his wife.

14 A Correct.

15 Q And with that stipulation on the record, the only
16 question I have then, and maybe two, is prior to the date of
17 this accident, did you have any problems with your wife of a
18 sexual nature?

19 A None.

20 Q Prior to the date of this accident, did you have
21 any type of erectile dysfunctions?

22 A None.

23 Q And prior to the date of this accident, were you
24 ever given any type of prescription or medication for
25 erectile dysfunction?

1 A Yes.

2 Q Okay. When would that have been?

3 A I had an affair with someone from school. That
4 would have been prior -- would have been prior to the
5 accident, I had a -- I had a relationship. My wife found
6 out. She's knowledgeable of it. And I did ask the doctor
7 for -- what do you call it? whatever -- Cialis.

8 Q Okay.

9 A Yeah. But --

10 Q And that was a result of the relationship you were
11 having with this lady?

12 A Yes. But it was only for two weeks. It was a
13 mistake. It was during the time my mother was dying and it
14 caused me to go back to the hometown where I grew up in and
15 I made a bad mistake. And the doctor -- so I just want you
16 to know I did get a prescription for it so it's on the
17 record so -- and my wife does know about it.

18 Q And the lady's name?

19 A Pat Holden.

20 Q And does she still work with the school board?

21 A No, no. She lives in Sebring, Florida.

22 Q All right. When was the last time you saw
23 Ms. Holden?

24 A 2005, when my mother died.

25 Q And is that the same time period you would have

1 had the relationship with her? 2005?

2 A Yeah. What happened is, you know -- my mother was
3 in the nursing home in Avon Park, Sebring, and I had to
4 drive down there and so, you know, that happened.

5 Q So 2005 would have been the time that you got the
6 cialis or whatever?

7 A Yeah, I got the prescription. It was a one-time
8 prescription. It was like 12 pills.

9 Q All right. You were telling me a little bit
10 earlier, Mr. Halbig, about things you can't do or have
11 trouble doing as a result of the injuries you feel are
12 related to this accident. Let's first start out and divide
13 them up into two different categories: things you can't do
14 at all or things that you still can do but you may have to
15 alter how you do them or you can only do them with some
16 difficulty, okay?

17 A Okay.

18 Q So let's first start out, are there any things at
19 all that you can't do as a result of the injuries you're
20 claiming from this accident?

21 A I think the jogging is gone. I think the tennis,
22 my tennis career is gone 'cause I'm right-handed. I think
23 my golf game is gone. I can't play with my kids.

24 I think I've lost some income because I teach
25 self-defense to administrators and educators. It's

1 called -- I have a book that I published called "The Use of
2 Reasonable Force" in which I demonstrate through use with
3 hands how to restrain kids and special -- special needs
4 kids. I made pretty good income on it. It's hard to use
5 your right hand when you have to touch your thumb and you
6 have to demonstrate --

7 Q what's the name of the book?

8 A "Use of Reasonable Force." I'd be glad to give
9 you a copy. It's designed for educators.

10 Q Did you publish any other books besides that one?

11 A I've got -- I've got a manual for the bus driver
12 training, school bus driver training. I did a workshop -- I
13 did a manual I put together for the United States Department
14 of Justice for training school superintendents, and I got a
15 publication -- but this one is where I have to use my hands,
16 okay?

17 Q Um-hmm. So tennis, golfing --

18 A Training of the use of reasonable force is gone
19 'cause it's a very physical part. And there's videos on it
20 that you can see, too. Lifting, you know, just -- she
21 talked about my jobs. I was hoping the schools would give
22 me an exemption. You know, they have weight restrictions
23 when you apply for a job, being able to lift so much and
24 carry so much. I just -- I can't carry heavy loads, 50
25 pounds, I just can't carry them anymore. I just don't have

1 the ability to do that. I don't have the ability to climb
2 ladders, do the inspections that I used to do. I mean, I
3 love doing school safety assessments, but being able to get
4 on the roof, getting up and down, I can't do those anymore.

5 Getting on the carpet and rolling with my
6 grandkids, I mean, hitting my knee on the carpet and it just
7 sends extreme pain through my knee. It's taken the joy away
8 from my grandkids.

9 The yard work is gone. I have to pay somebody now
10 to cut our grass, take care of the yard. Just that's it.

11 Q Okay. How often would you jog before this
12 accident?

13 A I probably jogged -- well, we didn't -- we didn't
14 jog for about two years before the accident, and that's what
15 makes this really strange, because my son was getting
16 married in April of 2010 in Savannah; so my wife and I had
17 this deal about losing, you know, some weight. I remember I
18 was two-seventy something, seventy-seven. We had to get
19 ready for the wedding so I started out trying to find a path
20 of travel and I went out that morning.

21 Q All right. So in the two years before this
22 accident --

23 A We didn't -- we didn't jog.

24 Q So in the two years before this accident occurred,
25 you hadn't done any jogging at all; is that correct?

1 A Right.

2 Q Now, prior to this two-year period, how often
3 would you jog, if at all?

4 A About three times a week.

5 Q where would you jog?

6 A well, in our subdivision. It's -- you know,
7 there's a golf course 'cause if you jog a lot on the
8 concrete you get shin splints and I learned that a long time
9 ago. So we come out of there, make a right and there's a
10 golf course -- we live right by a golf course -- and we just
11 jog down the golf course, down the road. That's a nice
12 trip, running on grass. I mean, you didn't run on the
13 course, you ran off the course, but --

14 Q How often would you play tennis before this
15 accident?

16 A Maybe a couple -- maybe a couple of times every
17 three months, when you're invited to come to a tennis
18 outing. I used to play almost every day.

19 Q when was that?

20 A Probably 10 years ago. I was, you know, playing
21 in tournaments, doubles tournaments.

22 Q Ten years ago when you played every day, where
23 would you play? what tennis club would you play out of?

24 A we played out of Heathrow, out in Lake Mary. we
25 played at Lake Brantley High School has courts; we always

1 were allowed to use them. we would go to Lyman; they got
2 brand new courts and we'd use them. we'd play. A lot of
3 teachers like competitiveness with tennis so --

4 Q Did you belong to any team tennis clubs or team
5 tennis organizations?

6 A No. That was maybe 20 years ago I did.

7 Q so let's say in the five years leading up to the
8 time of this accident in January of 2010, your tennis pretty
9 much had been limited to a couple of times every three
10 months?

11 A social events, right.

12 Q Have you jogged at all since this accident in
13 January of 2010?

14 A Not one day.

15 Q Have you played tennis at all?

16 A I tried one day, I tried.

17 Q How often would you play golf before this
18 accident?

19 A whenever my son -- my son likes to play golf so
20 maybe once every three months, or I would always try to
21 participate in, you know, golf tournaments that schools
22 sponsored for fundraisers.

23 Q Scramble tournaments?

24 A Yeah, donate some pictures and stuff.

25 Q So before this accident, say in the five years

1 leading up to this accident, you would play golf on an
2 average of approximately one time every three months?

3 A Right.

4 Q Have you played golf since the accident?

5 A No, sir.

6 Q Did you ever belong to any golf clubs or country
7 clubs?

8 A No, sir.

9 Q This training video that you talked about that
10 apparently is part of your book concerning reasonable force
11 to restrain students, have you made any videos since this
12 accident?

13 A No.

14 Q How old is the video you were referring to? When
15 was it made?

16 A Probably 15 years ago.

17 Q How old is the book you were talking about?

18 A 15 years ago.

19 Q Have any of your doctors placed any restrictions
20 or limitations on your activities as a result of the
21 injuries in this accident?

22 A No running, no jumping --

23 Q So the answer is yes?

24 A Yes. I'm sorry.

25 Q Okay. who?

1 A I think it would be Dr. Mintzer, Dr. Mostov. The
2 back doctor -- I think it's Beckner.

3 Q And what type of restrictions or limitations have
4 they placed on you?

5 A I can only do -- you know, I can't jog. I mean, I
6 only do -- the way they say it, because of the conditions I
7 have, "Do what you can, okay, as far as being athletic. Use
8 common sense. If you can't" --

9 Q I'm sorry. Go ahead.

10 A Common sense, but common sense tells me I can't do
11 it, so I won't do it.

12 Q What position did you play in football?

13 A Fullback, linebacker.

14 Q Have you climbed any ladders since this accident?

15 A No, sir.

16 Q Climbed up any step ladders?

17 A No, sir.

18 Q Been on any roofs since this accident?

19 A No, sir.

20 Q You moved from your residence in Apopka over to
21 Sorrento, I think you said, in April of?

22 A 2011.

23 Q Since moving to RedTail there at Heathrow in April
24 of 2011, have you done any yard work at all in your yard?

25 A No, sir.

1 Q You have a yard maintenance person do it?

2 A Yes, sir.

3 Q Who that is?

4 A Fresh Cut Lawn Service.

5 Q Okay. How much do they charge?

6 A 150 a month.

7 Q What size lot do you have?

8 A Just a little less than a half acre.

9 Q All right. And then after the accident when
10 you're still living in Apopka before you moved to Sorrento,
11 did you ever do any yard work at that house?

12 A No, sir. I mean, we had a lawn service.

13 Q Okay. Who was that?

14 A It's provided by the homeowners association. You
15 pay \$75 a month and they would come and cut your grass.

16 Q Okay. Prior to the accident, who cut your grass
17 in Apopka?

18 A You have to call the homeowners. They contract --
19 it's bid -- and the people just come twice a week -- once a
20 week and they cut the grass.

21 Q So prior to the accident, somebody was cutting
22 your grass --

23 A Yes, sir.

24 Q What type of yard work are you saying you're
25 unable to do now that you used to be able to do?

1 A Raking. The one thing we have is leaves, okay,
2 and I rake the leaves so the raking, you know, sweeping the
3 porch off, which they do, they blow it off, you know,
4 sweeping out the garage. But basically the yard work that I
5 like is making sure mulching, keeping the bugs out of there,
6 working with plants, fertilizing plants. These are the
7 things they don't do and that's the stuff we like to do.

8 Q Little different question. I think we've covered
9 everything that you don't do now.

10 what are the things that you still do but you have
11 difficulty doing because of the injuries related to this
12 accident?

13 A The things that I do now, I mean, are you talking
14 about physically?

15 Q Anything, yes. Remember we were going to split it
16 up into two different categories: things that you don't do
17 now -- and we've discussed those; you don't play golf, you
18 don't jog -- and then things that you still are able to do
19 but you claim that you're only able to do them with some
20 difficulty or discomfort or if you alter how you do them.

21 A I still enjoy going on holidays with our
22 grandkids. I do a lot of visits. Since they live in
23 Tifton, Georgia, we probably go up there once a month so we
24 can see our granddaughter. We go out to the farm, you know,
25 again, to see how he's working, all the cows, the horses. I

1 try to stay active with my grandkids. I mean, that's what I
2 do with every bit of time that I have.

3 And then I do, like I said, thank God I got the
4 expert witness stuff, you know, and it keeps me busy just
5 reading depositions.

6 Q So it sounds like most of your other activities
7 you're still able to do then; is that a fair statement?

8 A As long as it's not lifting, bending, yeah, yes.
9 As long as I just use my head instead of my body.

10 Q Okay. You kind of answered a question or started
11 to answer it or that I was going to ask, but let me ask it
12 again. Since this accident in January of 2010, have you
13 traveled outside of the state of Florida on any occasion?

14 A Yes. I go to Georgia.

15 Q Tifton?

16 A Tifton.

17 Q And you say you go approximately once a month?

18 A Once a month, yeah.

19 Q Obviously drive?

20 A We drive, yes.

21 Q What's the drive time between here and Tifton?

22 A Three and a half hours.

23 Q Where do you stay when you go to Tifton?

24 A With my son and his wife.

25 Q And how long do you stay when you drive up there?

1 A How long do we stay? Two days.

2 Q Other than traveling to Tifton approximately once
3 a month, since this accident, have you traveled outside of
4 the state of Florida on any other occasion?

5 A Since the accident it's been basically in Florida,
6 besides going to Georgia.

7 Q So since the accident, the only travel outside of
8 the state of Florida has been to Tifton, Georgia?

9 A Yes, sir.

10 Q No flights anywhere? No cruises? Nothing?

11 A Since the accident?

12 Q Yes, sir. Whether for business or pleasure.

13 A No.

14 Q Do you have a passport?

15 A I have a passport.

16 Q Is it current?

17 A It's current.

18 Q And you have not traveled overseas or out of the
19 country since January 2010?

20 A No, sir.

21 Q You said most of your travel has been inside of
22 the state of Florida except for traveling to Tifton. Since
23 the accident, where have you traveled inside the state?

24 A St. Lucie County, Palm Beach County, Fort Myers,
25 Volusia County, Lake County. That's primarily it since the

1 accident.

2 Q why have you traveled to Palm Beach County?

3 A Expert witness case.

4 Q And the name of it?

5 A It is Wicker Smith versus St. Lucie Head Start.
6 It's a Head Start program -- lawsuit against the Head Start
7 program.

8 Q So Wicker Smith is the firm involved?

9 A The firm Wicker Smith is representing the Head
10 Start program, and there were five defendants. To be
11 honest, I can't remember their name, but it just closed the
12 other day. I can't remember.

13 Q Do you remember the name of the plaintiff?

14 A There was five of them. There were five parents
15 who sued the Head Start program.

16 Q It doesn't look like that was listed in your
17 answers --

18 A No, that was the one that was active. But there
19 was a -- is there a Noonan in there? There should be
20 Noonan daycare, Fort Myers.

21 Q I don't see it. Why did you travel to Fort Myers
22 since the accident?

23 A To inspect the Head Start school, to inspect the
24 facilities.

25 Q And how many times did you travel to Palm Beach

1 County since the accident?

2 A One time.

3 Q What about Fort Myers?

4 A One time.

5 Q And why have you traveled to St. Lucie County
6 since the accident?

7 A To inspect the facilities and sit in on an
8 interview with the attorneys and the administrative staff of
9 the school.

10 Q How many times did you travel to St. Lucie?

11 A One time.

12 Q You've also indicated you've traveled over to
13 Volusia County. What's the purpose of that?

14 A That was family. Remember, my mother-in-law lives
15 in Volusia County.

16 Q Have you gone to any of the attractions here in
17 the central Florida area since the day of the accident,
18 either with your wife, with your grandkids, anybody at all?

19 A No, sir.

20 Q Do you use or have you ever used any type of
21 orthopedic appliance up until this moment in time, whether a
22 neck brace, cervical collar, back brace, anything at all?

23 A Neck brace, at Highlands County.

24 Q As a result of --

25 A Slip and fall there.

1 Q Anything else?

2 A No, sir.

3 Q You mentioned several times -- and I want to make
4 sure I don't forget to ask you about it -- that you feel
5 your memory is not the same now as it was. Is that
6 something you're claiming as an injury or an issue as a
7 result of this, a lack of memory, or a poor memory, I guess?

8 A I would say, yes, I think I have a poor memory. I
9 discussed that with my family doctor. He said, "Wolfgang,
10 you had a concussion." You know, he tested my eyes and the
11 bump on my head.

12 Dr. Baxley, who is my psychiatrist, wanted me to
13 go see someone that does memory, you know, to be treated and
14 as I said, I apologize but I have a hard time seeing a
15 psychiatrist -- I mean, I was a state trooper and I saw a
16 lot of bad things, but I just have a hard time with the word
17 "psychiatrist."

18 Q All right. And what type of memory problems are
19 you having?

20 A I cannot recall names. I cannot -- I mean, I
21 can't remember facts. I mean -- and the big one is I do
22 workshops all over the country and I can't remember my -- my
23 program. I'm actually watching videotapes right now of all
24 the programs trying to see if I can refocus. I just can't
25 retain it.

1 Q How do you do workshops all over the country if
2 you haven't traveled outside the --

3 A No. That was prior to the accident.

4 Q So you don't do workshops --

5 A Not now.

6 Q So you don't do workshops all over the country
7 now; is that correct?

8 A Not now.

9 Q And you haven't since the day of the accident?

10 A I have opportunities to do it, but I'm afraid to
11 do it because I can't remember them, the content of my
12 presentations.

13 Q When is the last time you did any workshop at all
14 before the date of the accident?

15 A From 2002 through 2007.

16 Q So the last workshop you would have done --

17 A 2007. Sorry.

18 Q So the last workshop you would have done before
19 this accident in January of 2010 would have been in 2007?

20 A Right.

21 Q Why was that the last one you did before this
22 accident in 2010?

23 A The federal grant from the United States
24 Department of Justice ran out. The funding source ran out;
25 so that was -- that was just in almost every big city in the

1 United States we did these workshops, but the funding ran
2 out.

3 Q And who would you do these workshops for?

4 A For the Department of Justice, COPS in School
5 program.

6 Q So between 2007 and this accident in January of
7 2010, you said there was no money available for those
8 workshops, correct?

9 A In 2007 the funding ran out.

10 Q okay. Has the funding been restored since 2007?

11 A No, sir. They've taken it completely away now.

12 Q So how is it that you say you've had opportunities
13 to do these workshops but you haven't since this accident?

14 A well, I've been asked to submit a proposal to the
15 National School Board Association, the Florida School Board
16 Association to do presentations by Wayne Blanton who's the
17 executive director. I am gun shy, I am gun shy to get in
18 front of a thousand people and do what I used to do 'cause I
19 can't remember.

20 Q You said you had a bump on your head?

21 A I had -- when I fell --

22 Q Yes.

23 A Yes.

24 Q And where was the bump on your head?

25 A On the forehead.

1 Q Did you ever tell any of your doctors that you hit
2 the back of your head?

3 A No.

4 Q Who did you tell that you hit the front of your
5 head?

6 A The emergency room doctor. It shattered my
7 glasses.

8 (Brief pause.)

9 Q You said you had a bump on the front of your head?

10 A I bumped my front -- I bumped the front of my
11 head.

12 Q Where?

13 A Over here. (Indicating.) As I went down to the
14 ground, right up in here.

15 Q So you're indicating on --

16 A Which would be my left side.

17 Q You're indicating on the left side of your upper
18 forehead?

19 A Yes.

20 Q Above the -- what would usually be the hairline?

21 A Above the hairline. I don't have any hair.

22 Q But if you did, it would be above --

23 A Right.

24 Q We can't talk at the same time, please. Do you
25 want to take a break?

1 A No. That's okay.

2 Q So the bump that you received was on your upper
3 left forehead which would be in the area up above the
4 hairline if you had hair?

5 A Yes.

6 Q Okay. Did you tell anyone at the hospital that
7 you had bumped your head?

8 A I don't remember. I was -- when they found me I
9 was unconscious. I don't remember what I said to people. I
10 was out of it. I have no idea what I said to the people at
11 the emergency room.

12 Q Who found you?

13 A Landscapers. They were a lawn service. They
14 were, I guess, the lady who's a landscaper or the Stanley
15 steamer cleaner company.

16 Q Do you know her name?

17 A Do I know her name? Yeah. She's one that came to
18 the emergency room and brought -- gave me my broken glasses.

19 Q I'm looking at your answers to interrogatories and
20 there's no specific names given here. There's a reference
21 to landscaping people.

22 A There was -- there was a lady who brought me the
23 glasses to the emergency room. They were broken. She
24 handed them to me and she said, "We've been telling the City
25 of Apopka that they need to fix the" -- and that's about all

1 I remember. I mean, I had no idea what even happened to me.
2 I was worried more about the stupid pot roast that was
3 burning at home.

4 Q How did you get from the scene of the accident to
5 the hospital?

6 A Paramedics.

7 Q You were transported?

8 A Yes.

9 Q Was that Apopka fire and rescue that transported
10 you?

11 A Yes, sir.

12 Q So then is it your testimony you never told
13 anybody that you hit the back of your head?

14 A I don't recall me ever telling anybody I hit the
15 back of my head.

16 Q Did you ever deny losing consciousness to anyone?

17 A Not that I recall.

18 Q So if the medical records at the emergency room
19 indicate that you denied losing consciousness, are you
20 saying they incorrectly took down the information?

21 A Yes. I would say yes, because, number one, I
22 didn't know where I was and it wasn't until the landscape
23 lady says, "Are you okay?" and I'm going "Where am I?" and
24 then the process worked. And there was -- see, somebody
25 just shook me and said am I okay and I looked up and -- the

1 reason I remember just seeing her face, because when I was
2 jogging up that hill, they were right across the street
3 cutting grass so they waved at me, you know, 'cause when you
4 jog people are friendly, they wave, and I remember somebody
5 waving at me, and so that's the lady.

6 Q Let's go back. Do you know the name of this lady?

7 A I don't know.

8 MR. PENDLEY: Do you know her name?

9 MR. LAMBE: There may be a name in the file
10 but I'm not sure. I'll have to check.

11 MR. PENDLEY: Well, they're not disclosed in
12 the answers to interrogatories.

13 Q Did you ever get her name and write it down?

14 A I thought we had a name.

15 Q Not my question. My question is did you write her
16 name down anywhere?

17 A I didn't.

18 Q Did she give you a business card?

19 A I think she gave me a business card, yes.

20 Q Have you seen that lady since the day of the
21 accident?

22 A No, sir.

23 Q What was the name of the landscaping company she
24 worked with?

25 A I don't even know.

1 Q Well, was it the one that contracted with your
2 homeowners association to cut the grass?

3 A Yes, sir.

4 Q And what was the name of that company?

5 A I don't even know the name of the companies.

6 Q Have you ever told any of your doctors you were
7 struck by lightening?

8 A That is a fact. I was struck by lightening.

9 Q So my question is did you ever tell any of your
10 doctors that you were struck by lightening?

11 A I do recall saying that.

12 Q Did you tell Dr. Baxley, your psychiatrist, that
13 you were struck by lightening?

14 A No, sir. No.

15 Q Why not?

16 A Happened a long time ago and there was nothing
17 wrong with me.

18 Q Did you receive any medical care and treatment
19 when you were struck by lightening?

20 A No, sir.

21 Q All right. And let's talk about this contract
22 that you say that you had and would make significant sums of
23 money with the steel building company. What's the name of
24 the company?

25 A ICS.

1 Q where are they located?

2 A They used to be located in Eustis, Florida.

3 Q where are they located now?

4 A They have closed the shop and they have gone to
5 colorado Springs, Colorado.

6 Q when did they move from Eustis?

7 A A couple of years ago.

8 Q so before or after the accident?

9 A After. After the accident.

10 Q who is the owner of ICS?

11 A I don't know. I can't remember the name. I'm
12 bad -- I can't remember names. The person that I worked
13 with is a vice president named Ron Davis.

14 Q And what were you going to do for ICS?

15 A I was going to go fly to Haiti because they had
16 the earthquake, and this company makes such a unique product
17 that it was going to allow me to go over to Haiti and set up
18 shop and try to build some new homes as quickly as possible.

19 Q And did you sign a contract with them?

20 A I did not. I got a letter stating that they would
21 offer me this position and I would be strictly working on
22 commission, which I really didn't mind because I've been
23 working on commissions all my life when I sell things.

24 Q So you didn't sign a contract with them. were you
25 offered a job with ICS?

1 A I was offered the opportunity to go to Haiti,
2 offered to get 10 percent commission on anything that I
3 sell.

4 Q Who offered you the job with ICS?

5 A Ron Davis, the vice president.

6 Q Other than this letter, was there any other
7 document which memorializes his offer to you to work as a
8 salesman for ICS in Haiti whereby he would pay you 10
9 percent commission on everything you sold?

10 A There should be meeting records where I actually
11 went into the company and met with all the owners of the
12 company. We met at their offices in Eustis and we discussed
13 this; so the letter was just a follow-up to document that
14 yes, this is what they're willing to do for me.

15 MR. PENDLEY: Do you have a copy of the
16 letter with you? I'm not sure I've seen it.

17 MR. LAMBE: No, not on me.

18 Q And who would have the meeting records?

19 A Ron Davis would --

20 Q So you don't have them?

21 A I'm just -- I'm just looking for a job.

22 Q So you don't have copies of them?

23 A I got --

24 Q Yes or no. Do you have copies?

25 A No.

1 Q okay. A lot of these questions are just --

2 A No. The meeting records? I don't know what
3 you're asking.

4 Q well, what I'm asking is would you have copies of
5 these meetings records where you meet with Ron Davis and the
6 folks from ICS? Either you do or you don't. Yes or no.

7 A No.

8 Q okay. Have you seen those meeting records since
9 the meeting?

10 A No.

11 Q Did you see somebody making records at the meeting
12 while you were there?

13 A They were taking notes.

14 Q When did you receive the letter from Ron Davis
15 offering you this position?

16 A I do not recall. You'd have to look at the
17 letter.

18 Q How much longer was it before the day of the
19 accident?

20 A I don't recall.

21 Q Was it within a year of the date of the accident
22 or less than a year or more than a year?

23 A I don't recall. We'll get you a copy of the
24 letter, wherever the letter is. I don't know. I don't
25 recall.

1 Q Do you still have a copy of the letter?

2 A I think it should be in our files somewhere.

3 MR. PENDLEY: Can you give me a copy of the
4 letter?

5 MR. LAMBE: Sure. I thought we produced a
6 copy of it.

7 Q All right. So you weren't going to be given any
8 base salary by ICS, correct?

9 A Correct.

10 Q Strictly you were going to work on commission?

11 A Correct.

12 Q And what was the job going to require as far as
13 how much time you were going to be living in Haiti or
14 staying down there, expenses and things of that nature?
15 what was the arrangement concerning that?

16 A The arrangement was I would get reimbursed for all
17 my expenses plus the 10 percent commission, okay? The thing
18 was that's the job I was looking for; I was looking to help
19 people. It couldn't have come at a better time for me.

20 Q Do you know who they hired to fill that position?

21 A I cannot tell you. You'd have to ask them.

22 Q Do you know if, in fact, ICS ever sent anybody to
23 Haiti to take advantage of the earthquake that happened down
24 there and make all this money that you claim they were going
25 to be making?

1 A No. I think what happened --

2 Q No, they did not?

3 A No, they did not.

4 Q Okay. And how did you find that out?

5 A Because they contacted Harris Rosen, who owns the
6 Rosen Hotels and stuff, and they hooked up with him in
7 building those. He had better contacts, had more influence
8 with politicians, and they got together and built these
9 little huts to go over into Haiti; so I was out of the
10 picture. They went in a new direction.

11 Q So you don't even know even if you would have
12 remained in the picture? They may have still hooked up with
13 Rosen and started building housing in Haiti with their joint
14 venture with Rosen, correct?

15 A Never got a chance. I never got my opportunity to
16 do my job.

17 Q How long was it after your meeting with them that
18 they hooked up with Mr. Rosen?

19 A You'd have to ask them.

20 Q And who told you that they hooked up with
21 Mr. Rosen because he had better contacts, better political
22 connections and things of that nature?

23 A Ron Davis, the vice president.

24 Q When did he tell you that?

25 A Probably about eight months after me not doing my

1 job.

2 Q when were you supposed to start your job with ICS?

3 A I can't recall the dates and times.

4 Q Before or after the accident?

5 A I can't even remember. I think I was offered the
6 job before the accident. Remember, in '09, June of '09, I
7 was writing a movie script. The earthquake came, I got an
8 offer to go over to Haiti to do that. I was looking forward
9 to doing that. When I had the trip and fall, all that went
10 down the tube; so I don't remember dates and times. You
11 just have to look that up.

12 Q Would you agree that it's really nothing more than
13 speculation whether you would have worked for ICS or not,
14 now knowing that they hooked up with Mr. Rosen and did a
15 joint venture with him?

16 A It's not speculation. I had a job and I'm good at
17 selling things. I sold a half-a-million-dollar contract at
18 Ann Arundel. I sold contracts all over the United States --

19 Q When you were offered the job, why didn't you
20 start work for them the next day, then?

21 A There was -- I don't know the time frame. I don't
22 know the dates. I can't remember the dates.

23 Q What preparations had you made to go to Haiti to
24 sell these buildings, if any?

25 A I had not.

1 Q And you did not, correct?

2 A well, I did not because -- no.

3 Q Did you take any photographs of the bump on your
4 head?

5 A No.

6 Q Why not?

7 A It didn't have blood on it like my hands did and
8 my knees and my back did. It wasn't bleeding. It was just
9 a scrape.

10 Q So is it your testimony it was not visible?

11 A Yeah. It was not bloody visible. You would not
12 have really seen it, yes.

13 Q Are you like most people these days, Mr. Halbig,
14 and you use a debit card to do all your transactions?

15 A I don't do debit cards. I do credit cards.

16 Q Credit cards?

17 A Yes.

18 Q Where do you bank?

19 A Bank of America.

20 Q How long have you banked there?

21 A 20, 25 years.

22 Q Is the account in your name or your wife's name or
23 jointly?

24 A Jointly.

25 Q Do you have any individual accounts?

1 A No, sir.

2 Q Do you have any business accounts?

3 A No, sir.

4 Q When is the last time you had a business account,
5 if at all?

6 A When I ran for county commissioner last year.

7 Q And that's for Lake County?

8 A Yes, sir.

9 Q All right. And how did you do in the general
10 election?

11 A I accomplished my mission. I didn't expect to
12 win. I did it to bring up issues.

13 Q And when did you run for county commissioner?

14 A That was last year, in 2011 -- 2011 -- 2010, 2011.
15 Last year. Let's see.

16 Q So it was after this accident?

17 A It was in 2011, November.

18 Q So you would have been campaigning during the
19 summer of 2011 up until the general election in November?

20 A In November, yeah.

21 Q And you felt with your memory problems and
22 everything you were a viable candidate?

23 A I had one mission and one mission only and I knew
24 I wasn't going to win. I mean, I already knew I was not
25 going to win, okay, but I did have a chance to talk to

1 people; so I hired people to put up the signs. I couldn't
2 do it myself so I just contracted it out.

3 Q All right. What time of day did the accident
4 occur?

5 A Somewhere in the morning. Between 9:00 and 10:00
6 a.m., I believe, 'cause I just put the pot roast on at 10:00
7 o'clock, probably.

8 Q And it occurred on what roadway? I know it
9 occurred --

10 A I think -- they said Lake Francis Drive.

11 Q Do you enter your neighborhood off of Lake Francis
12 Drive?

13 A Every day. You come up the hill --

14 Q So the answer is yes?

15 A Yes.

16 Q And when you turn off Lake Francis Drive into your
17 neighborhood, what would be the street name of the entrance
18 into your neighborhood?

19 A Cranberry.

20 Q Is it Cranberry Way?

21 A Cranberry Isles Way.

22 Q Is Cranberry Isles Way pretty much a circular road
23 into your neighborhood that takes you back out to Lake
24 Francis?

25 A Yes, sir.

1 Q what was the name of your neighborhood?

2 A Cambridge Commons.

3 Q And you told me earlier, so I apologize for asking
4 it again, but how long had you lived there?

5 A A little over 10 years.

6 Q And that was consecutively during that time?

7 A Yes, sir.

8 Q And who was living with you back at that time?

9 A My wife, Kathleen.

10 Q Any of your sons living with you back at that
11 time?

12 A No, sir.

13 Q And what type of vehicles did you have back at
14 that time?

15 A We always had a Ford Explorer so it was 2004, 2005
16 Ford Explorer. And she had a Mazda.

17 Q When you left your house that day, approximately
18 what time would it have been?

19 A I put the pot roast on 'cause we were gonna have
20 dinner that night. I would say probably about -- between
21 9:30 and 10:00 in the morning.

22 Q What was the weather like that day?

23 A Beautiful.

24 Q Clear?

25 A Clear, absolutely. Nice weather.

1 Q Okay. You were wearing your glasses?

2 A I was wearing my glasses.

3 Q Any hat? Anything on your head?

4 A No, sir.

5 Q What type of clothing were you wearing?

6 A T-shirt, shorts, socks, tennis shoes.

7 Q How old were your shoes?

8 A About three years.

9 Q As I understand it, this was the first time you
10 had jogged in approximately two years?

11 A Yeah. Yes, sir.

12 Q And you and your wife had decided to start jogging
13 because your son was having a wedding coming up and the two
14 of you wanted to lose a few pounds in preparation for the
15 wedding?

16 A Correct.

17 Q What type of ID did you take with you, if any?

18 A I don't think I did anything -- I had anything.

19 Q Did you take any items with you at all for
20 identification purposes?

21 A No. I'm just -- no, sir, no.

22 Q Did you take your wallet with you?

23 A No.

24 Q Did you take a phone with you, a cell phone?

25 A No.

1 Q Did you take any anything to carry in your hands
2 as you were jogging --

3 A No.

4 Q -- such as a water bottle, pedometer to check your
5 time or anything like that at all?

6 A No.

7 Q Did you have anything in your pockets?

8 A No.

9 Q When you exit your house and you get down to the
10 front yard, do you go to the left or to the right out of
11 your house?

12 A I exited the back of the Commons. There's a back
13 way to get out through the main road, and I ran all the way
14 down to the red light. It's about a mile and a half.

15 Q So did you run out your backyard?

16 A No.

17 Q Okay. That's what I am trying to figure out, your
18 route; so stop, let me finish my question.

19 A Okay.

20 Q So when you literally leave your yard to go on
21 this jog, what route do you take from your yard? I assume
22 you have to run or jog a little bit on Cranberry Isles for a
23 distance, don't you?

24 A No.

25 Q Okay. Where do you go?

1 A I'm not on the golf course.

2 Q I know that.

3 A Okay. So what you do is you come out of my house,
4 you hook a right.

5 Q Onto Cranberry?

6 A Yeah. You make a right, you walk down the
7 sidewalk, and you go out the back. Okay. There's a pathway
8 where you go out the back and you get on the sidewalk where
9 people jog, and there were people jogging that morning, and
10 so I warmed up and I just headed out.

11 Q Okay. Once you leave your residence and you go
12 that short distance on Cranberry Isles, as I understand what
13 you're telling me, there is a path or a way that you can
14 leave Cranberry Isles, the street, go out the back of your
15 neighborhood, and as soon as you go out the back of your
16 neighborhood, you're on the golf course?

17 A You're on the sidewalk.

18 Q On the sidewalk. Okay. What houses or house
19 numbers would you have gone between to get out through the
20 back of your neighborhood to the sidewalk?

21 A I don't know the house numbers.

22 Q How many houses down from your house would they
23 have been?

24 A Probably seven.

25 Q And do you only have to go through or in between

1 one house in order to get to the back of the neighborhood?

2 A Two houses.

3 Q Two houses. And those two houses, as you exit the
4 back of your neighborhood, would be on your left and right
5 as you're going out the back of it?

6 A Yes, sir.

7 Q And then once you get to the back of those houses,
8 to the back of their yards, then you're out into the
9 sidewalk?

10 A You're on the sidewalk.

11 Q Okay. Once you get on that sidewalk, where do you
12 go?

13 A You hook a left, you cross the street --

14 Q I'm sorry to interrupt you, but when you hook a
15 left on the sidewalk, directionally which way are you going?
16 North? South? East? West? Somewhere in between?

17 A East.

18 Q Okay. So once you get out through the back of
19 your neighborhood, which is Cambridge --

20 A Commons.

21 Q -- Commons, you take a left on the sidewalk and
22 now you're heading east?

23 A East, right.

24 Q Okay.

25 A And then basically what you're doing is there's a

1 street -- I don't know what the crossroads are, but there's
2 a really nice path that's just a straight shot. It goes all
3 the way down to the traffic light where it dead-ends. And I
4 think, you know, a long time ago when my wife and I used to
5 do that. It's like two miles. And that's all I wanted to
6 do that morning, 'cause we had a pot roast going on, and so
7 that's what I did.

8 Q When you go through the back of your neighborhood
9 and you take a left on the sidewalk to head east, do you
10 remain headed in an easterly direction until you get to that
11 intersection?

12 A Yes, straight.

13 Q And when you get to that intersection heading
14 east, do you just turn around and then head back?

15 A Yup.

16 Q Do you head back in the same direction you're
17 coming?

18 A Yes. You come directly back. The only difference
19 is instead of running back through the backyard going back
20 through that walkway, you just keep running straight 'cause
21 there's a hill, you know, that I drive, that I see every
22 day. So what you want to do is you want to run all the way
23 back, go down the hill, and then go up Lake Francis Drive,
24 jog up, 'cause that's the way you want to finish, on the
25 hill.

1 Q Right. So if you were driving, let's say, and you
2 pulled out of your neighborhood and made a left on Lake
3 Francis Drive, Lake Francis Drive kind of goes down a hill
4 and comes to an intersection to the road that you would have
5 been jogging next to?

6 A Yes, sir.

7 Q Okay. That's the road you don't know the name of,
8 or do you know --

9 A Right. I don't know that road.

10 Q Okay. It's not Vick, is it?

11 A No. Vick is the road that runs -- no, it's not
12 Vick. It's another road.

13 Q Okay. The road that comes off of Lake Francis
14 that you were jogging parallel to, if you continue heading
15 what I would call southbound on that road, the same way that
16 you were jogging before you took a right on Lake Francis --

17 A Right.

18 Q -- where does that road go? Does it come out by
19 the elementary or middle school up there?

20 A Okay. Which way am I coming? Which way am I
21 coming?

22 Q Well, if you were heading east --

23 A Am I starting out or am I coming back?

24 Q You're coming back and you're going to have to
25 make a right on Lake Francis, correct?

1 A Right.

2 Q If you didn't make a right on Lake Francis --

3 A You keep going.

4 Q -- and you kept going on whatever road that is,
5 where would that bring you out?

6 A Out to Apopka High School. It would be a straight
7 shot. You'd see Apopka High School on the left side.

8 Q Okay. And where does that road intersect so you
9 could make a left or right of it past Apopka High School?
10 Do you know?

11 A It would be where that elementary school is.
12 There's a dead-end, red light, and there's an elementary
13 school. That's your dead-end down there.

14 Q Gotcha.

15 A Right.

16 Q All right. So you jogged down to the intersection
17 heading east on the sidewalk, correct, when you got to the
18 back of your neighborhood?

19 A When I came out the back, made a left, went all
20 the way down to the dead-end intersection, turned around.

21 Q Then you're coming back?

22 A I'm coming back.

23 Q On the same sidewalk?

24 A Same sidewalk. Passed runners. There's runners;
25 so there are people running besides me.

1 Q On the way down to the intersection where you turn
2 around and come back, any problems running down there?

3 A No.

4 Q Are you jogging?

5 A I'm jogging.

6 Q Are you walking any or jogging --

7 A Just jogging.

8 Q The entire way?

9 A Right. 'Cause I'm passing, you know, I'm passing
10 joggers. You know, we're sweating; we wave, we go by each
11 other. Then as I get down to the corner of Lake Francis
12 Drive, I make my turn to go up Lake Francis Drive.

13 Q So you make a right?

14 A Make a right, go up the hill.

15 Q Okay. How much time do you think had gone by from
16 the time that you had left your residence until the time
17 that you got ready to make your right to head up the hill
18 there on Lake Francis Drive?

19 A As old as I am, probably 45 minutes.

20 Q And you were familiar with that route because you
21 had run it before?

22 A A long time ago, yes.

23 Q And you said it was about two miles?

24 A Should be two miles, and back to the front door of
25 our house would be two miles.

1 Q Sweating?

2 A Sweating.

3 Q Out of breath yet?

4 A I don't -- you know, I really do well. I don't
5 get out of breath. I'm just tired.

6 Q All right. So you started heading up the hill
7 there on Lake Francis Drive. What is traffic like along
8 Lake Francis Drive as you're jogging?

9 A What I can picture is going up the hill. Halfway
10 up the hill on the left-hand side is a lady and a man
11 cutting grass. I'm tired and I'm going up the hill --

12 Q I'm sorry. What?

13 A I'm going up the hill. I'm tired but that's where
14 you want to really push it 'cause that's where you get your
15 extra zip, in there. They wave at me. I wave back. Just
16 as I pass them, there's a stop sign that's about to come up.
17 Okay. So I'm looking at the stop sign up in front of me.
18 All of a sudden comes a car behind me and they're beeping
19 the dagum horn. Scares the living heck out of me 'cause I
20 don't know what they're doing; I got kids yelling. And all
21 of a sudden when I turn, I'm turning left, I'm gone. The
22 next thing I remember is I'm on the ground and somebody is
23 shaking me saying, "Are you okay? Are you okay?"

24 Q All right. So after you make your right turn to
25 head up the hill on Lake Francis, do you pass anybody then,

1 as you're jogging? And you're jogging on the sidewalk,
2 right?

3 A I'm on the sidewalk.

4 Q Okay. A little different question. Once you make
5 your right turn and head up the hill on the sidewalk along
6 Lake Francis Drive there, does anybody pass you going in the
7 opposite direction jogging on the sidewalk?

8 A Not going up the hill.

9 Q So once you make your right turn on the sidewalk
10 there at Lake Francis Drive to head up the hill, nobody
11 passes you going in either direction on the sidewalk; is
12 that correct?

13 A That's correct.

14 Q Okay. How far up the hill do you get before all
15 of a sudden you have this accident?

16 A A little over halfway. I still picture the man
17 and the woman cutting grass and they look at me. I think
18 they say something like "Old man, you're doing good." You
19 know, they're waving.

20 Q They're on the other side of the road?

21 A They're on the other side of the road cutting
22 grass. And I think the man stopped. I still see him wiping
23 off the brow of his forehead and they're waving at me and I
24 wave back 'cause I thought that was really nice. And as I'm
25 jogging up the hill, I can remember a little over halfway,

1 and the next thing you know -- you know, I felt good 'cause
2 they waved at me.

3 The next thing you know, I'm trying to finish, I
4 see the stop sign, don't have far to go, and this car comes
5 up and it's just beeping their horn. It scared me to death.
6 I was like -- it was like, you know, seeing a gas engine
7 blow up or something --

8 Q I think you already told me that, didn't you? I
9 was just asking if they were on the other side of the
10 street --

11 A They were on the other side. I'm sorry. I'm
12 trying to picture it.

13 Q That's all right. Were there any visual
14 obstructions to you as you're running up the hill on the
15 sidewalk there along Lake Francis Drive?

16 A I didn't see any. I saw, you know, when you go up
17 the hill there's trees, there's a lot of shade there. What
18 I focused on was the stop sign, and, again, I think I
19 remember turning my head to see who was doing what. And the
20 next thing -- the last thing I remember is turning my head
21 and trying to figure out what's going on. It scared me to
22 death. I didn't know what it was.

23 Q So the horn blows, you turn around --

24 A And I'm gone.

25 Q You've got to let me finish my question. So the

1 horn blows from the car that's behind you. You turn what?
2 To your left or to your right?

3 A To my left, 'cause they're going up the hill.

4 Q To your left to see what's going on and boom, you
5 go down?

6 A I'm down, and --

7 Q Is that a fair statement?

8 A Fair statement.

9 Q Is that a fair description of the sequence of
10 events that occurred?

11 A Yes, sir.

12 Q All right. And it's your testimony, then, that
13 from that point on you don't remember anything?

14 A I do. I remember this lady pushing me on my
15 shoulder.

16 Q Okay. So the very next thing you remember is some
17 lady pushing you on your shoulder?

18 A Asking me if I was okay.

19 Q All right. What's the next thing you remember
20 after that?

21 A It was a man. I could hear a man saying, "You're
22 going to be okay. Ambulance is coming."

23 Q All right. Then what's the next thing you
24 remember?

25 A Just laying there waiting for the ambulance. I

1 felt some guy putting stuff on me.

2 Q Do you remain on the ground until the ambulance
3 arrives?

4 A Never moved.

5 Q Okay. And once the ambulance arrives, do you
6 remain on the ground until they transport you or transfer
7 you from the ground to a gurney?

8 A Yes, sir.

9 Q So from the time that, boom, you go down after
10 hearing the horn blow and turning to the left to look over
11 your left shoulder to see what was happening, from the time
12 you go down after that until the time that they transfer you
13 from the ground to the gurney, you don't get up, walk around
14 or anything at all; is that a fair statement?

15 A Fair statement.

16 Q And then you're transported there from the scene
17 to the hospital?

18 A Yes, sir.

19 Q Do you know how long, Mr. Halbig, you would have
20 been on the ground before the paramedics transferred you
21 from the ground to the gurney?

22 A I have no idea.

23 Q Do you know how long you would have been there at
24 the scene of the accident after you went down until they
25 drove away with you in the ambulance?

1 A I have idea.

2 Q Were you wearing a watch?

3 A No.

4 Q Which hospital did they transport you to?

5 A Florida Hospital there in Apopka.

6 Q Did they take you to the emergency room?

7 A Yes, sir.

8 Q How long do you remain there until you're
9 discharged?

10 A Till 11:00 o'clock at night. 11:00, 11:30 at
11 night.

12 Q Do you know how it is that they identified who you
13 were?

14 A I told -- eventually when I came around, figured
15 out what was going on, I was worried about the pot roast and
16 I told the paramedic that I was worried about the house
17 burning; so the paramedic asked me what my name was and he
18 asked me my address and I told them. They said they would
19 go to my house and turn off the pot roast, which they did.

20 Q Does your wife ever come to the hospital?

21 A We didn't call her till -- I didn't want anybody
22 to call her till -- she had a job. She had a big thing
23 going on that day. I was going to surprise her --

24 Q The question is very simple.

25 A No.

1 Q Did your wife come to the hospital?

2 A At 11:30, yes.

3 Q Okay. And who called her to advise her that you
4 were in the hospital?

5 A The nurse.

6 Q And when did the nurse call your wife to advise
7 her that you were in the hospital?

8 A 10:30 that night, I think.

9 Q And what time do you get home from the hospital?

10 A I think I was discharged 11:30, 11:45. We stopped
11 to get the pain medications, morphine, and then I think I
12 got home at 12:15.

13 Q And who was it that prescribed you morphine?

14 A The emergency room doctor.

15 Q All right. And when is the very first time that
16 you seek medical care and treatment after you leave the
17 emergency room?

18 A I think within the next two days, I saw my family
19 physician.

20 Q And who did you see?

21 A Dr. Mostov.

22 Q In Ocala?

23 A Yes, sir.

24 Q And who takes you there?

25 A I think my son took me up there. Erik Halbig.

1 Q Are you certain?

2 A I don't recall.

3 Q Could you have driven yourself there?

4 A It's possible, but I just -- I don't recall that.

5 Q All right. When is the next time that you visit
6 or go back to the area where this accident occurred?

7 A I think -- I don't even remember the day, but I
8 think it was on the weekend. I think it was on the weekend.

9 Q All right. Do you know how many days later that
10 was?

11 A Three or four days.

12 Q And so three or four days later, you returned to
13 the area where this accident occurred. And why do you go
14 back there?

15 A To show my son where -- they wanted to know where
16 I -- my other son came down and they wanted to know where I
17 fell, and so they went and looked. And they made -- first
18 of all, they laughed and made fun of me. I mean, I had to
19 go through that deal. And then we took them down and they
20 said "Yeah. Okay."

21 Q When do you decide or determine what caused you to
22 fall?

23 A It's the lady that woke me up said -- and she even
24 said it at the hospital to the doctor. She said, "People
25 have tripped there all the time and we've called Apopka. We

1 told them about it." And so she said -- she actually told
2 me that's where I tripped and fell 'cause she -- she saw my
3 skin and the way I was laying on the ground.

4 Q So is it your understanding she literally saw you
5 trip and fall? She was an eye witness to the incident, yes?

6 A No.

7 Q Okay. What's your understanding?

8 A My understanding is she told me that I tripped and
9 fell there and that many other people have tripped there
10 before; so I'm assuming where I was laying, how I was
11 laying -- and I looked at my tennis shoes and the scuff
12 marks on my tennis shoes -- I must have hit something. It
13 wasn't just me, you know, tripping on my own feet.
14 Something caused me to lose balance, and so we -- I brought
15 my son back and we looked at it and we took pictures. I
16 provided the pictures to my attorney.

17 Q Okay. Absent this lady saying to you that other
18 people had tripped and fallen there, would you have known
19 what caused you to trip and fall?

20 A Yeah. By looking at my shoes. I mean, when you
21 look at my tennis shoes, you can see the scuff marks.

22 Q What is it about your tennis shoes that indicates
23 to you how you tripped and fell?

24 A The scuff mark.

25 Q Where?

1 A On the toes of my shoe, on one of my toes.

2 Q Which one?

3 A On my right toe.

4 Q Did you take photographs of that?

5 A I didn't think I needed to. I mean, to me,
6 anybody could see what just happened.

7 Q Do you still have the tennis shoes or your running
8 shoes that you were wearing that day?

9 A I'd be glad to look. I've got a lot of shoes.

10 Q When is the last time that you saw the shoes that
11 you were wearing on the day of this accident?

12 A The last time I recall seeing them is me wearing
13 them actually to the doctor's office, Mostov, to show them
14 and explain to them how I tripped and fell.

15 Q And when was that?

16 A A couple of days after the accident, I went and
17 saw my -- they told me --

18 Q So the last time you saw the shoes that you were
19 wearing on the day of this accident that has this scuff mark
20 on the toe of the right shoe is the day you went to Dr.
21 Mostov's office, and that was about three or four days after
22 the accident?

23 A Yeah.

24 Q Correct?

25 A I would say two days because --

1 Q Is that correct?

2 A Correct.

3 Q Okay. You haven't seen the shoes since then; is
4 that correct?

5 A I think it's still at the house. I haven't seen
6 it. I mean, I'm assuming it's still at the house.

7 Q Okay. And if they're still at the house, you can
8 produce them for us to take a look at them?

9 A I'd be glad to look for them.

10 Q To your knowledge, have you thrown them away?

11 A No, sir, I have not.

12 Q To your knowledge, has anybody thrown them away?

13 A No, sir, they have not.

14 Q And you have not taken any photographs; is that
15 correct?

16 A Yes, sir.

17 Q Of the shoes?

18 A Of the shoes.

19 Q Well, then, let me ask your attorney if he can get
20 those shoes so we can take a look at them.

21 MR. PENDLEY: Okay?

22 MR. LAMBE: Correct.

23 Q When did you realize that there were scuff marks
24 on the toe of your right shoe?

25 A That would be when I got off of my pain medication

1 and my toes really hurt. I kept telling --

2 Q Mr. Halbig, I don't --

3 A The --

4 Q Wait just a second. I don't need the
5 editorializing. I'm just trying to find out when is the
6 first time you realize there was scuff marks on the toe of
7 your right shoe.

8 A The day after the accident.

9 Q Okay. And where were you when you noticed that?

10 A At home.

11 Q Okay. Did anybody else see the scuff marks on the
12 toe of your right shoe?

13 A Dr. Mostov.

14 Q Anybody else besides him and you?

15 A No. My wife thought I was stupid so she didn't --
16 she didn't care.

17 Q Your wife thought you were stupid because of what?

18 A I'm supposed to be athletic. I'm not supposed to
19 be falling and --

20 Q Just a second. Your wife thought you were stupid
21 because of what?

22 A I fell.

23 Q And she really thought you were stupid because you
24 fell?

25 A Trust me.

1 Q When you and your son Erik went back to the area
2 where you fell three or four days after the accident, did
3 anybody take photographs at that time?

4 A We took photographs.

5 Q Let me show you here what we can mark as exhibits.
6 We'll save some time and I'm just going to mark in
7 the upper right-hand corner some numbers, 2, 3, 4 5, 6, 7
8 and 8.

9 (Defendant's Exhibits 2 through 8 were marked,)

10 Let me have you look at these photographs which
11 I've marked as Exhibits 2 through 8. I just need you to
12 look at them. Don't say anything about them. Just take a
13 look at them and make sure you're familiar with them.

14 And while you're doing that, I'm going to the
15 men's room and we can take a five-minute break.

16 (A four-minute recess was had.)

17 Q Mr. Halbig, did you get a chance to look at those
18 photos that we've marked as Exhibits 2 through 8?

19 A Yes, sir.

20 Q Do you recognize them?

21 A I recognize them.

22 Q Are they photographs that you took or had somebody
23 take for you?

24 A I did not take them and I can't remember who took
25 them or who in my family took them, but that's my knee.

1 Q All right. My question is did somebody take these
2 photographs for you?

3 A Yes.

4 Q All right. If we look at Exhibit 2, there's
5 actually two photographs there: one of the sidewalk and one
6 of your knee; is that correct?

7 A Correct.

8 Q It's your testimony that the sidewalk depicted in
9 the top photograph of Exhibit 2 is the area where you fell?

10 A Yes, sir.

11 Q And how did you determine that?

12 A Because that's where they found me. Right here.
13 (Pointing.)

14 Q And where is that?

15 A Right -- well, right here. (Pointing.) That's
16 where my body was.

17 Q So you're indicating, for the record, that your
18 body would have been located on the area of the sidewalk
19 where the shadow from the tree is cast across it; is that
20 correct?

21 A Right.

22 Q And so how is it that you determined -- well, let
23 me ask you, in your opinion, what caused you to fall?

24 A The last thing I remember is people beeping at me.
25 I'm jogging up the hill, I turned left. The next thing is

1 I'm here.

2 Q Did you ever tell any of your doctors that you
3 were distracted and you waved and that's when you fell to
4 the ground?

5 A I told my doctors that I waved, a car beeped the
6 horn, I turned, and the next thing is I'm on the ground.

7 Q Did you ever tell any of your doctors that you
8 were distracted and you hit the curb and fell?

9 A Not that I recall.

10 Q It's your testimony that you were never jogging on
11 the roadway?

12 A I was not in the roadway.

13 Q And is it your testimony you didn't hit the curb
14 and fall? Is that your testimony?

15 A My testimony -- I did not hit the curb?

16 Q Yes, sir. You're not claiming you hit the curb
17 and fell, are you?

18 A I'm claiming that the curb triggered my fall.

19 Q Which curb?

20 A The side --

21 MR. LAMBE: I think there's confusion on what
22 you mean by the curb and sidewalk.

23 Q You understand the distinction between a sidewalk
24 and a curb, don't you?

25 A I understand, yeah. I know what a sidewalk is.

1 Q Okay. And you understand what a curb is?

2 A I don't understand your question. where does a
3 curb come in?

4 Q That's not my question right yet. I mean, you
5 make a distinction between a curb as opposed to a sidewalk,
6 don't you?

7 A The curb did not cause me to fall.

8 Q Not my question.

9 A What's your question?

10 Q My question is you understand the distinction
11 between a sidewalk and a curb?

12 A Yes, I do.

13 Q Okay. Did you ever tell any of your doctors that
14 you were distracted and hit the curb and fell?

15 A No.

16 Q So if any of your doctors wrote that in their
17 notes, they're incorrect?

18 A They're absolutely incorrect.

19 Q All right. Now, is it your contention that the
20 difference in elevation of the two sections of sidewalk
21 caused you to fall?

22 A Correct.

23 Q How did you determine that?

24 A By the scuff mark on my tennis shoe.

25 Q Any other basis for your belief that the

1 difference in elevation of the sidewalk caused you to fall
2 other than the scuff mark on the toe of your right shoe?

3 A And the comments by the lawn keeper saying,
4 "That's where you fell." They saw me fall there and they
5 said that's what caused me to fall.

6 Q Okay. I asked you earlier about whether they
7 actually saw you fall and you said no, they didn't.

8 A When they woke me up, when they shook me, they
9 said I tripped and fell. That's what caused my fall. They
10 did not see me fall but they're assuming that's what caused
11 my fall because they have seen other numerous people trip
12 and fall at the same location.

13 Q And they're telling you this while you're on the
14 ground there at the scene and at the hospital?

15 A She told me at the hospital.

16 Q Did anybody else hear her say that?

17 A I'm sure Stanley Steemer, people who were around
18 the -- she said there was a couple of men from the Stanley
19 Steemer. Remember, this is at the hospital she's telling
20 me. Stanley Steemer had some people there trying to help
21 me.

22 Q Okay. When she's at the hospital and she told you
23 that she saw you fall and there have been other people who
24 have fallen there, did anybody hear her, to your knowledge,
25 other than you?

1 A I'm sure the nurse did, that was treating me.

2 Q All right. The photograph that is depicted here
3 in Exhibit 2, it does not appear that I can see a stop sign
4 in the photograph. You said you were focused on a stop
5 sign; is that correct?

6 A Correct. There was a stop sign.

7 Q Where is that stop sign located?

8 A It's right out of the picture. This is a closeup.
9 The stop sign is right here. (Pointing.) It should be
10 right up here at the end of this sidewalk.

11 Q So it's off the top of the photograph, of --

12 A Right.

13 Q When you fell, how did you land? What part of
14 your body -- strike the question.

15 what part of your body hit first?

16 A Landed hands first, lost balance, landed, scooted
17 my right knee hit. My right foot is where you'll see the
18 scuff mark on the tennis shoes. My knee and then the rest
19 of my body came down. I could have said my left foot hit
20 it, which has got a higher mark. My right foot hit it but
21 that's where the scuff mark is. It's not on my left shoe.
22 It's on my right shoe.

23 Q I understand.

24 A I know, but I'm not trying to scam you guys by
25 saying hey -- I could have said left foot. I mean, I'm not

1 here to play games. I'm just telling you right foot. I'll
2 bring you the shoe and I'll show you the scuff mark.

3 MR. PENDLEY: Let me just mark the response
4 as being unresponsive, again, to any question at
5 all.

6 Q Were you having any difficulty seeing that day,
7 Mr. Halbig?

8 A Absolutely not. I was cooking a pot roast.

9 Q Okay. What does cooking a pot roast have to do
10 with your vision?

11 A I followed directions. I read well. I put all
12 the ingredients in.

13 Q Did you have any problems with sweat getting into
14 your eyes?

15 A Absolutely not.

16 Q If we look at Exhibit 6 and Exhibit 7, somebody is
17 holding a ruler there and measuring the edge of the
18 sidewalk; is that correct?

19 A That's correct.

20 Q Who is doing that?

21 A That's my son, Erik Halbig.

22 Q Okay. And who is taking the photograph?

23 A I took the picture.

24 Q Okay. And is there any particular reason why you
25 took measurements of the elevation difference on the right

1 side -- I'm sorry -- on the left side of the sidewalk, where
2 the elevation is greatest, as opposed to the right side?

3 A No. I just the -- as a risk manager, I took the
4 high elevation because the thing is I didn't trip on the
5 high elevation. I tripped on the lower elevation.

6 Q okay. Why don't you have the measurement of the
7 lower elevation?

8 A 'Cause that's where I tripped.

9 Q I'm sorry. Wait just a second. If you took a
10 measurement of the higher elevation, why wouldn't you take a
11 measurement of the lower elevation?

12 A You've got the middle. You've got the right edge.
13 I'm assuming I tripped in the middle 'cause that's where my
14 knee landed so --

15 Q So if we look at Exhibit 7, are you telling me
16 where the ruler is being held in Exhibit 7 and measuring
17 what appears to be approximately four inches, that's where
18 your right toe would have hit?

19 A No. I'm saying I took measurements at the edge
20 and I took measurements in the center. I can't tell you
21 where I hit my -- my toe hit on this concrete.

22 Q Can you even tell me for certain that it hit on
23 that edge that you're measuring the elevation difference of?
24 Can you tell me that for certain under oath?

25 A It hit that part of the curb, the sidewalk.

1 That's -- how do you get a scuff mark on the tennis shoes?

2 Q Again, I want to make sure we use the right
3 terminology. Are you calling this a curb? (Pointing.)

4 A Sidewalk.

5 Q okay. And, again, can you tell me one hundred
6 percent certain, under oath, that you stubbed your foot on
7 this elevated portion of the sidewalk that's depicted in
8 photographs 7 and 6?

9 A I'm not saying on the elevated side. I believe
10 it's my right foot and it hit the curb. I'm not saying it
11 hit the elevated --

12 Q You used the word "curb" again. I'm confused.

13 A well, that's my German in me. I've got language
14 problems all my life. I just use bad terminology.

15 sidewalk. And that's probably what I told the
16 doctors, curb. It's sidewalk. But, again, I'm not saying I
17 hit it at the high end. My right foot hit the sidewalk
18 based on the scuff marks on my shoe.

19 Q Now, do these photographs accurately depict how
20 that area of sidewalk would have looked on the day of the
21 accident?

22 A That's how it looked on the day of the accident.

23 Q So the answer is yes?

24 A Yes.

25 Q So the photographs which we have here in front of

1 us, Exhibit 2, Exhibit 6, Exhibit 7, and there's even one
2 here in Exhibit 8, those photographs accurately depict how
3 the sidewalk would have looked on the day of the accident?
4 Yes or no.

5 A Yes.

6 Q All right. If you would have been looking where
7 you were going, would you agree that you should have been
8 able to see that elevated section of sidewalk?

9 A well, on that day -- on that day the people who
10 owned this yard, they blow all their trash this way. we
11 cleaned this out. There was some leaf coverage in there and
12 the shade hit the area. And, again, coming up a hill --
13 you're a runner, you look forward -- I looked at that stop
14 sign. I'm not looking down at my feet.

15 I'm assuming that when you run in the
16 neighborhood, it's safe and the sidewalks are safe for
17 people to walk, jog, whatever. You're not assuming
18 something like that's going to cause you to trip.

19 Q You hadn't run in this area or even walked in this
20 area ever?

21 A Yeah. Five, six years ago. It's never looked
22 like that.

23 Q Okay. Let's stop, okay?

24 A Okay.

25 Q If you would just answer my questions, I'd

1 appreciate it.

2 The last time you would have walked along this
3 section of sidewalk would have been five or six years
4 earlier, correct?

5 A Yes, sir.

6 Q You're aware that there are mature oak trees
7 growing in the grassy parkway between Lake Francis Drive and
8 the sidewalk itself? I mean, look at the pictures there.

9 A Yeah.

10 Q You're aware of that, aren't you?

11 A Yes. It's in front of my house. Sure.

12 Q You have large oak trees throughout your
13 subdivision; is that correct?

14 A That's correct.

15 Q And I assume you have to realize that large oak
16 trees adjacent to sidewalks with roots running underneath
17 the sidewalks can cause the sidewalks to become elevated or
18 depressed? Wouldn't you agree with that?

19 A Okay. I agree with that.

20 Q So on this day, you don't know whether the
21 sidewalk would have been level, elevated, flat, smooth, or,
22 because of these large oak trees, may have had different
23 sections elevated along this path that you were traveling,
24 correct?

25 A Yes.

1 Q In light of that, wouldn't you agree that as a
2 risk manager, that there would have been a heightened duty
3 on your part to look and pay attention to where you were
4 walking along this unfamiliar stretch of sidewalk?

5 A No.

6 Q Thank you. All right. Now, at any point in time
7 after the accident, did you ever talk with anyone from the
8 City of Apopka about the accident?

9 A I don't recall that.

10 Q You mentioned something about somebody on this
11 side over here blowing debris onto the sidewalk.
12 (Pointing.) You pointed over here on the side where the
13 road is located and I'm not sure what you mean.

14 A There's -- wherever the tree is. Where's the
15 tree?

16 Q So you're looking at Exhibit 2?

17 A This homeowner who lives here. (Pointing.)

18 Q So you're indicating on Exhibit 2, to the right of
19 the photograph, there's a home adjacent to the sidewalk?

20 A Right.

21 Q And the homeowner did what?

22 A They have a tendency to blow their trash out onto
23 the road instead of picking it up themselves.

24 Q How long had you been aware of that?

25 A Well, I remember talking to the landscaper -- I

1 think that was like six, seven years ago -- when we -- we
2 did walk along that path 'cause, you know -- yeah, I think
3 it's nice to walk. I've been on that path but I've never
4 seen it that way.

5 Q All right. well, you'd never seen it that way the
6 last time you had walked along that path, which was five or
7 six years earlier, correct?

8 A I've never seen it that way.

9 Q Is that correct?

10 A Correct.

11 Q And in the five or six years before this accident,
12 you hadn't walked along that path or sidewalk, correct?

13 A No, I hadn't been out there.

14 Q Is that correct?

15 A Correct.

16 Q Fine. Let me ask you this: In light of the fact
17 that you realize there were mature oak trees along that
18 section of sidewalk, mature oak trees in your neighborhood,
19 that mature oak trees have a tendency to have roots that
20 burrow up underneath sidewalks which are adjacent to them
21 and cause sections of sidewalk to become depressed or
22 elevated, and now, in light of the fact that you knew that
23 homeowners adjacent to this sidewalk where you had your
24 accident would blow debris from their yards out into the
25 sidewalk, don't you think you should have had some

1 responsibility or duty to pay attention to where you were
2 running that day?

3 A You're assuming as a runner --

4 Q Yes or no.

5 A I would say no.

6 Q Okay. And why not?

7 A Because -- because you're expecting -- when you
8 pay homeowner fees, when you pay two homeowner fees, when
9 you're paying taxes to the City of Apopka, you're assuming
10 that they're doing their job, they're inspecting it, they
11 make sure that it's safe, that it meets code, it doesn't put
12 people at risk. While you're trying to shift the burden to
13 me, the burden is on the City of Apopka to maintain safe
14 roads and sidewalks.

15 Q Who, in your opinion, Mr. Halbig, was in the best
16 position on the day this accident occurred to make sure it
17 didn't happen?

18 A City of Apopka.

19 Q So it's your testimony you don't bear any
20 responsibility at all for this accident, regardless of how
21 small or insignificant it is; is that correct?

22 A That's correct.

23 Q And, again, if you would have been looking where
24 you were running, 10 feet ahead of you, 15 feet ahead of you
25 as you paced up the hill there -- and it's a pretty steep

1 hill so you're not going at a fast pace, are you?

2 A That's true.

3 Q All right. So you would have -- as you're slowly
4 making your way up this hill, if you would have been looking
5 15 or 20 feet ahead of you, especially in light of the other
6 factors we talked about, oak trees, people blowing debris
7 out there, wouldn't you agree that you would have been able
8 to see this section of sidewalk that had a difference in
9 elevation of at least four inches?

10 A Well, I can say I didn't see because there were --

11 Q Just yes or no.

12 A No.

13 Q Why wouldn't you have been able to see it?

14 A Because I also said that when I go up the hill,
15 I'm not running at a slower pace. I'm trying to accelerate
16 my pace. And when people are waving at you and somebody
17 beeps their horn and scares the heck out of you which
18 looks -- you're not assuming you see an oak tree with this
19 big old rise in the sidewalk. And I would assume somebody
20 in the city or whoever -- I didn't even think the city was
21 responsible. I thought it was a homeowners issue -- I would
22 assume somebody would have notified somebody because I'm
23 sure other people have tripped there before.

24 Q Did you do any investigation to determine that?

25 A I called homeowners -- absolutely, I did. I

1 called the homeowners association, did my due diligence, and
2 they said, "We called City of Apopka. We tell them, we
3 wrote letters, and they don't respond. They don't come out
4 and fix it." And that's the homeowners association.

5 Q So it's your testimony that the homeowners
6 association knew about that?

7 A And they put Apopka on notice.

8 Q What did the homeowners association do to protect
9 your interests, since they were on notice of it?

10 A They said they did their due diligence. They
11 wrote letters, they identified it, they notified the City of
12 Apopka, which you were aware of it, and the city didn't put
13 anything out there to show that there was a hazard out
14 there. It should have been taped and there should have been
15 a cone there.

16 Q You have a homeowners association board?

17 A I called the president. Absolutely.

18 Q They hire people to do the landscaping and the
19 yards and along the common areas, yes?

20 A Yes.

21 Q Do you know if anyone from the homeowners
22 association board ever instructed one of the landscapers
23 just to take a can of orange spray paint and spray that
24 area? You're familiar with how they do that from your
25 experience as a risk manager?

1 A Absolutely.

2 Q Okay. Did you ever ask the homeowners association
3 why they just didn't take a three- or four-dollar can of
4 orange paint and spray across that area to show that there
5 was an elevation difference?

6 A I asked.

7 Q What did they say?

8 A They said that the sidewalk belongs to the City of
9 Apopka and the Commons has a different ground crew than
10 outside on Lake Francis. Again, that's a whole different
11 grass cutting crew.

12 Q If you would not have been distracted by the
13 people blowing the horn, do you think this accident would
14 have occurred?

15 A If -- if I was not distracted by the people and if
16 that sidewalk would not have been in that condition, that
17 accident would have never happened.

18 Q That's not my question, but I appreciate you
19 trying to change it.

20 A I mean --

21 Q I don't need any help, but I appreciate it. I
22 know you want to help and I understand -- and please, we're
23 going to be here -- I mean, we're here much longer than I
24 ever thought. Just let me finish the question, okay?

25 My question, very simply, is this: If you would

1 not have been distracted by the people blowing the horn, do
2 you think you would have observed this condition and not
3 fallen?

4 A Probably not, because I don't look down at my feet
5 when I'm running, I look ahead, and I saw the stop sign.
6 That's what my target point is, and I'm assuming everything
7 is flat.

8 Q If you would have been walking, do you think you
9 would have been able to observe that area and not fallen?

10 A Absolutely.

11 Q And why is that?

12 A Because you're a slower pace and you're more
13 likely to look around you that's closer, instead of running.
14 Running makes you look forward; walking makes you look down
15 close to the front.

16 Q On the day the accident occurred, was there
17 anything, weeds, low-hanging tree limbs, anything at all to
18 obstruct the elevation difference in these two sections of
19 sidewalk?

20 A Shadow.

21 Q Anything else besides that?

22 A Some leaves.

23 Q Anything else?

24 A That's it.

25 Q And how do you know there was a shadow and leaves

1 if you didn't even detect what you fell on until afterwards?

2 A 'Cause when I went back two days later or three
3 days later and I wanted to make sure -- see what the
4 conditions -- you look at the factors, and that time of the
5 day there was a shadow that goes across. It's dark, you
6 can't see it, there's no sunshine on it.

7 Q You went back at the same time of day?

8 A Approximately the same time of day.

9 Q When is the last time you went to the area where
10 the accident occurred?

11 A The only time I've ever gone back there, sir, is
12 when -- about two days, three days after the accident.

13 Q Do you know if it's still in the same condition
14 today as it was back then?

15 A I have no idea. Yeah. I tell -- I don't -- I
16 drove by there the other day because we have a renter, and I
17 guess it's flat. Somebody's changed it out.

18 Q What do you mean by that?

19 A I guess the sidewalk's been replaced.

20 Q Here in Exhibit 8, a photograph of your left
21 and -- well, your left knee, when was that taken?

22 (Hanging.)

23 A This knee, probably the same day these other ones
24 were taken.

25 (Continued in Volume II.)

ENDORSEMENT IS:
CLASS: E - Any non-commercial vehicle with a GVWR less than 26,001 lbs. or any RV

REPLACEMENT LICENSE REQUIRED WITHIN 10 DAYS OF ADDRESS OR NAME CHANGE.
The State of Florida retains all property rights herein.

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Julie Jones
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EXHIBIT

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EXHIBIT
3-16-16
DC 5/18/13



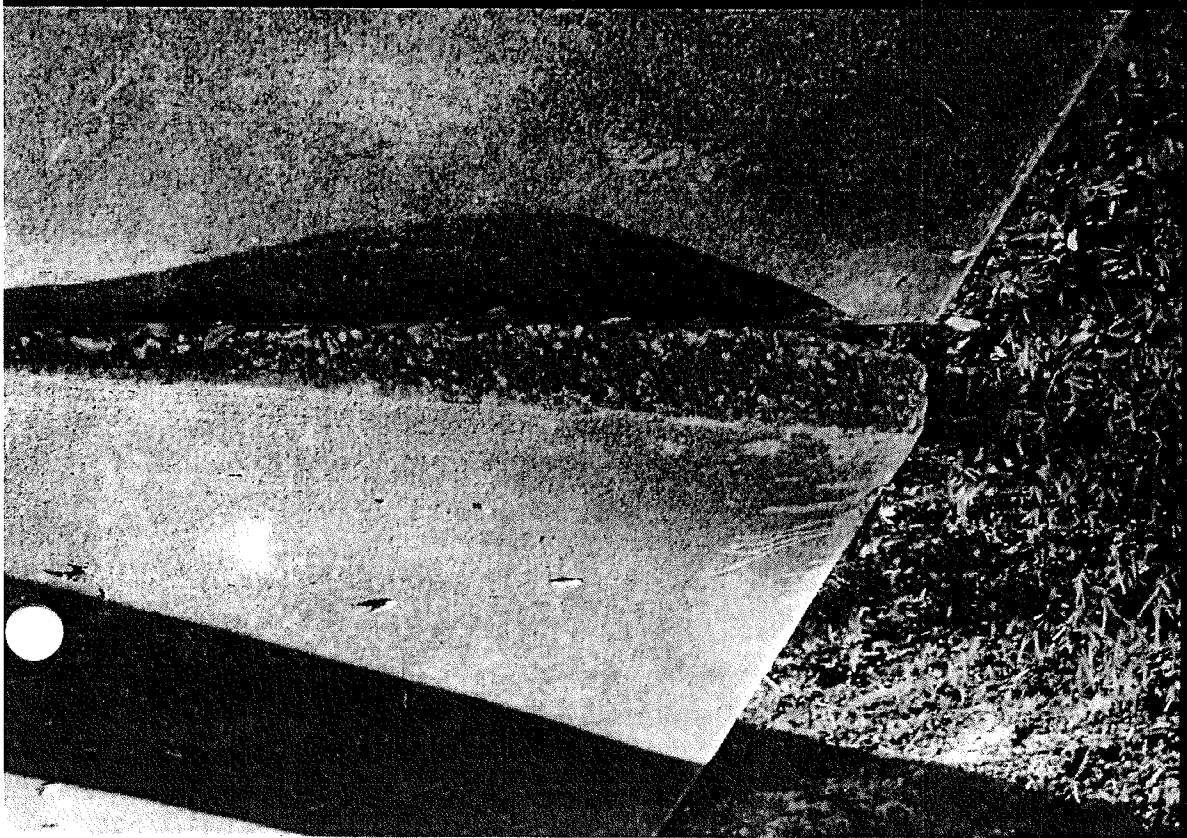
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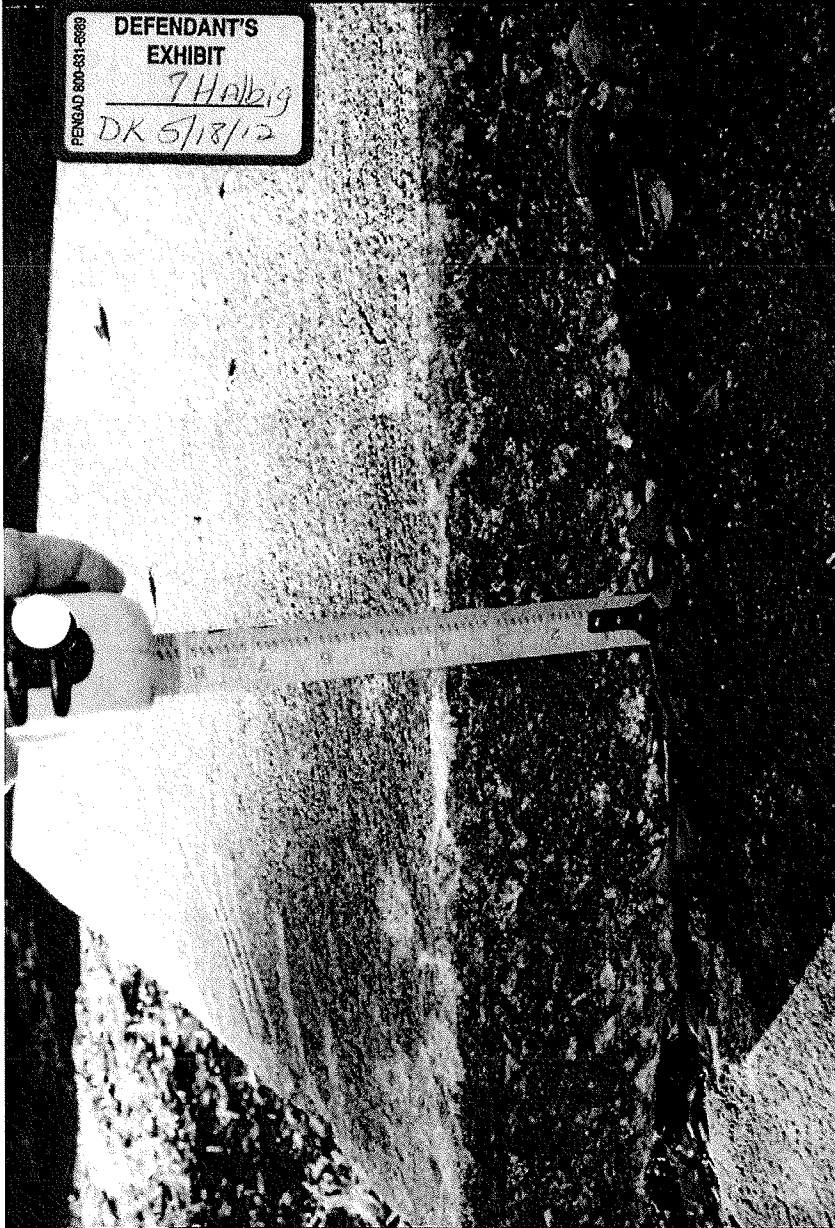
PENGAD 800-301-8889
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EXHIBIT
5/11/16
DKS/18/12



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DEFENDANT'S
EXHIBIT

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DEFENDANT'S
EXHIBIT
S. H. Abj
DK 5/8/12

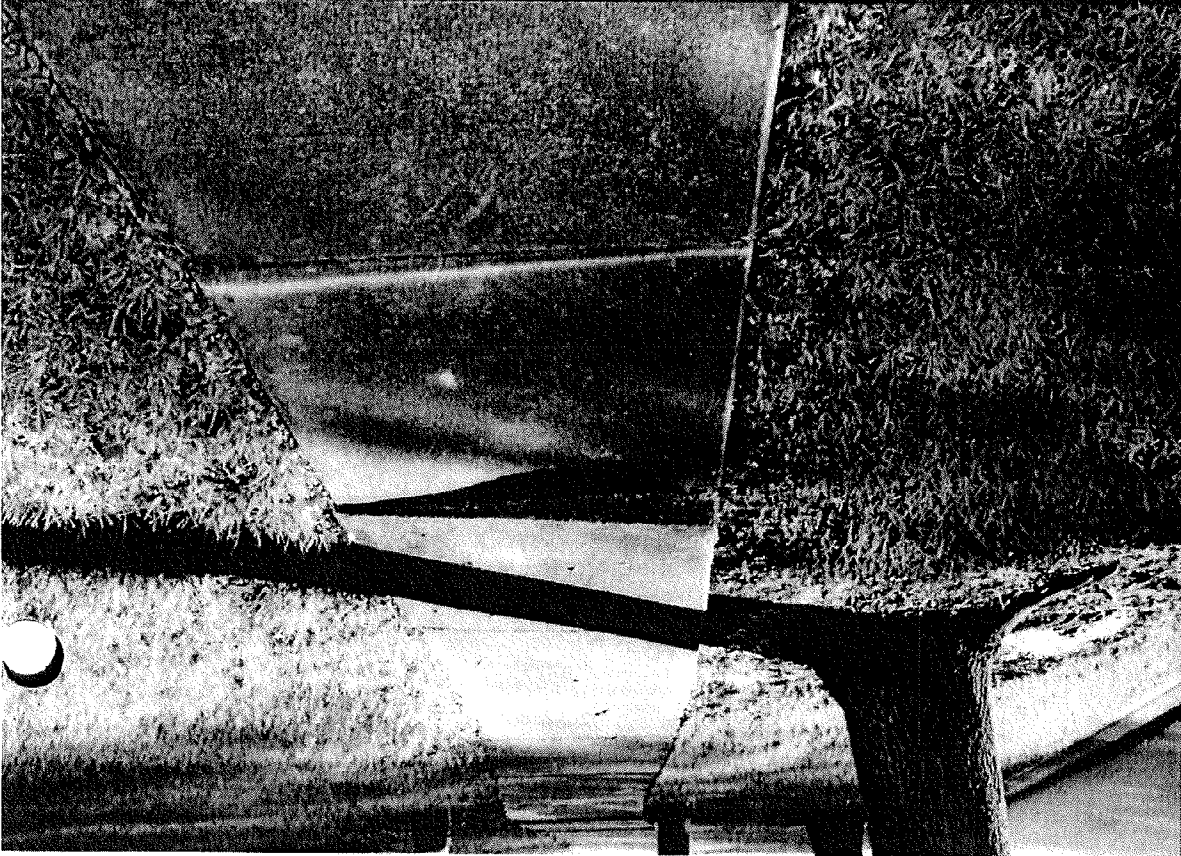


EXHIBIT “B”

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

CASE NO.: 2013 CA 13411

WOLFGANG HALBIG,

Plaintiff,

vs.

ERROL ESTATE PROPERTY OWNERS
ASSOCIATION, INC.,

Defendant.

AFFIDAVIT OF LEWIS SMITH

STATE OF FLORIDA }
 }
COUNTY OF ORANGE }

BEFORE ME, the undersigned notary, ROONEY ANN DOYLE, on this
30 day of December, 2014, personally appeared LEWIS SMITH, known to be a credible
person and of lawful age, who being by me first duly sworn, on her oath, deposes and states:

1. I, Lewis Smith, am at least eighteen (18) years of age, and have personal knowledge of the information contained within this affidavit.
2. I am currently serving as President of the Board of Directors of the Errol Estate Property Owners Association, Inc.
3. I am familiar with the real property owned and maintained by the Errol Estate Property Owners Association, Inc. and the duties of maintenance required of that entity.
4. The sidewalk which abuts Lake Francis Drive – where Plaintiff, Wolfgang Halbig – claims to have fallen is not owned, possessed, controlled, or otherwise affiliated with Errol

Estate Property Owners Association, Inc., and, accordingly, Errol Estate Property Owners Association, Inc., has no responsibility for maintaining, repairing, or taking any action with regard to that sidewalk.

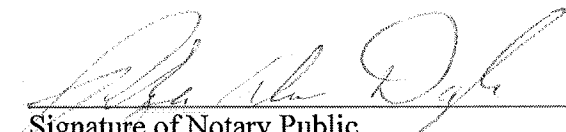
5. In fact, I understand that Errol Estate Property Owners Association, Inc., has no right to maintain, repair, replace, or take any other action with regard to the sidewalk, as it is the property of the City of Apopka.

FURTHER AFFIANT SAYETH NOT.


LEWIS SMITH

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing was subscribed to and sworn to before me, RODNEY ALAN DOYLE
Notary Public in the State of Florida, by Christine McConnell, who is personally known to
me or who provided Lewis Smith as identification on this 30 day of
September, 2014.


Signature of Notary Public

My Commission expires: July 20, 2015

