

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW MEXICO
3 Case No. 1:09-CV-00520-JB-RLP

4 ANTOINETTE GONZALES, CAROLL AUSTIN, SARAH CLOVER, and
5 ANNETTE MORA, and A CLASS OF SIMILARLY SITUATED CITY
6 EMPLOYEES,

7 Plaintiffs,

8 vs.

9 THE CITY OF ALBUQUERQUE, ED ADAMS, Chief
10 Administrative Officer, and ESTHER TENENBAUM,
11 Division Manager, in their individual and official
12 capacities,

13 Defendants.

14 DEPOSITION OF SARAH CLOVER

15 Thursday, October 14th, 2009
16 11:40 a.m.

17 CITY ATTORNEY'S OFFICE
18 One Civic Plaza, Northwest, Fourth Floor
19 Albuquerque, New Mexico 87102

20 PURSUANT TO THE FEDERAL RULES OF CIVIL
21 PROCEDURE, this deposition was:

22 TAKEN BY: MR. EDWARD W. BERGMANN
23 ATTORNEY FOR THE DEFENDANTS

24 REPORTED BY: MICHELE M. TRUJILLO, CCR No. 226
25 RUSSIN WILLIAMS REPORTING
 1608 Fifth Street, Northwest
 Albuquerque, New Mexico 87102

1 APPEARANCES

2 For the Plaintiffs:
3 MR. PAUL LIVINGSTON
4 P.O. Box 250
4 Placitas, New Mexico 87043
5 505-771-4000

6 For the Defendants:

7 MR. EDWARD W. BERGMANN
8 SEYFARTH SHAW, LLP
131 South Dearborn Street, Suite 2400
8 Chicago, Illinois 60603
312-460-5000

9 MR. MICHAEL I. GARCIA
10 CITY ATTORNEY'S OFFICE
One Civic Plaza, Northwest, Fourth Floor
11 Albuquerque, New Mexico 87102
505-768-4500

12 Also Present:

13 Ms. Esther Tenenbaum

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2 CLOVER EXHIBITS:	FORMALLY MARKED/IDENTIFIED
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5 forms given to Ms. Clover	13
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9 Esther Tenenbaum; Subject: Termination	29

12 * * * * *

1 SARAH CLOVER

2 after having been first duly sworn, testified
3 as follows:

4 EXAMINATION

5 BY MR. BERGMANN:

6 Q. Would you state and spell your name for the
7 record?

8 A. Sarah Rhea Clover, S-a-r-a-h, R-h-e-a,
9 C-l-o-v-e-r.

10 Q. My name is Ed Bergmann. I'm an attorney
11 for the City, and I'm going to be asking you a series
12 of questions. If you do not understand a question I
13 ask you, let me know. We'll try it again. However,
14 if you answer my question, I will assume that you
15 understood the question and that your answer
16 indicates that understanding.

17 If you want to take a break, that's fine.
18 Let us know.

19 A. Okay.

20 Q. You have to keep your voice up, and say
21 yes, no, or explain answers.

22 A. Okay.

23 Q. Where are you currently employed?

24 A. I am currently self-employed.

25 Q. And in what capacity? What is your

1 self-employment?

2 A. I am a housewife, and I also own my own
3 business.

4 Q. And what is the business that you own?

5 A. A repossession company, vehicle
6 repossession.

7 Q. Prior to having your own business, what --
8 where were you employed?

9 A. Victoria's Secret.

10 Q. In what capacity were you employed at
11 Victoria's Secret?

12 A. "Capacity" meaning what did I do?

13 Q. Yes. What did you do? Exactly.

14 A. It was a call center. I was a call --
15 Universal Agent was my title.

16 Q. How long did you work at Victoria's Secret?

17 A. From October of '08 till February of '09.

18 Q. What was your reason for leaving Victoria's
19 Secret?

20 A. There was just no room for advancement.
21 There was no growth available for me.

22 Q. Prior to Victoria's Secret, did you hold a
23 position after the time you left the City?

24 A. No.

25 Q. When did you first become employed by the

1 City of Albuquerque?
 2 A. April of -- I'm really bad with dates --
 3 2000- -- I have it written. Can I look at my note?
 4 Q. If that would refresh your recollection,
 5 all right.
 6 A. I just am really bad with dates. I don't
 7 even know that I have it written down.
 8 I want to say it was '03.
 9 MR. LIVINGSTON: Probably not.
 10 THE WITNESS: '04?
 11 I'm sorry. I am really bad with dates.
 12 Q. Well, let me just tell you, for the record,
 13 that the call center opened in the end of '04.
 14 A. Yeah.
 15 Q. Toward the end of '04.
 16 A. So it had to have been '04, because I was
 17 at the very beginning of it.
 18 Q. Could it have been '05?
 19 A. Yeah, I assume.
 20 Q. Did you undergo training when you first
 21 started?
 22 A. Yes.
 23 Q. And were you an Agent I or an Agent II?
 24 A. I started as an Agent I.
 25 Q. Prior to becoming employed by the City of

1 Albuquerque at the 311 Center, where did you work?
 2 A. Before 311, I worked for Gap Corporate.
 3 Q. In what capacity did you work for Gap
 4 Corporate?
 5 A. I worked for their maintenance call center.
 6 Q. And how long did you work for Gap
 7 Corporate?
 8 A. Three years.
 9 Q. And that was immediately before you came to
 10 the 311 Center?
 11 A. Yes.
 12 Q. And why did you leave Gap Corporate?
 13 A. I had moved here with the company from
 14 California, and the company just took a turn when
 15 it -- the call center got moved here, from California
 16 to Albuquerque. And leadership got changed, and I
 17 just started looking for employment elsewhere and
 18 found 311.
 19 Q. Did you undergo training at your initial
 20 stage of employment with the 311 Center?
 21 A. Yes.
 22 Q. About how long was the training?
 23 A. The training was -- oh, goodness. I want
 24 to say it was six weeks, maybe eight. No, I want to
 25 say six.

1 Q. Did the training occur in the City of
 2 Albuquerque?
 3 A. Yes.
 4 Q. And where was it?
 5 A. In the Plaza del Sol building.
 6 Q. So it was the Pyramid -- the so-called
 7 Pyramid Building?
 8 A. Yeah, the sixth floor.
 9 Q. Sixth floor.
 10 What did the training entail? I mean, what
 11 was the training? What was going on?
 12 A. It had to do with teaching us the City of
 13 Albuquerque, teaching us about government, the
 14 different capacities that we would be governing, as
 15 far as the different departments, the programs that
 16 we would be using to, you know, input our data into,
 17 different forms we would have to use.
 18 So just, I guess, general training for the
 19 job, the job specifications, rules, our day-to-day
 20 responsibilities. I mean --
 21 Q. Was there any mention of wages in this
 22 training?
 23 A. In the training, no.
 24 Q. Any mention of status, classified,
 25 unclassified, or anything like that?

1 A. Just between Agent I's and Agent II's. We
 2 knew who was Agent I and Agent II, but not the
 3 difference between us being classified. Not to my
 4 knowledge.
 5 Q. And what was the difference, in your
 6 understanding, between an Agent I and an Agent II?
 7 A. Just that an Agent II had, I guess,
 8 basically more -- maybe more schooling, maybe more
 9 experience in call center -- in a call center
 10 environment.
 11 Q. Did you ever become an Agent II?
 12 A. Yes, I did.
 13 Q. And how long after you started work did you
 14 become an Agent II?
 15 A. It was about a year after. I want to say
 16 about a year.
 17 Q. Did you apply for that position, or were
 18 you promoted, or how did it occur you went from
 19 Agent I to Agent II?
 20 A. Applied.
 21 Q. Was there an interview process, or what did
 22 you go through?
 23 A. Absolutely. It was actually the same as
 24 when we first interviewed for our initial employment
 25 with 311. We had to go through three interviews,

1 progressively, with different people in a --
 2 different supervisors: Michael, general manager;
 3 Esther, general manager; depending on who it was.
 4 So we had, like, a supervisor. The general
 5 manager was the last interview, and then the middle
 6 one was generally either an operations manager or
 7 another supervisor.
 8 Q. Do you remember which supervisors
 9 participated in your interview process?
 10 A. I honestly would say that they probably all
 11 did. My initial -- when I first started with the
 12 City, I interviewed with -- goodness. I want to say
 13 I interviewed with -- I know at least three of them,
 14 David, Amanda, and Esther, and Michael and Kathy
 15 Wheat. Then, when I went to --
 16 Q. May I just -- can I slow you down?
 17 A. Sorry. My mind is going now.
 18 Q. No, no, that's fine. That's perfectly all
 19 right. I apologize for interrupting.
 20 You interviewed with David. Do you know
 21 David's last name?
 22 A. David Chavez.
 23 Q. Okay. And then you interviewed -- and then
 24 Amanda. Do you know Amanda's last name?
 25 A. I don't know Amanda's last name. I'm

1 sorry.
 2 Q. That's all right. Who else?
 3 A. For the first interviews, it was Esther. I
 4 believe I interviewed with Esther.
 5 Q. Meaning Esther Tenenbaum?
 6 A. Esther Tenenbaum. I'm sorry. And Michael
 7 Padilla and Kathy Wheat.
 8 Q. Kathy -- what's her last name again?
 9 A. Wheat. I believe it's just Wheat, W-e --
 10 W-h-e-a-t. A-t, yeah.
 11 Q. Okay.
 12 A. And then, to get promoted to Agent II, I
 13 actually went through the interview process twice,
 14 and I am not positive who interviewed me each of the
 15 times. But I know that, throughout the two sets of
 16 interviews, that they all ended up interviewing me.
 17 Q. Can you give me some of the names?
 18 A. Their names, sure.
 19 Q. And you don't have to match them between
 20 first and second. Just give me the names.
 21 A. Okay. So Sandra Griffin.
 22 Q. Is it Griffin or Griffey?
 23 A. Griffey. Sorry.
 24 Q. Okay. No problem.
 25 A. Charles Cowen. I really wanted to say that

1 I interviewed with Antoinette Gonzales, because she
 2 was a supervisor at the time, and that's all.
 3 Q. Those are the only ones you can remember --
 4 A. Yeah.
 5 Q. -- at this time?
 6 You then became an Agent II?
 7 A. Correct.
 8 Q. As an Agent II, do you recall who your
 9 supervisors were?
 10 A. As an Agent II, I started with -- okay.
 11 I'm not going to tell you who I started with. When I
 12 was an Agent II, I had Diana Luares, L-u-a-r-e-s,
 13 Luares I believe, Carol McCoy, Catherine Sanchez.
 14 Let me think.
 15 I think I went back to David Chavez. I'm
 16 going to say that's all I remember, because I'm not
 17 positive on anything else.
 18 Q. What shift were you working?
 19 A. Primarily, nights.
 20 Q. And what were --
 21 A. Almost always.
 22 Q. And were the hours of the night shift?
 23 A. Generally, 2:00 to 10:00, 1:00 to 11:00,
 24 1:00 to -- 1:00 to 10:00, 2:00 to 11:00.
 25 Q. Now, your supervisors, they would give you,

1 you know, guidance, in terms of --
 2 A. Absolutely.
 3 Q. Do you remember getting any counseling from
 4 your supervisors when you were employed?
 5 A. Specifically, no. I mean, I know that they
 6 counseled me as supervisors.
 7 Q. Do you remember what they counseled you
 8 about?
 9 A. If -- I'm going to say no.
 10 Q. Okay.
 11 MR. BERGMANN: Why don't you mark this.
 12 (Clover Exhibit 1 marked.)
 13 Q. I'm going to show you a series of documents
 14 that are marked as Clover Deposition Exhibit 1. I'm
 15 going to ask you to look through them, and when
 16 you're done, let me know, and I'm going to then ask
 17 you some questions about those documents.
 18 A. Okay.
 19 Okay.
 20 Q. I see -- okay. You've looked at them?
 21 A. Yes.
 22 Q. Let's go back to the first one, and it has
 23 "Broyles." Was that your maiden name?
 24 A. Yes.
 25 Q. So you were Sarah Broyles, and then you

1 It's been removed to federal court. Have you seen
 2 the complaint in this case?
 3 A. Yes, yes.
 4 Q. All right. Have you -- you've looked at
 5 it, I take it?
 6 A. Yes, absolutely.
 7 Q. All right.
 8 Would you look at page five? The bottom of
 9 page five, actually, and there's several paragraphs
 10 there, starting with 20, that -- I think, 20 to 22.
 11 Do those relate to you?
 12 A. Yes, they do.
 13 Q. I noticed that you went home on July 18th,
 14 and then it says the next day, July 20th. What
 15 happened on July 19th?
 16 A. You know what? Actually, I was told -- I
 17 believe I was told to stay home that day.
 18 Q. Okay. So you were told to stay -- somebody
 19 told -- do you know who told you to stay home on
 20 July 19th?
 21 A. I believe Esther did.
 22 Q. Okay. So Esther Tenenbaum told you to stay
 23 home on July 19th, and then you came to work on
 24 July 20th?
 25 A. That's right. I'm sorry. That's --

1 Q. Do you remember, when you were told not to
 2 come in on July 19th, was anything said about your
 3 employment at that time? If you can recall.
 4 A. I believe that it was just we were still
 5 waiting -- my understanding is that Esther was
 6 waiting for a determination from the Human Resources
 7 Department.
 8 Q. As to your employment?
 9 A. Correct.
 10 Q. And then you came in on July 20th?
 11 A. Correct.
 12 Q. Did you come into work on July 20th, or did
 13 you come and just have a meeting with Esther
 14 Tenenbaum?
 15 A. I just met with Esther, yes.
 16 MR. BERGMANN: Let's take a couple of
 17 minutes.
 18 (Recess taken from 12:26 p.m. to 12:31 p.m.)
 19 Q. Do you remember when this repossession
 20 business that you have got started?
 21 A. April of this year, April of '09.
 22 Q. Can you give me an estimate of how much, on
 23 a monthly or weekly basis, you make from this
 24 business?
 25 A. Honestly, we haven't -- we don't have

1 income yet. I don't have income. I haven't made
 2 anything yet, just because of my expenses, as far as
 3 the tow trucks, et cetera. I don't -- I guess I
 4 don't -- I mean, on a month-to-month basis, how much
 5 money is brought in? Is that kind of more --
 6 Q. Yeah, sort of. That would be an idea.
 7 A. I really couldn't give you an estimate.
 8 It -- we haven't even been running long enough for me
 9 to give you an estimate on that.
 10 Q. You said that, in late May or June, you
 11 returned to full-time status?
 12 A. Correct.
 13 Q. Was that because your FMLA had run out, and
 14 you had to come back to full-time?
 15 A. Yes, I guess it was.
 16 Q. Now, I asked you about had you talked to
 17 the plaintiffs outside of your attorney's presence.
 18 Did you drive with others to Mr. Livingston's office
 19 or his home?
 20 A. I guess, yes, but not for very -- not for
 21 distance. But, yeah, I guess, yeah.
 22 Q. So you were in a car with some of the other
 23 plaintiffs?
 24 A. Yes.
 25 Q. Do you know who else was in that car?

1 A. Annette Mora, Antoinette Gonzales, and
 2 Antoinette's mom. I don't even know her name. I'm
 3 sorry.
 4 Q. And do you remember what was said while
 5 were you in the car?
 6 A. I, to be honest, don't -- we didn't talk
 7 about the case in the car. We honestly talked
 8 about -- it wasn't a very long trip from where they
 9 picked me up, maybe five minutes.
 10 Q. Oh, I see.
 11 A. Yeah. It was just at the bottom of, like,
 12 the hill. But we were more -- it was more just
 13 talking about ourselves, since we haven't seen each
 14 other, kind of thing. You know, "How's your kid?"
 15 You know, those kind of things. "How have you been?"
 16 Q. Were you sort of friends outside of work,
 17 or did you know any of these --
 18 A. No.
 19 Q. No.
 20 I may have asked this, but let me ask it
 21 again, just to be sure. After your termination, did
 22 you speak to anyone at the 311 Contact Center? After
 23 your termination.
 24 A. No.
 25 Q. Did you talk to anyone who may not have