



1 just have to do -- take breaks and exercises for my  
 2 wrist surgeries.  
 3 Q. Any other restrictions besides lifting and  
 4 typing?  
 5 A. I guess we'd have to physically -- I have  
 6 referred to the doctor to find out exactly what -- in  
 7 the capacity, if I was returned to work, what they  
 8 would be. I do have exercises, and I do go to therapy  
 9 for the restriction. So I know with what I'm doing  
 10 now. But had I returned to work with the exact  
 11 restrictions, I'd have to consult with the doctor.  
 12 Q. How long have you been -- I take it you're  
 13 under a doctor's care at this point?  
 14 A. Absolutely.  
 15 Q. How long have you been under that doctor's  
 16 care?  
 17 A. My first report of injury was in January of  
 18 last year.  
 19 Q. January 2008?  
 20 A. Yes, sir. And since then, I started with  
 21 the doctors of the City of Albuquerque, and I had --  
 22 I've had three surgeries. And I believe the dates  
 23 were in May, July, and then again now this past July.  
 24 Q. So May of 2008, July of 2008 and July of  
 25 2009?

1 A. I believe that is correct, yes.  
 2 Q. How long have you been on workers'  
 3 compensation?  
 4 A. It wasn't until the first surgery was in May  
 5 that I was placed on workers' compensation after. I  
 6 did have a workmen's compensation case through the  
 7 Employee Health, however. They were referring me to  
 8 the doctors.  
 9 Q. I'm going to ask you some questions about  
 10 your background. What is your educational background?  
 11 A. I have a dual major as a Bachelor of  
 12 Science. It's a BS, BA in mathematics and graphic  
 13 design.  
 14 Q. You said mathematics and what was the other?  
 15 A. Graphic design.  
 16 Q. Graphic design. Thank you. Where is that  
 17 degree from?  
 18 A. The American University in Washington D.C.  
 19 Q. After you graduated from the American  
 20 University, what was your first position?  
 21 A. I actually worked with All Faiths Treatment  
 22 Foster Care. I was a treatment coordinator for ten  
 23 years working with behaviorally -- different foster  
 24 children and doing development of care.  
 25 Q. And after you left that employment, where

1 did you go to work?  
 2 A. Client Logic.  
 3 Q. And what was your position at Client Logic?  
 4 A. Call center supervisor.  
 5 Q. How long did you work for Client Logic?  
 6 A. Approximately four to five years.  
 7 Q. Would you describe your duties and  
 8 responsibilities as a call center supervisor at Client  
 9 Logic?  
 10 A. Sure. I did a lot of customer relations. I  
 11 handled escalations from customers. I was a bridge  
 12 between Client Logic and the client, which was Tebo.  
 13 I did all the, I guess, human relations part of being  
 14 a supervisor, handling, whether it be absences,  
 15 coaching, working with my team to better advance them,  
 16 also assist them in whatever they needed to be better  
 17 employees.  
 18 Q. Approximately how many employees were on  
 19 your team at Client Logic?  
 20 A. On a team at a time, we've had approximately  
 21 20 people. But at times, I was the manager of the  
 22 whole -- the whole client, which would probably be 60  
 23 to 100 people at a time.  
 24 Q. How were you classified at Client Logic?  
 25 Where you exempt or non exempt, if you know?

1 MR. LIVINGSTON: Objection. Could you say  
 2 exempt or non exempt from what.  
 3 Q. (By Mr. Bergmann) Exempt or not exempt from  
 4 overtime compensation.  
 5 A. No, I did get overtime.  
 6 Q. You got overtime. What was your next  
 7 position after Client Logic?  
 8 A. Actually, I was asked to apply for the  
 9 position at 311.  
 10 Q. Who asked you to apply?  
 11 A. The current director, which would have been  
 12 Michael Padilla and Sandra Griffie and Charles Cowen  
 13 had all requested that I apply there.  
 14 Q. Michael Padilla and who? Charles --  
 15 A. Charles Cowen.  
 16 Q. Could you spell his last name for the  
 17 record, please.  
 18 A. C-O-W-E-N and Sandra Griffie.  
 19 Q. Could you spell her last name for the  
 20 record?  
 21 A. G-R-I-F-F-I-E.  
 22 Q. Did they approach you together, or did they  
 23 call you separately?  
 24 A. I believe it may have been together and  
 25 separately, because they knew I was an exemplary

1 employee, and they had all requested that -- at the  
 2 time, Michael Padilla was trying to hire the best, as  
 3 he would say, the creme of the crop, and had -- for a  
 4 while, since they had started, had been requesting  
 5 that I move over there. And he was very proud of the  
 6 work that I did and -- when I worked with him and  
 7 encouraged me to apply at the City of Albuquerque.  
 8 Q. Had Michael Padilla worked at Client Logic?  
 9 A. Yes, sir, he has.  
 10 Q. And do you know in what capacity he worked  
 11 at Client Logic?  
 12 A. Yes, I do. He was the director of the  
 13 entire center.  
 14 Q. When did these conversations occur between  
 15 you and Padilla and Cowen and Griffie?  
 16 A. There were quite a few conversations. I  
 17 don't know exactly what date or where. But they did,  
 18 you know, request that I do apply and --  
 19 Q. Could you tell me the year?  
 20 A. It would have been -- well, before I did  
 21 apply, which I believe was -- probably between 2003,  
 22 the end of 2003 and the beginning of 2004. I believe  
 23 those are the dates.  
 24 Q. You applied for a position at the 311  
 25 center?

1 A. Yes, sir.  
 2 Q. What position did you apply for?  
 3 A. At the time, I was asked to apply -- because  
 4 there were only certain positions available, so I was  
 5 asked to apply as an Agent II with the full intentions  
 6 that I would be a supervisor. At the time, 311 had  
 7 just started, so they had already had their  
 8 supervisors. So they knew as they grew, they would be  
 9 needing more supervisors.  
 10 Q. Who was it that told you that you would  
 11 become a supervisor at the 311 call center?  
 12 A. I did have to go through all the application  
 13 process. But that was with Michael Padilla and Sandra  
 14 Griffie. That was the goal.  
 15 Q. Do you remember when you started work at the  
 16 311 center?  
 17 A. Yes, I do.  
 18 Q. When was that?  
 19 A. I believe the date was in March 2004.  
 20 Q. Did you go through any orientation when you  
 21 started at the 311 center?  
 22 A. Yes. At first, I did the City orientation,  
 23 which was an all day orientation.  
 24 Q. Could you tell me a little bit about what  
 25 was said in that orientation, the City orientation?

1 A. They explained what our benefits were, what  
 2 it was -- health insurance, dental insurance. They  
 3 talked a lot about people that have disabilities, like  
 4 what kind of benefits that they get. They talked  
 5 about ethics, as far as like being a responsible  
 6 employee for the City of Albuquerque. They just  
 7 talked about -- a little bit about policies and  
 8 procedures, how to handle, you know, grievances or  
 9 issues that arose, what was the procedure. They  
 10 explained what the EEO office was, what Human  
 11 Resources does and what kind of facilities or  
 12 applications are necessary with all City employees.  
 13 Q. Did they mention anything specific to the  
 14 311 center?  
 15 A. No. They just said we're all City employees  
 16 that were being hired and everybody had the same  
 17 benefits.  
 18 Q. Do you remember who conducted the  
 19 orientation?  
 20 A. I believe that Richard Denison was there or  
 21 Benison. I believe that -- I believe her name is  
 22 Montrosi Stollard, maybe, was there. Another  
 23 gentleman from the Human Resources, as far as  
 24 benefits. He was, I guess, in charge of what benefits  
 25 and just helping us do all the applications that we

1 needed to do to be City employees. There may have  
 2 been a couple people that I would recognize, but I  
 3 don't have their names right off the top of my head.  
 4 Q. Was that orientation conducted in  
 5 March 2004, as far as you know?  
 6 A. I believe so. I believe that was -- yeah,  
 7 the year. Yeah, actually, before we started at 311,  
 8 we went to that. It was actually held on Second  
 9 Street at the Albuquerque Police Department was the  
 10 orientation.  
 11 Q. Did you have any orientation specific to the  
 12 311 center?  
 13 A. Actually, we started with training, and I  
 14 believe it was about six weeks of training.  
 15 Q. Where was the training conducted?  
 16 A. At the 311 training room.  
 17 Q. Who conducted the training?  
 18 A. Michael Padilla, Sandra Griffie, Charles  
 19 Cowen. And a couple of supervisors that would have  
 20 been Amanda Vigil and David Chavez, were all part of  
 21 that training. There were about six of us --  
 22 Q. You said Amanda Vigil.  
 23 A. Yes, sir.  
 24 Q. And who was the other person?  
 25 A. David Chavez.

1 Q. Tell me what the training focused on.  
 2 A. Well, it was basically trying to educate us  
 3 on -- we reviewed some of the policies and procedures  
 4 of 311. They had a manual. It was actually a  
 5 PowerPoint that Michael Padilla had created basically  
 6 discussing the City, different departments, the  
 7 leadership, policies and procedures of the City of  
 8 Albuquerque, talking about how phenomenal it was to be  
 9 a 311 employee, the benefits of being a 311 employee,  
 10 that we were there to help the citizens of  
 11 Albuquerque; we were there to support the citizens of  
 12 Albuquerque and help them meet their needs for  
 13 everybody that worked there; and basically, we were  
 14 there to work for the people.

15 Q. Do you remember when the first time there  
 16 was any mention of the subject of being either  
 17 classified or unclassified?

18 A. Sure. Actually, at that -- during our  
 19 training, there was mention of it.

20 Q. Who was the person that mentioned it?

21 A. Michael Padilla.

22 Q. About when in the training did he mention  
 23 it? Was it in the early part, middle part, the end,  
 24 or was it mentioned several times?

25 A. No, I believe it was mentioned once that we

1 did talk about it. And it was in light of that we  
 2 were such great employees that were pulled in that  
 3 were the best of the best; that when we were pulled  
 4 in, it was because of how well we worked, and the only  
 5 reason why it was unclassified is that we were paid at  
 6 a higher scale. Other than that, all policies and  
 7 procedures, the same like the City of Albuquerque,  
 8 applies to all City employees.

9 Q. So the only difference from being  
 10 unclassified, according to what Mr. Padilla said, was  
 11 that you were paid at a higher scale?

12 A. That's exactly right. And that the only way  
 13 they could pay us was -- at the higher scale, was that  
 14 we had to be unclassified. But every other --  
 15 everything that we had to abide by was in the City of  
 16 Albuquerque's policies and procedures. That's exactly  
 17 what applied to all City employees, which is exactly  
 18 what we had learned in the training -- well, in the  
 19 orientation is that we had to follow all City policies  
 20 and procedures.

21 Q. In the City training, was the subject of  
 22 classified as opposed to unclassified employees  
 23 mentioned?

24 A. No. It was just we all had to follow City  
 25 policies and procedures. There was no

1 differentiation.

2 Q. Was the subject of being unclassified ever  
 3 mentioned again during a training after the first time  
 4 that Mr. Padilla mentioned it?

5 A. No, I don't believe so. I think the only  
 6 time that it was actually brought up is there was --  
 7 the rumor mill had been around that the union was  
 8 going to come in. So then they held staff meetings  
 9 with the staff and the employees at 311 that -- they  
 10 encouraged us to not talk to the union because the  
 11 union wanted to lower all our wages.

12 Q. How did that relate to being unclassified?

13 A. I guess you would -- that was, you know,  
 14 along the wages. It was just a lot of the agents had  
 15 requested to become -- they didn't understand that  
 16 there was a difference or that why they had different  
 17 attendance policies. And so there was a lot of  
 18 frustrations with the employees at 311 that, within  
 19 reference to attendance, they weren't allowed to be  
 20 sick; they weren't allowed to see their families at  
 21 times when they were ill; they were held at different  
 22 standards than regular employees. And they were told  
 23 by Esther Tenenbaum that it was because they were  
 24 at-will employees, and so they didn't have the same  
 25 rights to be sick and see their kids.

1 Q. So Esther Tenenbaum said they were at-will  
 2 employees?

3 A. Several times throughout our employment.

4 Q. Was that because the -- to your  
 5 understanding, was that because they were  
 6 unclassified, as far as you know?

7 A. Yes, because -- well, I didn't understand it  
 8 at the time. It's what my understanding is now. But  
 9 basically, at the time, I didn't understand that  
 10 that's why. It was just that they were held to a  
 11 different standard of absenteeism than everybody else.  
 12 So when the employees, I guess, talked to other  
 13 employees, a lot of them requested that why were they  
 14 being treated differently.

15 Q. And they were told that they were treated  
 16 differently because they were at-will employees?

17 A. Correct.

18 Q. Did you ever ask Esther Tenenbaum or anyone  
 19 else what was meant by being an at-will employee? Did  
 20 you ever pursue that subject?

21 A. Actually, I did. I actually asked a few  
 22 people in the City, including Esther. And what she  
 23 said is that --

24 Q. Let me stop you for a second, if I might.  
 25 Could you tell me the approximate time period when you

1 talked to Esther Tenenbaum about the subject? If you  
 2 could tell me the month and year, that would be  
 3 helpful.  
 4 A. I don't remember the exact month. But I do  
 5 recall that we did have a conversation because a lot  
 6 of the agents that were -- worked for me had requested  
 7 that they wanted to be classified. So we were -- I  
 8 don't even think it was a team meeting, but I knew  
 9 that I had asked her. And she said the reason and the  
 10 only difference is the pay and that's why they were  
 11 unclassified versus classified but that every policy  
 12 and procedure of the City of Albuquerque applied to  
 13 all City employees, including 311 employees.  
 14 Q. Well, the difference was the pay. But you  
 15 also said that there was a difference regarding  
 16 attendance policies.  
 17 A. There was a difference in the attendance  
 18 policies.  
 19 Q. So that was another difference. We had the  
 20 difference because of pay and there was a difference  
 21 because of the attendance policies which related to  
 22 the at-will employment. That's what you previously  
 23 told me; is that correct?  
 24 A. Yes.  
 25 Q. You mentioned that your employees came to

1 you. Was that when you had become a supervisor that  
 2 the employees came to you and said they wanted to be  
 3 classified or that discussion came up?  
 4 A. I think that there were -- probably more  
 5 arose after they held a meeting about the union versus  
 6 nonunion, what classified was versus non-classified.  
 7 Q. When they talked about union versus  
 8 nonunion, who was that that was talking about union  
 9 versus nonunion? Do you remember who the person was  
 10 that was speaking to the group, or was it just general  
 11 conversation?  
 12 A. No, they actually had meetings. I actually  
 13 did not go into one of the meetings that was held.  
 14 However, I was privy to the conversation after to know  
 15 that they were discouraged. And actually, it was with  
 16 Sandra Griffie.  
 17 Q. In terms of the discussion, union versus  
 18 nonunion, did the subject of the employees being  
 19 unclassified come up?  
 20 A. Correct. Some employees had contacted the  
 21 unions about the concern of the attendance policy  
 22 because they were being held to different standards  
 23 than regular City employees and they wanted to know  
 24 why. Because it wasn't clear as to why -- there was  
 25 never any clarity as to why it was different. If we

1 were following all City policies and procedures, why  
 2 were they being held to a different standard.  
 3 Q. Did you -- did anybody report back to you  
 4 relative to the impact of being unclassified on that  
 5 whole issue?  
 6 A. There were questions as to whether they  
 7 could become classified or what that process was. I  
 8 wasn't aware of it, of how they can do that. So if  
 9 anything, I encouraged them to talk to Esther.  
 10 Q. Esther Tenenbaum?  
 11 A. Yes, sir.  
 12 Q. Did you have any conversations with Esther  
 13 Tenenbaum regarding the subject of people becoming  
 14 classified?  
 15 A. No. The only thing that occurred quite  
 16 frequently were more threats that if somebody did not  
 17 like a certain policy or procedure, that at any time  
 18 she could let them go. I think every supervisor and  
 19 employee felt threatened because she would make that  
 20 comment quite frequently.  
 21 Q. And that was because they were unclassified;  
 22 is that correct? Was that your understanding?  
 23 A. That was her implication, yes.  
 24 Q. Was that your understanding of what she was  
 25 saying?

1 A. Yeah, that we had -- that there was some  
 2 level of change. I guess it became apparent after  
 3 that she felt that she was the final say as opposed to  
 4 what City -- like, if you had a problem, you really  
 5 couldn't go to the mediation, you couldn't handle it  
 6 when somebody had asked how could they go above her.  
 7 There really wasn't no point of escalation if they  
 8 didn't like what she did. She would just -- it  
 9 stopped there.  
 10 Q. Did you speak to anybody else at the 311  
 11 center about the subject of classified versus  
 12 unclassified status?  
 13 A. At 311, no. But other City employees, yes.  
 14 Q. So you didn't talk to Mr. Padilla about  
 15 that, that subject?  
 16 A. Actually, I think I said in the beginning  
 17 that -- what he had said about classified versus  
 18 unclassified.  
 19 Q. Outside of that, though, which was in  
 20 training, you didn't speak again to Mr. Padilla?  
 21 A. Not to my recollection, no.  
 22 Q. You didn't talk about that with Sandra  
 23 Griffie?  
 24 A. Actually, I think I did say that, that after  
 25 the union meeting, I did speak to her.

1 Q. Okay. And tell me what that conversation  
 2 was all about.  
 3 A. She basically said that they were  
 4 encouraging the employees not to speak to union  
 5 representatives. And the reason why is that if they  
 6 went to the union, the union would ask for their wages  
 7 to be lowered because that Transit operators were paid  
 8 at a lower pay, and so their -- their communications  
 9 department, and that the unions would want everybody  
 10 that's doing the same type of work to be paid equally.  
 11 Since our agents were paid at a much higher rate that  
 12 they're going to ask that our wages be lowered to the  
 13 same wage.  
 14 Q. Did Sandra Griffie mention the subject of  
 15 unclassified versus classified status in that  
 16 conversation, to your recollection?  
 17 A. It was in the context that if they did not  
 18 like what was happening, that they could leave, that  
 19 there wasn't a place that they could go to complain,  
 20 so because that they were unclassified, they could  
 21 leave at any point.  
 22 Q. Did she suggest to you or state to you that  
 23 the unions might want the employees to become  
 24 classified?  
 25 A. Yes, she did.

1 Q. And did she --  
 2 A. And she mentioned that there was -- I'm  
 3 sorry.  
 4 Q. Go ahead, please.  
 5 A. -- there was a type of lawsuit that was  
 6 pending that the unions were trying to classify. I  
 7 wasn't real familiar. But that there was talk that  
 8 they were trying to classify, but that the wages of  
 9 the 311 employees would be lowered if that did happen.  
 10 Q. When she mentioned there was a lawsuit, did  
 11 she mention any particular union in that context?  
 12 A. Actually, there were two unions that she  
 13 said. There was the union for the supervisors, a  
 14 management union and a union for the employees.  
 15 Q. Do you know the name of that union?  
 16 A. No, sir, I don't.  
 17 Q. If I suggested to you that it was AFSCME,  
 18 which is an acronym for American Federation of State,  
 19 County and Municipal Employees, does that ring a bell  
 20 with you at all?  
 21 A. Slightly. I'm not familiar with the  
 22 acronyms.  
 23 Q. Have you ever heard the name AFSCME, or have  
 24 you ever heard American Federation of State, County  
 25 and Municipal Employees?

1 A. Yeah, I believe so. I'm not familiar with  
 2 it, but I do believe that I have heard of it.  
 3 Q. In terms of the unclassified versus  
 4 classified, did you ever have any discussions with  
 5 Mr. Cowen or Cowen -- how does he pronounce it? Is it  
 6 Cowen?  
 7 A. Cowen.  
 8 Q. C-O-W-E-N, that's how he spells it?  
 9 A. Yes, sir.  
 10 Q. Any conversations with him that you can  
 11 recall?  
 12 A. Actually, I did. Probably in the summer of  
 13 last year when there were a lot of employees that were  
 14 very frustrated and I guess very unhappy employees as  
 15 far as like the attendance policy and things like  
 16 that, Charles and I met, and I brought my concerns to  
 17 him about what the employees were feeling.  
 18 At that time, several employees have  
 19 communicated with Esther. Esther had promised that  
 20 she was going to have meetings with employees. That  
 21 never happened, and it felt like nothing was changing.  
 22 So I spoke with Charles Cowen. He indicated to me  
 23 that he had spoken to a couple people in the City and  
 24 was in the process of meeting with Tanda Meadows to  
 25 discuss the employees' concerns and the supervisors'

1 concerns about Esther and how we were going to be able  
 2 to work to make some employees happier and to change  
 3 some of the policies and procedures. And part of the  
 4 discussion was classified or unclassified because he  
 5 didn't see why us, as employees, were having to be  
 6 treated differently.  
 7 Q. I take it in that meeting, though, you both  
 8 recognized that, at that time, the employees were  
 9 unclassified?  
 10 A. At that time, yes. But you know, it was  
 11 unclear as to what -- I mean, there was never like a  
 12 clear boundary. It's like what does it mean to be  
 13 unclassified in all of this? This is more like  
 14 ambiguous. It was never, "This is what an  
 15 unclassified employee is, and this is what a  
 16 classified." It was just communication at a whim.  
 17 There was never any clear definition as to what the  
 18 definition was.  
 19 Q. In your conversation with Mr. Cowen or with  
 20 Sandra Griffie, did you ask them to define clearly to  
 21 you what it meant to be unclassified?  
 22 A. Absolutely did, and they had no idea. As  
 23 far as they understood was like what -- the agents, is  
 24 that all the City policies and procedures were the  
 25 same, that we followed every City policy and

1 their issues.  
 2 I think the greatest part of me is that --  
 3 not of me. I guess I take that back. The greatest  
 4 part of my job was that I could help the citizens,  
 5 that when -- I had this older woman who literally  
 6 called me crying that there were so many bugs and  
 7 snakes coming from a City reserve yard behind her  
 8 home. And I was able to work with different managers.  
 9 And she had done several service requests to get her  
 10 needs met, and it wasn't getting done. And where I  
 11 felt that joy is I was able to escalate that. I was  
 12 able to work with the managers and all the different  
 13 departments with the City and to get her issues  
 14 resolved.  
 15 Q. Were you a supervisor when you had that  
 16 interaction with that woman at that point?  
 17 A. I was, but I also had -- as an agent, I had  
 18 several interactions with citizens where I was able to  
 19 help them. And that's -- that was just amazing to me.  
 20 That's where I felt the most rewards from my job.  
 21 Q. But when you were a supervisor, you actually  
 22 were able to interact with managers and get her  
 23 problem resolved?  
 24 A. Yes. But even as an Agent II, that was --  
 25 that was a policy of an Agent II, was supposed to

1 escalate to both departments. So that was the policy  
 2 at the time of Agent IIs, did work with other agents  
 3 as well. We did trainings. I was also volunteered  
 4 and asked by Esther several times to come in and coach  
 5 new agents.  
 6 Q. Now, you said that in a few months you were  
 7 promoted to be a supervisor?  
 8 A. I believe I was. I don't know the exact  
 9 dates, but I'm pretty sure it was within a few dates  
 10 after that.  
 11 Q. When you became a supervisor -- what was  
 12 your pay prior to becoming a supervisor, as an Agent  
 13 II, if you can recall?  
 14 A. You know, the best of my recollection, I  
 15 think it was like 17-something an hour, as I recall.  
 16 I know we got a pay raise right quickly right after.  
 17 But I'm speculating.  
 18 Q. And what was your compensation as a  
 19 supervisor?  
 20 A. I believe that when I started, it was like  
 21 44-, 45-. And then when I ended, it was almost 50-.  
 22 It was like 49-.  
 23 Q. So it was 40- to 45,000?  
 24 A. Yes. No, I believe it was about 45,000,  
 25 around there, ballpark, is when I started.

1 Q. And you became -- at the point you became a  
 2 supervisor, you became a salaried employee; is that  
 3 correct?  
 4 A. Correct.  
 5 Q. And so you received a salary week in, week  
 6 out for your work?  
 7 A. Absolutely.  
 8 Q. And that you received no matter how many  
 9 hours you worked?  
 10 A. Correct. So even when we had required,  
 11 like, meetings during the week that was, like, a three  
 12 hour meeting that we were required to go to, between  
 13 two and three hours every week or required time on the  
 14 weekend or whenever they would call that we were  
 15 required to go in.  
 16 Q. Your salary covered all that?  
 17 A. From my understanding, yes.  
 18 Q. Did you attend any -- when you became a  
 19 supervisor, did you become -- attend any management  
 20 training programs?  
 21 A. I did, absolutely.  
 22 Q. Can you tell me about when that occurred?  
 23 A. It was interesting. We were supposed to --  
 24 from my understanding, the City policy is you're  
 25 supposed to do it a year after you became a manager.

1 But we were never quite staffed appropriately and  
 2 didn't have the amount of supervisors or employees  
 3 that I was able to do that. So I don't -- I believe  
 4 it was in 2007.  
 5 Q. Where was this management training? Where  
 6 did it take place?  
 7 A. It actually occurred on the seventh floor, I  
 8 believe, in Plaza del Sol.  
 9 Q. That's the pyramid building?  
 10 A. Yeah.  
 11 Q. Otherwise known as the pyramid building?  
 12 A. Exactly. We're on the sixth floor, so I  
 13 believe it was on the floor upstairs. It was actually  
 14 the training offices. I think they have the EEO  
 15 office there now.  
 16 Q. Would you tell me a little bit about the  
 17 training, what the training consisted of?  
 18 A. Yes, it was quite in-depth. It covered all  
 19 of the policies and procedures of the City. It  
 20 discussed attendance policies. It discussed the  
 21 difference of probation and regular employees. It  
 22 discussed every -- as far as like what different  
 23 departments do, what their roles are, what Human  
 24 Resources does. It talked about every department.  
 25 Q. Did they talk about your responsibilities as

1 a supervisor?  
 2 A. Yes, they did. And actually, I did have a  
 3 conversation there with -- they talked a little bit  
 4 about employees and like when to go to mediation and  
 5 when -- you know, how people can resolve different  
 6 contacts, what the EEO board was, what the ADA does.  
 7 So I learned a lot and was very enlightened.  
 8 And it was interesting because I actually  
 9 spoke with a gentleman, Paul Boone, and he had talked  
 10 a little bit about, you know, unions, classified --  
 11 I'm sorry. He talked about the unions. And at that  
 12 point, after we were done, I went up to Paul, and I  
 13 asked him, I said, you know, "I have a lot of  
 14 employees that are very concerned about, you know,  
 15 whether it's union or nonunion or" -- I said, "Or can  
 16 you tell me? Because there was never a clear answer  
 17 between what is a classified or unclassified."  
 18 And he said basically that there was a  
 19 process, which he thought it was going to be changed,  
 20 but that there was really no difference between an  
 21 unclassified and a classified employee at all, that  
 22 they followed the same policies and procedures. And  
 23 that he wasn't real clear as to why. He knew that  
 24 there was a difference of pay, but as far as his  
 25 understanding, we had -- every policy and procedure

1 was the same as any employee.  
 2 Q. Did you say, "Well, the discipline policy is  
 3 different"? Did you talk to him about that  
 4 difference?  
 5 A. Actually, I did. I explained that why were  
 6 they held to different understandings. And he said  
 7 they were actually in the process of looking at it  
 8 as -- because that there were concerns brought up by  
 9 agents to both Human Resources, to the EEO offices, in  
 10 complaints of the way things were being handled.  
 11 Q. But he did -- at least in talking to you, he  
 12 understood there was a difference in terms of the  
 13 attendance policy, or did he even understand that?  
 14 A. No, I don't think he had a clear  
 15 understanding. He said basically nobody knew as to  
 16 why there was a difference, but to his understanding,  
 17 we had the same rights and privileges as every other  
 18 City employee.  
 19 Q. Did he mention the whole subject of  
 20 unionization to you, whether unclassified employees  
 21 could join a union?  
 22 A. Yes, he did. And he says, "As a matter of  
 23 fact," he says, "the union covers -- has to cover  
 24 every City employee."  
 25 And I said, "Well, why has the union not

1 gone in? Because I -- this is a new area to me, and  
 2 it was something that, you know, people had been  
 3 questioning."  
 4 And he said, "Nobody has asked."  
 5 And I said, "No, I think they have asked.  
 6 They've asked several times, and they just don't know  
 7 who to ask. And at the same time, they kind of feel  
 8 threatened that if they do ask, they're going to get  
 9 terminated."  
 10 Q. Did you mention this labor board case or the  
 11 suit that you had heard about? Did you ask Mr. Boone  
 12 about that?  
 13 A. No. He said that -- he's actually somebody  
 14 that had told me, as well, that he had heard there was  
 15 a process to change that and that it was in the works,  
 16 but that he didn't know the details about what had  
 17 happened, but that he thought that they would be  
 18 changing to classified employees anyway.  
 19 Q. When you became a supervisor, did your work  
 20 station change?  
 21 A. Yes.  
 22 Q. Would you tell me what the change was in  
 23 your work station.  
 24 A. Actually, as a supervisor, we would sit on  
 25 the bridge. There's -- if you imagine like a U and

1 the top east -- I'm sorry -- west side, there's like a  
 2 bridge where you can see all the employees. So  
 3 supervisors usually sat on the bridge. Once we got a  
 4 couple more supervisors, a couple of them sat on the  
 5 floor and had their desks raised so they can kind of  
 6 monitor what's going on. And as a matter of fact,  
 7 every six -- approximately every six months, as we  
 8 changed teams, we would rotate seats as well as the  
 9 employees did.  
 10 Q. When you say you changed teams, was it just  
 11 a different group of employees, or was it a different  
 12 shift?  
 13 A. All the employees were ranked according to  
 14 their attendance, if they were on corrective  
 15 counseling, if they -- their scores as far as like  
 16 what their quality was. Because we measured quality.  
 17 That's how we assure that people were doing things  
 18 correctly. Once they're scored, they would -- they  
 19 pick their schedules, so you would get a new team.  
 20 So sometimes, if we were working the  
 21 graveyard shift, we would have three or four people on  
 22 our team. If you were working the day shift, you  
 23 might have ten or so, sometimes up to, I guess, maybe  
 24 15 people on a team that I've had at one time. So it  
 25 just depended. But as our teams changed, we would

1 kind of sit closer to our team.  
2 Q. And you mentioned that the teams were scored  
3 or rated?

4 A. Correct.

5 Q. And what was the role of a supervisor in  
6 that scoring or rating of team members?

7 A. Well, we would actually score calls. We  
8 would score -- do ticket audits to kind of go through  
9 their tickets and make sure that they were doing them  
10 correctly. We would give feedback if there was  
11 anything we needed to coach them on or correct them.

12 When time permitted, normally, what we were  
13 supposed to do and what we had done when Michael  
14 Padilla was there, is we met with agents on a weekly  
15 basis, and we had a team meeting. But the last couple  
16 years, our staff was so short and time not permitting,  
17 that it was hard to get our team members into a  
18 meeting or to be able to meet with them one on one.

19 Q. You said a supervisor would audit calls?

20 A. Yes.

21 Q. What does that mean? What were you doing in  
22 this auditing process?

23 A. We would actually record calls. We would go  
24 to one of the bathrooms or we'd have -- sometimes  
25 there were other people that would record calls for

1 us. And we would tap into their call or we could hear  
2 their calls on our headset, record the call, score it  
3 based on, you know, what was their -- how was the call  
4 handled, what did they achieve, you know, did they get  
5 the resolution of the citizen. There were certain  
6 requirements that they had to say verbatim, both at  
7 the beginning or the ending of the called, depending  
8 on how that went -- if they used courtesies on the  
9 call -- we would score the calls.

10 Then we would review them with the agent and  
11 either coach them that they did an excellent job,  
12 which the majority of the time they did, or if there  
13 was something they were lacking or something we could  
14 support them on, that's exactly how we could assist  
15 them.

16 Q. Could you provide a couple of exact examples  
17 of problem calls. I mean things that occurred that  
18 shouldn't have occurred that you would coach somebody  
19 on.

20 A. Sometimes there would be -- somebody didn't  
21 use courtesies. Like they had to say a certain amount  
22 of courtesies within a call, like please, thank you.  
23 So that would be something that we would coach. If  
24 they were not, maybe, speaking clearly so that they  
25 sounded mumbled. If they weren't using effective

1 listening skills, so if they weren't actually  
2 listening to what the citizens were doing.

3 Or I guess probably a bigger concern would  
4 be if they weren't getting the citizen to the right  
5 department. So say somebody called and, you know,  
6 they were concerned about a trash bill. And instead  
7 of getting them to, you know, the water department or  
8 where they would handle their bill, they got them to  
9 the treasury department. What we really wanted to do  
10 was prevent the runaround of a citizen to make sure  
11 they got to the right department so as effectively to  
12 make sure that they were talking to the right people.

13 Q. If you encountered rude behavior by an agent  
14 on a call, how would you respond to that as a  
15 supervisor?

16 A. Well, I would address it immediately. You  
17 know, if I heard it while I was recording, I would  
18 address it immediately. If not, I would definitely  
19 talk to that agent and give them feedback as far as,  
20 you know, what needed to be done.

21 Now, there was always oversight on our  
22 calls. So if it was a scored call, it would actually  
23 escalate to one of -- Charles, at the time, was my  
24 manager. And at that time, sometimes we escalated  
25 them to Esther. So depending on what the severity of

1 the call was and how -- what the outcome was.

2 Q. Would you -- when you escalated the call,  
3 would you have a discussion with either Charles or  
4 Esther regarding the situation and make your  
5 recommendation or provide your insight into it?

6 A. Absolutely. It was a team effort.  
7 (Exhibit 1 marked for identification.)

8 Q. (By Mr. Bergmann) I'm going to ask that this  
9 be marked as Gonzales Deposition Exhibit 1. I show  
10 you a document that has been marked for identification  
11 as Gonzales Deposition Exhibit 1. And I ask first if  
12 you recognize this document? Please take your time to  
13 review it and let me know after you've finished  
14 reviewing it.

15 A. Yes, I'm familiar with these, and yes, these  
16 are things that --

17 Q. Would you, for the record, tell us what your  
18 Deposition Exhibit 1 is?

19 A. These are actually -- they're different  
20 forms. They're actually different processes. Every  
21 single one of these is a different person.

22 Q. Okay. Why don't -- I appreciate it. Let's  
23 go through it, if we could, page by page then. That  
24 might be easier for us. Let's take -- I think the  
25 first two pages are the same form, is that correct, as

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1 far as you know?  
 2 A. That is correct.  
 3 Q. Could you tell us what the first two pages  
 4 represent?  
 5 A. The first two pages are a Call Quality. And  
 6 this actually was based on the length of time that the  
 7 call took. So basically, what I was doing was  
 8 coaching -- this is just an action plan. It's not any  
 9 type of discipline. It's a plan where I worked with  
 10 the agents to help them meet their goals. So this  
 11 plan was not anything as far as consequential. It was  
 12 more a method of communication to meet with the agent,  
 13 Angela Aragon, to improve her call times.  
 14 Q. If an employee, notwithstanding this Call  
 15 Quality Action Plan, continued to experience the same  
 16 problem, would discipline arrive at some point?  
 17 MR. LIVINGSTON: Objection as to the form.  
 18 Are you calling for speculation?  
 19 MR. BERGMANN: You can go ahead and answer  
 20 if you understand the question.  
 21 A. If -- not necessary -- I don't actually -- I  
 22 can't recall as far as like the time of the call. We  
 23 really did coach as far as -- this would not be a  
 24 reason that somebody would be -- that, to my  
 25 knowledge, anybody was terminated for having too long

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1 a call. It was something that was a coachable  
 2 objective, and that's why this was an action plan. It  
 3 was not something that would have a consequence of --  
 4 they might not get their points. Because every week,  
 5 we did a weekly score card. So they might not get  
 6 their points, so it could affect them as far as where  
 7 they were in their shift bids. But it wouldn't be  
 8 necessarily a case of corrective counseling.  
 9 Q. (By Mr. Bergmann) Let me ask you this.  
 10 Let's take a call action plan that involved something  
 11 else. Would there be certain types of conduct that  
 12 might initially be addressed by a call action plan  
 13 that could lead to discipline if the employee  
 14 persisted in that behavior?  
 15 A. Sure.  
 16 Q. Let's take the third page of this -- of your  
 17 Deposition Exhibit 1. Could you explain to me what  
 18 that document is?  
 19 A. It's a Development Plan, which is, again,  
 20 another -- it's actually -- I believe they changed the  
 21 name from Action Plan to Development Plan. So this  
 22 was another way to communicate with my agent as far as  
 23 improving his attendance. And I believe that the  
 24 reason why -- we have a very strict attendance policy.  
 25 His daughter, I believe, was really sick,

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1 and so he was absent for one day. He worked ten hour  
 2 shifts. And because he was absent for one day for his  
 3 child being ill, he had to be put on a plan. Because  
 4 the policy is once you're over 5 percent for the  
 5 month, which ten hours is, then you're automatically  
 6 put on a development plan.  
 7 Q. And I see in Number 1, under it, that you  
 8 indicated to him that you were available to discuss  
 9 alternative scheduling if necessary.  
 10 A. Right. Because what I really tried to do is  
 11 help the employees. If there was a way that, Charles  
 12 Cowen had indicated, that they could make up some  
 13 hours during that week so they weren't missing, that  
 14 perhaps we could work something out in case of an  
 15 emergency such as this.  
 16 Q. So you could work out a scheduling change  
 17 or --  
 18 A. Not always. But it was -- it was something  
 19 that we would try to do to see if it was possible. It  
 20 wasn't part of the policy of 311. The 311 policy is  
 21 if you're absent more than 5 percent that you're  
 22 automatically written up.  
 23 Q. But you had the ability to be able to try to  
 24 work something out if it was possible?  
 25 A. Not officially. Like, it wasn't the exact

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1 policy. It wasn't something that Esther endorsed,  
 2 however, something Charles had mentioned to us  
 3 supervisors, that if we had that option to see if  
 4 there was a way that it could happen -- especially  
 5 working a ten hour schedule, basically you can never  
 6 be absent. Even though he had 200 hours of sick time  
 7 available, and according to his City policies and  
 8 procedures, those were to be used for his sick time,  
 9 according to the policy at 311, he couldn't. So any  
 10 time -- even though his daughter was sick, he was  
 11 still written up.  
 12 Q. But as you indicated in the document itself,  
 13 you would try to see if there was some way?  
 14 A. I would try, correct. That's the key word.  
 15 But it wasn't something that I could adhere to, and it  
 16 was something that had to be approved by management.  
 17 Q. But you could make a recommendation in this  
 18 regard, couldn't you? If you saw where he could be  
 19 slotted for some additional hours, couldn't you make a  
 20 recommendation?  
 21 A. I could, but it was also not always  
 22 approved. Esther had a really stern belief in the  
 23 5 percent, and it was very strict.  
 24 Q. Let's look at the next page, which would be  
 25 page 4. Would you tell me what that represents.

12 (Pages 42 to 45)

1 A. I believe this is a process review, which is  
 2 before -- some of these are the same. They just  
 3 changed names. Before development, you -- I believe  
 4 it's the process that you do first. Just explaining  
 5 to them what exactly is the policy.  
 6 Q. It says Corrective Counseling Process  
 7 Review; is that correct?  
 8 A. Yeah. Yeah. No, actually, I think -- I'm  
 9 trying to recall the order that it went. I knew that  
 10 there was one, and we changed the names a few times.  
 11 So yeah, this was part of the corrective counseling.  
 12 Q. That is your signature at the bottom?  
 13 A. Yes, sir, it is.  
 14 Q. Let's go to page 5. Would you describe what  
 15 that document represents?  
 16 A. I believe we're looking to the one for  
 17 Monica Sedillo where she was tardy, yes. And  
 18 basically it was coaching the agent. After the  
 19 process, if she had already received one, then it  
 20 escalates. If she was -- had another incident, it  
 21 would escalate to a written. And this was basically  
 22 her written policy that she was tardy again, so that  
 23 she had to be put on a written review.  
 24 Q. And it says that, "If another incident  
 25 occurs, the corrective counseling will be escalated to

1 a final written warning."  
 2 A. Correct.  
 3 Q. And is the final written warning the step  
 4 immediately preceding termination?  
 5 A. That is correct.  
 6 Q. I think this is the sixth page. I think  
 7 it's the last page of the documents. Would you look  
 8 at that and describe -- or at least identify that for  
 9 the record, please.  
 10 A. Sure. This is a progressive disciplinary  
 11 action, which is a written warning for Monica Sedillo,  
 12 and it was the start date of June 21, 2008, and that  
 13 is my signature.  
 14 Q. And these forms that are in Gonzales  
 15 Deposition Exhibit 1, they're not the only forms like  
 16 this that you signed?  
 17 A. Absolutely not. No, I worked with my agents  
 18 and did a lot of action plans. As you can imagine, if  
 19 one absence requires somebody to be written up or --  
 20 day and a half, then there was quite a few.  
 21 MR. LIVINGSTON: You're referring to these  
 22 as Deposition Exhibit 1 or 2?  
 23 MR. BERGMANN: Right.  
 24 MR. LIVINGSTON: But there could be some  
 25 that we have conceivably -- so these are City

1 deposition -- City exhibits to her deposition.  
 2 MR. BERGMANN: Right. Exactly. That's  
 3 right.  
 4 MR. LIVINGSTON: As long as we understand  
 5 that.  
 6 MR. BERGMANN: This is the City's deposition  
 7 and these are Deposition Exhibits and the City's  
 8 deposition.  
 9 You understood that, didn't you?  
 10 THE WITNESS: Yeah.  
 11 MR. LIVINGSTON: I just wanted the record to  
 12 be clear --  
 13 MR. BERGMANN: Okay. That's fine.  
 14 MR. LIVINGSTON: -- that we could have  
 15 separate exhibits at the same deposition.  
 16 MR. BERGMANN: I understand. I understand.  
 17 Q. (By Mr. Bergmann) By the way, if at any  
 18 point you want to take a break, let me know.  
 19 A. Okay.  
 20 Q. Let me show you a document.  
 21 A. Okay.  
 22 Q. What does this document represent?  
 23 A. Well, this is a typical score card that I  
 24 would receive when they were done on occasion -- they  
 25 weren't always consistent and being done monthly -- on

1 my performance and my dedication to my job and how  
 2 well I worked with my team.  
 3 Q. Was part of your rating based upon how well  
 4 your team did?  
 5 A. Some and not all, yes. Some of it. And  
 6 some of it was part of me, and some of it was part of  
 7 my team.  
 8 (Exhibit 2 marked for identification.)  
 9 Q. (By Mr. Bergmann) Would you tell us the part  
 10 of it -- of this document, Deposition Exhibit 2, that  
 11 related to the performance of your team?  
 12 A. The call quality scores, because we don't --  
 13 supervisors don't -- those were all of our teams.  
 14 ACW, which is the average call time. Average handle  
 15 time, which is the time they were actually there. So  
 16 all of those were of my team.  
 17 Q. So as a supervisor, you had responsibility  
 18 for your team's performance?  
 19 A. Absolutely.  
 20 Q. And that was one of the reasons that you did  
 21 coaching and issued certain documents to team members  
 22 to carry out your responsibilities relative to the  
 23 team?  
 24 A. Repeat that.  
 25 Q. Let's go back over it. You had

1 responsibility as a supervisor for certain performance  
 2 objectivity by your team members; is that correct?  
 3 A. Correct. What we do is there was no -- the  
 4 goal was to improve your team. So we all had those  
 5 same goals. So how did we measure that but was by  
 6 performance, call quality, time adherence, their  
 7 attendance, their tardies. It was all encompassing.  
 8 Q. If members of your team were not performing  
 9 up to standard, then you might issue the documents,  
 10 one or more of the documents that we went over in  
 11 Deposition Exhibit 1, to such a team member?  
 12 A. Absolutely. And what we did is if -- not  
 13 only -- I would coach them weekly. And at the end of  
 14 the month, they didn't meet any of their goals, they  
 15 were issued documentation saying, "This is what you  
 16 need to work on."  
 17 And basically, we really wanted to  
 18 communicate, and I believe that we -- I wanted to  
 19 communicate thoroughly if there was something that I  
 20 could help them work on, how could I get that done.  
 21 (Exhibit 3 marked for identification.)  
 22 Q. (By Mr. Bergmann) It's not stapled together.  
 23 I show you a document that's been marked as Gonzales  
 24 Deposition Exhibit 3. And would you look at that  
 25 document, and once you've finished looking at it, let

1 me know.  
 2 A. Okay.  
 3 Q. Would you tell us what Deposition Exhibit 3  
 4 represents?  
 5 A. These are examples of probably millions or  
 6 thousands -- I'm exaggerating in the millions -- of  
 7 calls that I coached. And in some cases -- it looks  
 8 like these were all recorded by somebody else and then  
 9 I scored the calls.  
 10 Q. And you've already testified about what  
 11 scoring of calls means?  
 12 A. Correct. And it looks like most of these  
 13 were actually not just done or scored by me, but there  
 14 was actually a quality coordinator that scored the  
 15 calls with me at the time. We would do some calls.  
 16 It's called a calibration as a group. If it was  
 17 supervisor, it was specifically me. If it was  
 18 supervisor/quality coordinator, it was done with me  
 19 and the call quality coordinator to make sure that we  
 20 were all scoring cohesively.  
 21 (Exhibit 4 marked for identification.)  
 22 Q. (By Mr. Bergmann) Sure. Let me mark one  
 23 more. I gave you the wrong one again. Keep things  
 24 straight here. This appears to be another quality  
 25 monitoring form that I marked 4 -- as Gonzales

1 Deposition Exhibit 4. Do you recognize that?  
 2 A. Yep.  
 3 Q. At the bottom, there's a comment that says,  
 4 "Please watch" -- is that "dead" something?  
 5 A. Air.  
 6 Q. Dead air?  
 7 A. Correct.  
 8 Q. Is that your handwriting?  
 9 A. Yes, sir.  
 10 Q. What does that mean?  
 11 A. If you look at part 11, there's a dead air  
 12 area. And I record it because when you listen to it  
 13 on the call where the dead air occurred, and so that  
 14 number is the recording of where the dead air  
 15 occurred. So I have the agent listen to the dead air  
 16 as well as myself and confirm that -- if the agent has  
 17 not spoken in ten seconds, they're taken off two  
 18 points. So that's why that was a 98.  
 19 Q. So the dead air just means no one is  
 20 talking, nothing is going on?  
 21 A. That's correct.  
 22 (Exhibit 5 marked for identification.)  
 23 Q. (By Mr. Bergmann) I show you a document  
 24 that's been marked as Deposition Exhibit 5 and ask if  
 25 you recognize that document?

1 A. It looks like -- I'm familiar with these  
 2 documents. And the first -- what is it, one, two,  
 3 three, four, five -- are documents that I created.  
 4 The last one is not a document that I created.  
 5 However, I am the supervisor that delivered the  
 6 information.  
 7 Q. Let's take the first five documents first of  
 8 Deposition Exhibit 5. And what are those documents?  
 9 A. These are actually weekly score cards for  
 10 every one of my agents. I communicate with them  
 11 weekly and give them score cards on their performance.  
 12 And if there were also any issues that needed to be  
 13 addressed, I would address them both verbally and on  
 14 their score cards. It was also critical that I give  
 15 the, what I would call their metrics, their scores.  
 16 Q. Let's look at the last page of the exhibit.  
 17 And you said this is something that was delivered by  
 18 another supervisor?  
 19 A. Actually, it was created by another  
 20 supervisor at the top. Her name is there, Diana  
 21 Lueras.  
 22 Q. I see.  
 23 A. But I -- and it may be that the reason why  
 24 she couldn't deliver it or this may have been around  
 25 the time that she was actually transitioned to 911.

1 So I was asked to deliver the feedback. However,  
 2 also, the note, "I will work with agent," was  
 3 something Charles wrote, not I. That's not my  
 4 writing. I believe it's either Charles or Diana. But  
 5 I'm pretty sure it's Charles' writing.  
 6 Q. But these particular progressive  
 7 disciplinary action development plans, those are  
 8 documents that you gave to employees that you directly  
 9 supervised?  
 10 A. If it was my agent. This is not my agent,  
 11 nor was I her supervisor. That is correct.  
 12 Q. But if it was your agent and you were the  
 13 agent's supervisor, this is the type of document that  
 14 you would have given to an agent where appropriate?  
 15 A. Correct. If it was my -- you gave me  
 16 examples earlier of types that I had done, but this is  
 17 just not one that was mine.  
 18 MR. BERGMANN: Why don't we take a couple  
 19 minutes.  
 20 (Recess from 11:25 a.m. until 11:34 a.m.)  
 21 (Exhibit 6 marked for identification.)  
 22 Q. (By Mr. Bergmann) I show you a document  
 23 which has been marked as your Deposition Exhibit 6 and  
 24 ask if you recognize that.  
 25 A. Yes, it appears to be, at least by the

1 cover, that this is my performance of my team.  
 2 Q. Team Antoinette; is that correct?  
 3 A. That is correct.  
 4 Q. And at the top of it, it says, "Good" --  
 5 look at that. Is that your handwriting?  
 6 A. That would be Esther's, I believe.  
 7 Q. And what does it say?  
 8 A. "Good job on team."  
 9 Q. "Good job on team." Okay. Was that comment  
 10 directed to you, as far as you knew?  
 11 A. Yes.  
 12 Q. What is this document represent? I mean  
 13 what does it represent?  
 14 A. Well, when we originally started with teams,  
 15 we would meet with a supervisor with our manager and  
 16 operations manager and call center director and review  
 17 our team's performance and how we were planning to  
 18 implement what we were doing to make our performance  
 19 also, you know, arise -- if any problems arose, what  
 20 we would do.  
 21 However, about the year before, and I'm  
 22 estimating, we stopped doing individual team meetings  
 23 and we started doing group team meetings. So instead  
 24 of reviewing it with me, the director and operations  
 25 manager, we would review -- all supervisors together

1 would review their performance and raise any concerns.  
 2 Q. So this document is part of reviewing the  
 3 performance of your team members?  
 4 A. That is correct.  
 5 Q. And one of your roles would be to do that  
 6 review of their performance?  
 7 A. That is correct.  
 8 Q. And if you, as we've talked about, saw some  
 9 performance issues or some areas that needed  
 10 improvement, then you would meet with that particular  
 11 team member and work on that issue?  
 12 A. That is correct.  
 13 Q. As a supervisor, do you think you carried  
 14 out your responsibilities well?  
 15 A. I believe that I did. And at no time was I  
 16 ever told anything different.  
 17 (Exhibit 7 marked for identification.)  
 18 Q. (By Mr. Bergmann) I'll take that. Thank  
 19 you. I've handed you a document that's been marked as  
 20 your Deposition Exhibit 7. It has a number of pages  
 21 to it. I would ask that you review it, and when  
 22 you're done, let me know.  
 23 A. Okay.  
 24 Q. Would you look at page 1 of Exhibit 7 and  
 25 tell us what that is.

1 A. It appears to be a time sheet of an employee  
 2 possibly on my team, possibly not. It just depends.  
 3 Q. I noticed -- is that your signature at the  
 4 bottom?  
 5 A. It is. But any supervisor would sign  
 6 anybody's teams payroll because we all work different  
 7 shifts. So not everybody was available at the same  
 8 time.  
 9 Q. If you signed an employees time sheet like  
 10 the first page of Deposition Exhibit 7 and it was a  
 11 member of your team, would you review it for accuracy?  
 12 Would you want to be sure that the time sheet was  
 13 accurate?  
 14 A. I would. There were also -- because not all  
 15 my employees work the same shift that I did, we would  
 16 use the attendance tracker that all the employees or a  
 17 supervisor may have entered time in or another  
 18 supervisor, if they called in, would enter it there.  
 19 So the best of my ability of the records available,  
 20 then I would do that, too, what was possible.  
 21 Q. Let me ask you --  
 22 A. Let me, actually, if I could --  
 23 Q. Sure. Sure.  
 24 A. The agents filled out their own time sheets  
 25 and all their own paperwork and submitted them. I did

1 not complete them.  
 2 Q. You signed -- reviewed and signed off on it?  
 3 A. That is correct.  
 4 Q. Look at page 2, would you, please.  
 5 A. Uh-huh.  
 6 Q. It says, "Request for leave of absence."  
 7 A. Uh-huh.  
 8 Q. And is that your signature at the bottom?  
 9 A. Yes, it is.  
 10 Q. Would the employee have submitted this  
 11 request to you for your approval?  
 12 A. Actually, no.  
 13 Q. What would happen?  
 14 A. The employee would at first submit this with  
 15 a paper on top that would go to the -- well, to the  
 16 operations manager to approve the absence. And so  
 17 they could either submit it directly to them or they  
 18 would give it to me, and I would turn it in to the  
 19 operations manager. But the only person that could  
 20 approve an absence was the operations manager, Charles  
 21 Cowen at the time, depending or if it was Sandra  
 22 Griffie.  
 23 Q. And I see at the bottom, it says,  
 24 "Supervisor approval." Would you check to see that  
 25 the employee has enough hours? Would that be your

1 responsibility?  
 2 A. Before the absence was done? Before or  
 3 after?  
 4 Q. Well, you tell me.  
 5 A. Well, in order to be approved, it would have  
 6 to go to the operations manager who would approve it.  
 7 And then at the time that we do like the submissions,  
 8 we would check -- double check to make sure that, you  
 9 know, the hours were there.  
 10 Q. Page 3 looks like another time report?  
 11 A. That is correct.  
 12 Q. Now, I see on page 3, there's overtime on  
 13 Monday the 4th?  
 14 A. Correct.  
 15 Q. Would that overtime have to be approved by  
 16 someone?  
 17 A. That is correct.  
 18 Q. And who would normally do that?  
 19 A. It would be the division manager or -- at  
 20 the time, it was Michael or Esther would approve and  
 21 say if they were able to do overtime.  
 22 Q. Look at the next page.  
 23 A. Actually, if I can further elaborate. The  
 24 person that was responsible after we did this was  
 25 Betty Dinelli to check to make sure that all the

1 time -- that there was sufficient vacation time. She  
 2 was the payroll person, not I.  
 3 Q. But you signed the form and then --  
 4 A. I did sign the form, that is correct.  
 5 Q. Look at the next page. It says, "Overtime  
 6 request form."  
 7 A. Uh-huh.  
 8 Q. And the person requested it -- you signed  
 9 off on it. What would be your role as a supervisor  
 10 relative to overtime?  
 11 A. We had -- when I would find out about  
 12 overtime, because it didn't always occur when I was  
 13 there, is that usually the agent would let us know  
 14 that they did overtime. And then we would submit it  
 15 to, not only I, but the operations manager would have  
 16 it. And then the division manager would know if there  
 17 was overtime done. And normally, Charles Cowen had  
 18 like a schedule of who did or didn't. But that was  
 19 something he kept that we didn't see.  
 20 Q. Would there be occasions when you would be  
 21 aware that overtime might be needed such as to cover  
 22 for an absent employee?  
 23 A. No overtime -- unless it was, like, approved  
 24 by management for somebody to come in or to call in.  
 25 There were times that I was asked to call employees to

1 come in to do overtime as far as -- or supervisors or  
 2 anybody just to come in to work when we were short  
 3 staffed.  
 4 Q. Would you ever -- if you were aware of a  
 5 situation where overtime was needed, would you ever  
 6 report that to anyone? In other words, you became  
 7 aware that there's going to be a need for overtime --  
 8 A. Absolutely. I was usually the -- if we were  
 9 short staffed, I would either call Charles Cowen who  
 10 would say to call Esther or he would call Esther and  
 11 let her know that there was something going on and  
 12 that we needed more employees. And not all the time.  
 13 There was never -- there was not always adequate  
 14 people that could go in. So not all the time was it  
 15 done, but we would make attempt to call agents to see  
 16 if they could come in, and management and supervisors.  
 17 Q. So management and supervisors might go on  
 18 the phones to cover for an unexpected absence?  
 19 A. We would always -- the first thing was the  
 20 citizens' needs. So we could go onto the phones,  
 21 that's correct. It did change, though. At the  
 22 beginning, everybody was. But later, as Esther  
 23 transitioned, it was people were exempt and management  
 24 was exempt from having to go onto the phones. So the  
 25 only people that we could call on were supervisors or

1 agents to assist. But people were exempt -- like the  
 2 administrative assistant, Betty Dinelli or Esther or  
 3 Charles or other people were except from having to get  
 4 on the phones.  
 5 Q. I see here one of the documents is a Request  
 6 for Sick Leave.  
 7 A. Who's at the top of the page?  
 8 Q. It looks like -- is it Adam?  
 9 MR. LIVINGSTON: There are 20 pages in this.  
 10 Could you tell us which page?  
 11 MR. BERGMANN: Sure. Looks like page 8.  
 12 THE WITNESS: Okay.  
 13 MR. LIVINGSTON: I see two of them. That's  
 14 the first of the two.  
 15 MR. BERGMANN: Yes, looks like it.  
 16 THE WITNESS: Okay.  
 17 Q. (By Mr. Bergmann) That's your signature  
 18 there?  
 19 A. That is correct.  
 20 Q. Would this form be given to you by the  
 21 employee, or how would you get the form?  
 22 A. That is correct. They would complete it and  
 23 then submit it with their time sheet.  
 24 Q. The next document is the same type of form,  
 25 looks like to me.

1 A. Uh-huh.  
 2 Q. And the balance of the exhibit, looks like  
 3 we have various sick leave and payroll forms or hours  
 4 worked forms.  
 5 A. Correct.  
 6 Q. I see. And maybe it's easier to count from  
 7 the back. The third page from the back looks like an  
 8 Overtime Request Form.  
 9 A. Uh-huh.  
 10 Q. How does this occur, an Overtime Request  
 11 Form? Does the employee fill it out?  
 12 A. That is correct.  
 13 Q. And it looks like one of the entries is  
 14 crossed out.  
 15 A. That is correct.  
 16 Q. And there's a series of initials there?  
 17 A. Uh-huh, including mine.  
 18 Q. So apparently, that request, at least as  
 19 to -- as to July 4, '08, was denied? Is that what  
 20 that would appear to be, as you look at it?  
 21 A. No. Let's see. I guess. And I'm  
 22 speculating at the time that she probably either put  
 23 the date wrong or didn't calculate the hours right.  
 24 So I either asked her to correct it and to fix it so  
 25 that it matched the time sheet or she had -- you know,

1 something was wrong with it that I asked her to fix  
 2 it.  
 3 Q. The last two pages are simply Overtime  
 4 Request Forms that you signed?  
 5 A. That is correct.  
 6 Q. Have you seen the job description for the  
 7 position of the supervisor position?  
 8 A. For when? For . . .  
 9 Q. Well, there was one that was posted in  
 10 November of 2005. And do you remember seeing any  
 11 posting of a job description for a -- for the  
 12 supervisor position?  
 13 A. Without seeing it, I don't know what you're  
 14 talking about.  
 15 (Exhibit 8 marked for identification.)  
 16 Q. (By Mr. Bergmann) That's fine. I'll show  
 17 you a document I've marked as your Deposition Exhibit  
 18 8 and let you look at it. And then I'm going to ask  
 19 you if it's familiar to you.  
 20 A. I mean, it looks like a typical job -- the  
 21 job advertisement.  
 22 Q. And is that for the position that you held?  
 23 A. Contact center supervisor, yes, sir.  
 24 Q. And looking at the description, does that  
 25 appear to be accurate to you?

1 A. As far as the whole description --  
 2 Q. Yeah, look through the duties and that and  
 3 tell me if there's anything that's inaccurate there,  
 4 A. No. I mean, I know I don't see anything  
 5 that seems inaccurate.  
 6 MR. BERGMANN: I know you gave me the one  
 7 that was verified. I'm not sure where it's morphed  
 8 to.  
 9 MR. LIVINGSTON: I have another one, if you  
 10 need it.  
 11 MR. BERGMANN: Yeah, if you do, that would  
 12 be helpful. It's probably gotten mixed up with all  
 13 the other.  
 14 MR. LIVINGSTON: I'll want you to give it  
 15 back.  
 16 MR. BERGMANN: That's fine. Let me mark one  
 17 that's not --  
 18 MR. LIVINGSTON: If you want to mark one of  
 19 the verified ones and give me back later a copy or  
 20 something, that's fine.  
 21 MR. BERGMANN: Okay. All right. Well, then  
 22 let's do that, and then we can just -- what we'll do  
 23 is just copy it. Okay. That's an unverified one, but  
 24 it's an extra copy.  
 25 Q. (By Mr. Bergmann) Do you recognize that