

CIVIL DISTRICT COURT  
PARISH OF ORLEANS  
STATE OF LOUISIANA

\*\*\*\*\*

MELVIN LEBLANC, ET AL

NO. 2008-548

VS.

DIVISION "N-8"

DWAYNE THOMAS, ET AL

\*\*\*\*\*

DEPOSITION OF JAMES P. MOISES, M.D.

Taken on Tuesday, February 6, 2009,  
Continued on Friday, February 6, 2009  
and Concluded on Monday, February 16, 2009  
At the Offices of  
THE LOUISIANA LAW INSTITUTE  
1631 Elysian Fields Avenue  
New Orleans, Louisiana 70117

REPORTED BY: LORI COBB, CCR (2/3 & 2/16/09)  
AND RHONDA SCALIA, CCR (2/6/09)

\*\*\*\*\*

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4 BY MR. CASTILLE (2/6/09).....159	4 between all Counsel that the testimony of
5 BY MR. CASTILLE 2/16/09).....182	5 JAMES P. MOISES, M.D., on Tuesday, February 6,
6 CERTIFICATE.....254	6 2009; Friday, February 6, 2009 and Monday,
7 * * *	7 February 16, 2009, is hereby being taken pursuant
8	8 to Notice under the Louisiana Code of Civil
9 INDEX OF EXHIBITS	9 Procedure, Article 1421, et seq., for all purposes
10 EXHIBIT #1..... 9	10 permitted under law.
11 Deposition Notice & Subpoena for Dr. Moises	11
12 EXHIBIT #2..... 9	12 The witness reserves the right to read
13 House Concurrent Resolution NO. 89	13 and sign the deposition. The original is to be
14 EXHIBIT #3..... 9	14 delivered to and retained by Mr. Castille for
15 Senate Resolution No. 21	15 proper filing with the Clerk of Court.
16 EXHIBIT #4..... 9	16
17 Adams Consulting Assessment Report Summary	17 All objections, except those as to the
18 EXHIBIT #5..... 10	18 form of the question and/or the responsiveness of
19 Blich/Knevel Assessment Report	19 the answer, are hereby reserved until the time of
20 EXHIBIT #6..... 10	20 the trial of this cause.
21 3/28/06 GAO Report	21 * * *
22 EXHIBIT #7..... 10	22 Lori Cobb, Certified Court Reporter in
23 September 2006 GAO Report	23 and for the State of Louisiana, Certificate #87248,
24 EXHIBIT #8..... 11	24 officiated in administering the oath to the
25 ACT Environmental Report 10/2/05	25 witness.

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1 JAMES P. MOISES, M.D.,  
 2 having been first duly sworn, was examined and  
 3 testified as follows:  
 4 EXAMINATION  
 5 **BY MR. CASTILLE:** (On record 2/3/09 at 9:36 a.m.)  
 6 **Q Good morning, Dr. Moises. We met**  
 7 **briefly, but I'm Preston Castille, and I'm the guy**  
 8 **who noticed your deposition for today. Just a few**  
 9 **housekeeping things before we get started.**  
 10 **MR. CASTILLE:**  
 11 Usual stipulations, guys?  
 12 **MR. JUPITER:**  
 13 Yes.  
 14 **MR. SCHAFFER:**  
 15 No, we'd like to read and sign.  
 16 **MR. CASTILLE:**  
 17 Okay. Otherwise, reserve all  
 18 objections except as to form.  
 19 **MR. SCHAFFER:**  
 20 Otherwise, yeah. Reserving all  
 21 except as to form.  
 22 **BY MR. CASTILLE:**  
 23 **Q All right. Have you been -- I presume**  
 24 **you've been deposed before. Being a doctor, you've**  
 25 **probably given lots of depositions.**

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1 A Yes.  
 2 **Q So you know the drill.**  
 3 **And I'll kind of jump right into it,**  
 4 **then. I had a subpoena that you should have been**  
 5 **served with; and with that subpoena I asked for**  
 6 **certain documents.**  
 7 **And in the subpoena duces tecum portion**  
 8 **of the subpoena I asked for any documents that you**  
 9 **had in your possession leading to the closure of**  
 10 **big Charity Hospital. Do you have any documents?**  
 11 **MR. SCHAFFER:**  
 12 We brought some. We thought the  
 13 designation was pretty broad.  
 14 **MR. CASTILLE:**  
 15 Sure.  
 16 **MR. SCHAFFER:**  
 17 So anyway, we have some here, but  
 18 we'll go through them, I guess, one at a  
 19 time.  
 20 **BY MR. CASTILLE:**  
 21 **Q Can you tell me what you have and produce**  
 22 **them to me and walk me through what you have got,**  
 23 **Dr. Moises?**  
 24 A Most of this stuff is all -- it's  
 25 probably documents --

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1 **Q Okay.**  
 2 A -- they've already been released to  
 3 everyone. Let me start with -- well, this is just  
 4 a copy of the affidavit, so I don't think that's  
 5 anything.  
 6 **MR. SCHAFFER:**  
 7 Do you have a copy of the affidavit?  
 8 **MR. CASTILLE:**  
 9 Yes, I do.  
 10 **MR. SCHAFFER:**  
 11 Okay.  
 12 **THE WITNESS:**  
 13 A The first two documents -- one is a copy  
 14 of House Concurrent Resolution No. 89.  
 15 **BY MR. CASTILLE:**  
 16 **Q Okay.**  
 17 A And one is a copy of Senate Resolution  
 18 No. 21. They're both pretty self-explanatory.  
 19 This is a copy of Adams Consulting  
 20 executive summary.  
 21 **MR. CASTILLE:**  
 22 I'm marking all of these as he's  
 23 handing them to me.  
 24 For the record, I marked the subpoena  
 25 and subpoena duces tecum as Exhibit

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1 Number #1.  
 2 (Document marked as DR. MOISES #1 for  
 3 identification.)  
 4 **MR. CASTILLE:**  
 5 The House Concurrent Resolution 89 as  
 6 Exhibit Number #2 as he's producing them  
 7 to me.  
 8 (Document marked as DR. MOISES #2 for  
 9 identification.)  
 10 **MR. CASTILLE:**  
 11 Again, for the record, Senate  
 12 Resolution No. 21 is Exhibit Number #3.  
 13 (Document marked as DR. MOISES #3 for  
 14 identification.)  
 15 **MR. CASTILLE:**  
 16 He also produced a document that he  
 17 identified as the Adams Report Summary.  
 18 It is a 1, 2, 3, 4 page document. I'm  
 19 attaching and marking that as Exhibit  
 20 Number #4.  
 21 (Document marked as DR. MOISES #4 for  
 22 identification.)  
 23 **BY MR. CASTILLE:**  
 24 **Q Okay.**  
 25 A A copy of the Blich/Knevel Assessment of

Page 10	Page 12
<p>1 the psychiatric ward.</p> <p>2 <b>MR. CASTILLE:</b></p> <p>3 Okay. I'm marking that document, the</p> <p>4 Blich/Knevel report, that Dr. Moises just</p> <p>5 identified, as Exhibit Number #5 to be</p> <p>6 attached to the deposition.</p> <p>7 (Document marked as DR. MOISES #5 for</p> <p>8 identification.)</p> <p>9 <b>THE WITNESS:</b></p> <p>10 A A copy of the GAO report on health care</p> <p>11 in New Orleans from March, 2006.</p> <p>12 <b>BY MR. CASTILLE:</b></p> <p>13 <b>Q Okay.</b></p> <p>14 A And the GAO report from September 2006.</p> <p>15 <b>MR. CASTILLE:</b></p> <p>16 All right. I've marked the GAO</p> <p>17 report as Exhibit Number #6 to attach to</p> <p>18 the deposition.</p> <p>19 (Document marked as DR. MOISES #6 for</p> <p>20 identification.)</p> <p>21 <b>MR. CASTILLE:</b></p> <p>22 I'm marking the GAO report that's</p> <p>23 dated September 2006 as Exhibit Number #7.</p> <p>24 (Document marked as DR. MOISES #7 for</p> <p>25 identification.)</p>	<p>1 will be Exhibit Number #9.</p> <p>2 (Document marked as DR. MOISES #9 for</p> <p>3 identification.)</p> <p>4 <b>THE WITNESS:</b></p> <p>5 A Two letters I was copied on from the</p> <p>6 Foundation for Historical Louisiana regarding</p> <p>7 Charity Hospital.</p> <p>8 <b>MR. CASTILLE:</b></p> <p>9 All right. The first document from</p> <p>10 the Foundation for Historical Louisiana</p> <p>11 purports to be a document dated May 23,</p> <p>12 2007. I'm marking that as Exhibit #10.</p> <p>13 (Document marked as DR. MOISES #10</p> <p>14 for identification.)</p> <p>15 <b>MR. CASTILLE:</b></p> <p>16 The second document that's dated</p> <p>17 May 23, 2007 from the Foundation for</p> <p>18 Historical Louisiana, I'm marking that</p> <p>19 document as Exhibit Number #11.</p> <p>20 (Document marked as DR. MOISES #11</p> <p>21 for identification.)</p> <p>22 <b>MR. ROSENFELD:</b></p> <p>23 Those both -- you gave the same date</p> <p>24 for both.</p> <p>25 <b>MR. CASTILLE:</b></p>
Page 11	Page 13
<p>1 <b>MR. CASTILLE:</b></p> <p>2 The prior exhibit, Exhibit number #6,</p> <p>3 is dated March 28, 2006.</p> <p>4 <b>THE WITNESS:</b></p> <p>5 A Two environmental studies that were done</p> <p>6 on Charity Hospital in 2005.</p> <p>7 <b>MR. CASTILLE:</b></p> <p>8 The first document of this set that</p> <p>9 was handed to me by Dr. Moises is dated</p> <p>10 October 2, 2005. It is from -- or to Dan</p> <p>11 Mahaffey. It is a document that says ATC</p> <p>12 Environmental Health and Safety</p> <p>13 Professionals. Dr. Moises has indicated</p> <p>14 that that's an environmental report.</p> <p>15 That will be Exhibit Number #8.</p> <p>16 (Document marked as DR. MOISES #8 for</p> <p>17 identification.)</p> <p>18 <b>MR. CASTILLE:</b></p> <p>19 The second document also handed with</p> <p>20 that set that I'm marking as Exhibit</p> <p>21 Number #9 is also an environmental</p> <p>22 document, as identified by Dr. Moises.</p> <p>23 It's dated October 18, 2005. Columbia</p> <p>24 Analytical Services is at the top</p> <p>25 right-hand corner of the stationery. That</p>	<p>1 They're dated, both, May 23, 2007.</p> <p>2 <b>MR. ROSENFELD:</b></p> <p>3 Is there some way to distinguish --</p> <p>4 <b>MR. CASTILLE:</b></p> <p>5 I would distinguish one being from</p> <p>6 several individuals, including Carolyn</p> <p>7 Bennett, Daryll Kiesel. And then the</p> <p>8 second being only from one, from Carolyn</p> <p>9 Bennett to Joseph McGill. The first</p> <p>10 document, again, that's Exhibit Number #10</p> <p>11 is to Jerry Jones.</p> <p>12 The second document is to Joseph</p> <p>13 McGill. That second document I'm</p> <p>14 referring to is Exhibit Number #11.</p> <p>15 <b>THE WITNESS:</b></p> <p>16 A This is a letter from Dr. Michael Butler</p> <p>17 to Dr. Robert Suiter who was then president of the</p> <p>18 American College of Emergency Physicians. It was a</p> <p>19 response letter. Dr. Suiter had written LSU</p> <p>20 regarding the closure of Charity.</p> <p>21 <b>MR. CASTILLE:</b></p> <p>22 I'm marking that document for</p> <p>23 identification as Exhibit Number #12. It</p> <p>24 is dated October 5, 2005. And as</p> <p>25 Dr. Moises indicated, it is a letter from</p>

Page 14	Page 16
<p>1 Dr. Michael Butler to Dr. Robert E Suiter.  2 (Document marked as DR. MOISES #12  3 for identification.)  4 <b>THE WITNESS:</b>  5 A A -- sort of a booklet of pictures of  6 Charity Hospital after the closure of Charity with  7 some newspaper clippings and some opinion as to  8 reopening.  9 <b>MR. CASTILLE:</b>  10 Okay. This booklet here, I'm going  11 to mark as Exhibit Number #13.  12 (Document marked as DR. MOISES #13  13 for identification.)  14 <b>BY MR. CASTILLE:</b>  15 <b>Q Who prepared this booklet, sir?</b>  16 A Dr. Keith Van Meter with input from me.  17 <b>Q Okay.</b>  18 <b>Was this prepared for a particular</b>  19 <b>purpose?</b>  20 A No. Just to sort of put together in a  21 concise way the Charity closure and the issues  22 surrounding it.  23 <b>Q Okay.</b>  24 <b>Was it provided to anyone?</b>  25 A I've given it to a few people, yes.</p>	<p>1 Well, we'll want to have that  2 duplicated.  3 <b>MR. CASTILLE:</b>  4 We'll mark the video as Exhibit  5 Number #14.  6 (Document marked as DR. MOISES #14  7 for identification.)  8 <b>THE WITNESS:</b>  9 Actually, I'm giving you all of my  10 originals of everything, except the yellow  11 book.  12 <b>MR. SCHAFFER:</b>  13 Well, we'll make copies.  14 <b>MR. CASTILLE:</b>  15 We'll make copies of everything, Mr.  16 Moises, and have it returned.  17 <b>THE WITNESS:</b>  18 Okay. That's fine.  19 <b>MR. SCHAFFER:</b>  20 I can arrange to have it copied and  21 presented to the court reporter.  22 <b>MR. CASTILLE:</b>  23 Well, we're on a really tight  24 schedule with some pending motions, so if  25 you don't mind, Dr. Moises and Counsel, I</p>
Page 15	Page 17
<p>1 <b>Q Who have you given it to?</b>  2 A Certain members of the media.  3 <b>Q Okay.</b>  4 <b>Anyone else?</b>  5 A That's it.  6 <b>Q Okay.</b>  7 <b>I've marked that document --</b>  8 <b>MR. SCHAFFER:</b>  9 Of course he's given it to Counsel.  10 <b>MR. CASTILLE:</b>  11 Right. And he's given it to me.  12 It's marked as Exhibit #13. The  13 document -- the title page for  14 identification purposes is Charity  15 Hospital 1532 Tulane Avenue, New Orleans,  16 Louisiana.  17 <b>BY MR. CASTILLE:</b>  18 <b>Q Okay.</b>  19 A It's a video shot of Charity Hospital in  20 September of 2005 after our cleanup efforts.  21 <b>MR. SCHAFFER:</b>  22 Do you have another copy of that?  23 <b>THE WITNESS:</b>  24 I do not.  25 <b>MR. SCHAFFER:</b></p>	<p>1 will get them to you. I will -- today is  2 Tuesday, I'll do my very best to get it  3 back to you before the end of the week.  4 <b>MR. SCHAFFER:</b>  5 Okay.  6 <b>THE WITNESS:</b>  7 As long as I get a copy.  8 <b>MR. SCHAFFER:</b>  9 I can get it to you by the end of the  10 week.  11 <b>MR. CASTILLE:</b>  12 Yeah. I'm going to start using it  13 today, though.  14 <b>BY MR. CASTILLE:</b>  15 <b>Q Okay.</b>  16 A Just a response -- a follow-up letter.  17 We had a forum on Channel 4. LSU was present on  18 the forum as well, and it's just a letter from Eric  19 Paulson, who ran it.  20 <b>MR. CASTILLE:</b>  21 This document is an original that I  22 don't want to put a label on it at this  23 point.  24 <b>MR. SCHAFFER:</b>  25 There are a number of them that are</p>

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1 originals.  
 2 **MR. CASTILLE:**  
 3 Yeah, but this one is a color copy  
 4 and I don't want to mess up your color  
 5 copy, unless you say it's okay, and I can  
 6 put a label on it. But -- what I was  
 7 asking, because it's your color copy, I  
 8 don't want to put a sticker on it. We can  
 9 probably take it off but --  
 10 **THE WITNESS:**  
 11 Either way, you can make a copy real  
 12 quick. Sure.  
 13 (Discussion off the record.)  
 14 **MR. ROSENFELD:**  
 15 So you marked the video as  
 16 Exhibit #14?  
 17 **MR. CASTILLE:**  
 18 It's Exhibit Number #14.  
 19 (Discussion off the record.)  
 20 **MR. CASTILLE:**  
 21 We can go back on the record.  
 22 Now that we've made a copy and given  
 23 back the original to Dr. Moises of a  
 24 document. We'll mark this letter from  
 25 Sally-Ann Roberts and Eric Paulson to

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1 Dr. Moises. It's dated November 9, 2007.  
 2 It's on Eye Witness News letterhead with  
 3 WWL notated at the bottom.  
 4 That will be Exhibit #15.  
 5 (Document marked as DR. MOISES #15  
 6 for identification.)  
 7 **THE WITNESS:**  
 8 A Photos of Charity Hospital.  
 9 **MR. CASTILLE:**  
 10 Okay. For the record, I've got a  
 11 collection of 1, 2, 3, 4, 5, 6, 7, 8, 9,  
 12 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,  
 13 20, 21, 22, 23, 24, 25, 26, 27, 28  
 14 photographs that Dr. Moises has produced.  
 15 Are these your only copies or are you  
 16 producing these to me? Do you need me to  
 17 make copies of these and return them?  
 18 **MR. SCHAFFER:**  
 19 I would like to have copies made.  
 20 **THE WITNESS:**  
 21 Yeah. I need copies, please.  
 22 **MR. CASTILLE:**  
 23 I'm going to put these back in the  
 24 baggy that you provided for now. I'm  
 25 going to mark the baggy as an in globo

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1 Exhibit Number #16.  
 2 (Document marked as DR. MOISES #16  
 3 for identification.)  
 4 **MR. CASTILLE:**  
 5 We'll make copies of all the pictures  
 6 that Dr. Moises has produced here today.  
 7 Anything else?  
 8 **MR. SCHAFFER:**  
 9 Yeah. There are two other things  
 10 which we don't feel is subject to the  
 11 subpoena and we're reluctant to produce  
 12 without a court order and I will describe  
 13 them.  
 14 **MR. CASTILLE:**  
 15 Okay.  
 16 **MR. SCHAFFER:**  
 17 One is a letter which appears -- it's  
 18 directed Hi, Michael, it's signed V/R,  
 19 Kurt. It just appears to be a statement  
 20 of --  
 21 **MR. CASTILLE:**  
 22 Is it Curt or --  
 23 **MR. SCHAFFER:**  
 24 K-U-R-T.  
 25 It appears to be a statement of a

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1 member of the military regarding some  
 2 observations he made and work that he did  
 3 in and about Charity immediately following  
 4 the hurricane.  
 5 **MR. CASTILLE:**  
 6 Okay. Is it dated?  
 7 **MR. SCHAFFER:**  
 8 No date.  
 9 The other is another unsigned letter  
 10 from an individual named Jason J. Howard,  
 11 addressed Dear Sir/Ma'am, M-A, apostrophe,  
 12 A-M, and it appears to be the same subject  
 13 as the other.  
 14 And I don't know that that has direct  
 15 reference to the closure of Charity, but  
 16 simply to what they observed and what the  
 17 military units did in the first few days  
 18 following the storm.  
 19 **MR. CASTILLE:**  
 20 Okay. So we can decide what to do  
 21 with regard to those two documents, you  
 22 brought them today, so is there --  
 23 **MR. SCHAFFER:**  
 24 I brought them today because they  
 25 were in Dr. Moises' possession. We did

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1 not want to indicate that we were  
 2 purposefully withholding anything without  
 3 giving you fair notice of what it was.  
 4 **MR. CASTILLE:**  
 5 And the reason for not producing it,  
 6 just so that I'm clear on the record?  
 7 **MR. SCHAFFER:**  
 8 Well, first of all, I don't know that  
 9 it meets the -- what's sought under the  
 10 subpoena.  
 11 The letters are unsigned, undated.  
 12 As I said, I think they're outside the  
 13 scope of the subpoena because I don't know  
 14 that they pertain to the closure, but  
 15 simply to the condition of the hospital  
 16 and what some -- what these individuals  
 17 did in the days immediately following  
 18 Katrina.  
 19 **MR. CASTILLE:**  
 20 So essentially, it's beyond the scope  
 21 of the subpoena because it --  
 22 **MR. SCHAFFER:**  
 23 The subpoena.  
 24 And, you know, I don't know that it's  
 25 possible to -- certainly they're hearsay.

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1 Of course, you have certain rights to get  
 2 into hearsay during a discovery  
 3 deposition, but I don't know that we can  
 4 authenticate them.  
 5 **MR. CASTILLE:**  
 6 Okay. But they're documents in his  
 7 possession, so --  
 8 **MR. SCHAFFER:**  
 9 They came into his possession one way  
 10 or the other.  
 11 **MR. CASTILLE:**  
 12 I guess what I'm getting at is that I  
 13 could obviously supply another subpoena  
 14 that would be crafted such that I could  
 15 get those, but I'm not sure that I want  
 16 them.  
 17 **MR. SCHAFFER:**  
 18 Right.  
 19 **MR. CASTILLE:**  
 20 And that's why I'm trying to get a  
 21 little more information before we all  
 22 spend a whole lot of time.  
 23 It may be that what you've done is,  
 24 in your own mind, sort of said I don't  
 25 really think these are relevant. And it

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1 may be that they're not; and before I  
 2 spend a lot of time --  
 3 **MR. SCHAFFER:**  
 4 Well, let me say this. I can assure  
 5 you that they have absolutely no relevance  
 6 to the motion for summary judgment that's  
 7 been filed.  
 8 **MR. CASTILLE:**  
 9 Okay. All right.  
 10 **BY MR. CASTILLE:**  
 11 **Q Do you know about the motion for summary**  
 12 **judgment that's been filed?**  
 13 A No, I don't.  
 14 **Q Okay.**  
 15 **Have you read --**  
 16 **MR. CASTILLE:**  
 17 Okay. So you said it's no relevance  
 18 to the motion. Any relevance to the  
 19 merits of the case?  
 20 **MR. SCHAFFER:**  
 21 I looked briefly at the petition. Is  
 22 there an issue, do you feel in the case,  
 23 as to whether or not -- well, why don't we  
 24 do this. Why don't you take Dr. Moises'  
 25 deposition and determine whether or not

Page 25

1 his observations of the condition of  
 2 Charity, and what was done in the few days  
 3 following the storm, you think, are  
 4 relevant to the case.  
 5 And if you think that they are, then  
 6 we can discuss these further.  
 7 **MR. CASTILLE:**  
 8 Let me -- go ahead.  
 9 **MR. SCHAFFER:**  
 10 Personally, I don't think that, from  
 11 what I've seen of the well-founded motion  
 12 for summary judgment -- you'll have to  
 13 pardon me, I have a sense of humor -- but  
 14 the -- I don't think it's relevant to the  
 15 motion for summary judgment --  
 16 **MR. CASTILLE:**  
 17 Again, for the record, that's Mr.  
 18 Schafer testifying and not Dr. Moises as  
 19 to the well-founded motion for summary  
 20 judgment.  
 21 **MR. SCHAFFER:**  
 22 It's my understanding from reading  
 23 the motion for summary judgment that  
 24 they're seeking a partial motion for  
 25 summary judgment strictly on a legal issue

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1 as to whether or not the legislature  
 2 approved the closure of Charity. These  
 3 documents have absolutely nothing to do  
 4 with that.  
 5 **MR. CASTILLE:**  
 6 Okay. Subject to that, given that  
 7 there's a lawsuit with a petition that  
 8 goes beyond the scope of a motion for  
 9 summary judgment, I am going to ask that  
 10 you produce the documents and, of course,  
 11 if you object --  
 12 **MR. SCHAFFER:**  
 13 Right.  
 14 **MR. CASTILLE:**  
 15 -- I'll do what I -- I'll have to do  
 16 that.  
 17 I certainly believe that the standard  
 18 for discovery is not relevance, but rather  
 19 it's reasonably calculated to lead to the  
 20 discovery of admissible evidence.  
 21 In this case, I don't know that it's  
 22 a valid objection just to say that it's  
 23 not valid to the motion; it may be  
 24 relevant to the motion, but in this case  
 25 it's probably relevant -- may be or may

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1 not be, but it's something for the court  
 2 to determine at the appropriate time and  
 3 this is discovery.  
 4 **MR. SCHAFFER:**  
 5 And if they do, then we'll produce  
 6 it.  
 7 **MR. CASTILLE:**  
 8 Okay.  
 9 **MR. SCHAFFER:**  
 10 You may find that someone else can  
 11 identify them better than Dr. Moises.  
 12 **MR. CASTILLE:**  
 13 Okay. All right. That's fine.  
 14 The only thing I caution -- again,  
 15 and I think everybody in the room -- well,  
 16 probably all the lawyers will agree that  
 17 given the time constrictions that we have  
 18 with regard to the pending motion for  
 19 summary judgment being set very quickly,  
 20 we don't want -- I know that plaintiffs  
 21 don't want anything that's going to delay  
 22 the process.  
 23 **MR. SCHAFFER:**  
 24 If there's --  
 25 **MR. CASTILLE:**

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1 At some point in the deposition  
 2 during the break you might want to confer  
 3 with plaintiff's counsel and discuss it  
 4 with them; and if collectively you all  
 5 decide, and you decide at the end of that  
 6 discussion, that you don't want to produce  
 7 it at that time, then it's fine with me  
 8 and then we'll proceed from there.  
 9 **MR. SCHAFFER:**  
 10 What I will agree to do is to present  
 11 them for in camera inspection to the  
 12 Judge, Judge Julien, and let her ascertain  
 13 whether they have any relevance to the  
 14 motion for summary judgment.  
 15 **MR. CASTILLE:**  
 16 Okay. Thank you, Mr. Schafer. I  
 17 appreciate your comments.  
 18 **BY MR. CASTILLE:**  
 19 **Q Are there any other documents?**  
 20 A No.  
 21 **Q All right. Thank you. I want to set**  
 22 **these aside for just a minute and we'll come back**  
 23 **to them.**  
 24 **MR. SCHAFFER:**  
 25 I'll dictate a motion for an in

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1 camera inspection and present it to Judge  
 2 Julien --  
 3 **MR. CASTILLE:**  
 4 Okay.  
 5 **MR. SCHAFFER:**  
 6 -- so that won't delay the matter.  
 7 **MR. CASTILLE:**  
 8 When do you think you'll file that  
 9 motion?  
 10 **MR. SCHAFFER:**  
 11 Well, how long are you going to take  
 12 with your deposition today?  
 13 **MR. CASTILLE:**  
 14 I don't know.  
 15 **MR. SCHAFFER:**  
 16 I'll mention this. Dr. Moises has to  
 17 go on duty at 2:00, so I may have it  
 18 dictated today and filed tomorrow.  
 19 **MR. CASTILLE:**  
 20 Okay. Thank you.  
 21 **BY MR. CASTILLE:**  
 22 **Q All right. Again, Dr. Moises, you've**  
 23 **done this many times before, so I hate to bore you**  
 24 **with the usual process, but I would like to go back**  
 25 **through and just get some background information**

Page 30

1 with regard to you; and you can probably walk me  
 2 through this fairly quickly.  
 3 Can you give me your educational  
 4 background?  
 5 A Sure. I have an M.D. degree from LSU. I  
 6 went to LSU.  
 7 Q When did you obtain that?  
 8 A What's that?  
 9 Q When did you obtain that degree?  
 10 A In 1994. So I went to LSU for college,  
 11 LSU Medical School in New Orleans. I graduated in  
 12 1994.  
 13 Q And you graduated from LSU?  
 14 A Baton Rouge in 1978.  
 15 Q Okay.  
 16 A I completed my residency in emergency  
 17 medicine at LSU in New Orleans, LSU Medical School  
 18 in New Orleans in 1998.  
 19 Q So from '94 to '98 you were --  
 20 A A 4 year resident at LSU.  
 21 Q Okay.  
 22 A '98 to '99. I completed a hyperbaric  
 23 medicine fellowship at LSU in New Orleans. From  
 24 '99 to 2005 I worked at Charity Hospital as an  
 25 emergency medicine physician with a gratis faculty

Page 31

1 appointment at the School of Medicine at LSU.  
 2 Q What does that mean, a gratis faculty  
 3 appointment?  
 4 A Kind of a unique setup for emergency  
 5 medicine. Our group is contracted with the Health  
 6 Care Services Division to staff the ER, so we're  
 7 not employees of the medical school. So in order  
 8 to be able to teach the students and residents,  
 9 they make us a gratis faculty member.  
 10 So we're not tenured, so they can -- and  
 11 we're not paid by LSU, we're not employees of the  
 12 LSU system. We're independent contractors, so they  
 13 give us a gratis faculty appointment.  
 14 Q So this was all from -- what you're  
 15 referring to is all from 1999 to 2005?  
 16 A Correct.  
 17 I still -- in 2006 I resigned my clinical  
 18 appointment with the LSU Health Care Services  
 19 Division, but I've maintained my academic gratis  
 20 appointment with the School of Medicine; in fact, I  
 21 got promoted. So currently I perform no clinical  
 22 work in the LSU system, but I maintain my academic  
 23 appointment and still teach at LSU Medical School  
 24 in New Orleans.  
 25 Q What do you teach?

Page 32

1 A I mainly just teach their freshmen  
 2 students now; medical ethics, and history and  
 3 physical exam.  
 4 Q History and physical -- is that two  
 5 separate courses?  
 6 A No. It's all one. It's one course.  
 7 It's called -- they call it SPM, Science of -- I  
 8 can never remember. I just call it small group.  
 9 Q You just teach it. Who cares.  
 10 A Right. I'm with them twice a month, and  
 11 we teach them about everything that they don't get  
 12 in the textbooks.  
 13 Q I understand.  
 14 A Real medicine.  
 15 Q All right.  
 16 So from 1999 to 2005, you were not an  
 17 employee of LSU at any time?  
 18 A Correct.  
 19 Q You said we had a contract.  
 20 When you say "we", who had the contract?  
 21 A Dr. Keith Van Meter, who runs Van Meter  
 22 and Associates had the contract with the LSU Health  
 23 Care Services Division to staff Charity Hospital  
 24 and University Hospital emergency departments, as  
 25 well as other contracts in the area. So it's a

Page 33

1 private group.  
 2 So I was a member of that group, Van  
 3 Meter and Associates, which has approximately  
 4 100-150 physicians -- emergency physicians in that  
 5 group.  
 6 Q Are you an employee of that group or are  
 7 you a contractor with that group?  
 8 A No. We're contracted with that group.  
 9 Q Okay.  
 10 A In addition to working at Charity, one of  
 11 the other contracts that Dr. Van Meter and Van  
 12 Meter and Associates had was Tulane University  
 13 Emergency Department, where I worked from '99 until  
 14 present.  
 15 Q So your work covered both, Tulane and  
 16 LSU, during the time period of 1999 through 2005?  
 17 A Correct.  
 18 Q Do you know whether Dr. Van Meter  
 19 currently has a contract with LSU through the  
 20 Health Care Services Group?  
 21 A I believe he still does, yeah.  
 22 Well, I know -- yeah. I don't know if  
 23 they've changed the contract structure, but he  
 24 definitely still has the contract to staff the  
 25 emergency department at the LSU interim hospital.

Page 34

1 And I assume that's still through the Health Care  
 2 Services Division, and not through the medical  
 3 school.  
 4 **Q You continue to make a distinction**  
 5 **between the Health Care Services Division and the**  
 6 **medical school. So your gratis appointment,**  
 7 **though, was through the medical school?**  
 8 A With the medical school.  
 9 **Q Your work through Van Meter and**  
 10 **Associates, it's your understanding that it was**  
 11 **through a contract with the Health Care Services**  
 12 **Division and Van Meter and Associates?**  
 13 A Correct.  
 14 **Q From 1999 through 2005, do you know who**  
 15 **was the CEO of Charity Hospital?**  
 16 A I know in 2005 it was Dwayne Thomas. I'm  
 17 not sure exactly when he took over.  
 18 **Q Okay.**  
 19 A He was the interim, I believe, for a  
 20 while. I don't remember who was the CEO before  
 21 him, but I know in 2005 he was the CEO of Charity  
 22 Hospital.  
 23 **Q Now, I just referred to him being a CEO**  
 24 **of Charity Hospital. MCLNO, MCLANO, what is your**  
 25 **understanding of that organization -- what is that?**

Page 35

1 A You know, they use --  
 2 **Q Just so that you'll know. I know you've**  
 3 **been --**  
 4 **MR. ROSENFELD:**  
 5 Objection.  
 6 **BY MR. CASTILLE:**  
 7 **Q Just so that you'll know -- I know you've**  
 8 **done this quite a few times -- they'll object and**  
 9 **we're reserving all objections until the trial. So**  
 10 **subject to their objections, unless someone**  
 11 **instructs you not to answer a question, you can go**  
 12 **right ahead.**  
 13 A Okay. To be quite honest, they've had  
 14 multiple names for those buildings and for the  
 15 center, so I don't think anybody, including me,  
 16 knows exactly what the official name was. It was  
 17 Charity Hospital, Medical Center of Louisiana in  
 18 New Orleans, Reverend Avery Alexander Hospital,  
 19 University Hospital.  
 20 So repeat the question, again.  
 21 **Q I was asking your understanding, and you**  
 22 **sort of answered it. I asked you what was your**  
 23 **understanding of what that organization was, MCLNO.**  
 24 **What is it? That was the question.**  
 25 A I took that to mean Charity Hospital

Page 36

1 and -- well, just Charity Hospital.  
 2 **Q What about University Hospital?**  
 3 A You know, I'm not sure exactly how that  
 4 fit in. I think that was maybe part of it. I know  
 5 as they transitioned years ago from Charity to  
 6 University, it was owned by the nuns. It was  
 7 called Hotel Dieu.  
 8 Eventually the State took it over. I'm  
 9 not sure when or if they ever incorporated that  
 10 into the Medical Center of Louisiana. But my  
 11 understanding is Charity Hospital is -- was still  
 12 the name, though. It was the official name of that  
 13 building that I worked in.  
 14 **Q Okay.**  
 15 A I was not employed to work or contracted  
 16 to work at University Hospital.  
 17 **Q Okay.**  
 18 A So I had nothing to do with University.  
 19 I don't know anything about it.  
 20 **Q So your work, though, was limited**  
 21 **strictly to the ER in the Charity Hospital**  
 22 **building?**  
 23 A Yes.  
 24 **Q In that building?**  
 25 A (Nods head up and down.)

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1 **Q Okay.**  
 2 **You mentioned, you thought Dwayne Thomas,**  
 3 **at least in 2005, was a CEO of the hospital --**  
 4 **whatever that means, "the hospital". Did you have**  
 5 **much dealings with Mr. Thomas?**  
 6 A Not directly. No.  
 7 **Q Did he supervise any of your work at any**  
 8 **time?**  
 9 A No.  
 10 **Q I take it that all of the supervision of**  
 11 **your work would have come through Van Meter and**  
 12 **Associates?**  
 13 A Correct.  
 14 **Q Correct?**  
 15 A (Nods head up and down.)  
 16 **Q What about Dr. Hollier? Do you know who**  
 17 **Dr. Hollier is?**  
 18 A I do.  
 19 **Q Do you know which organization he worked**  
 20 **for back in 2005?**  
 21 A I was on the Dean Search Committee that  
 22 helped recruit him to LSU, so I was involved in all  
 23 of those closed meetings for almost 6 months. So  
 24 we recruited him from New York to be Dean of the  
 25 LSU School of Medicine.

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1       **Q**   **Okay.**

2       A    So his role in 2005 was Dean of the LSU

3   School of Medicine.

4       **Q**   **All right.**

5       **Do you know when his role changed?**

6       A    I don't know when the transition

7   occurred. I know in 2005 the chancellor resigned

8   or was fired, and then there was a gray area.

9       **Q**   **Do you know who was the chancellor before**

10   **then?**

11      A    John Rock. And he was chancellor of the

12   LSU Health Sciences Center in New Orleans.

13      **Q**   **John Rock?**

14      A    Yes.

15      **Q**   **You make a distinction between Health**

16   **Sciences Center in New Orleans and Health Care**

17   **Services Division; is there a difference?**

18      A    It's a complex web that they -- yes, the

19   Health Sciences Center is the entire Medical Center

20   in New Orleans. The medical school is just the

21   medical school that Dr. Hollier was Dean of; and

22   the Health Care Services Division, at least the way

23   it was portrayed, was an entity that was in charge

24   of the non-public hospitals.

25      **Q**   **I see.**

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1       A    Now, do I know the specifics and the

2   legality of was there any overlap, I don't.

3       **Q**   **Sure.**

4       A    I'm sure there was, but the way it was

5   portrayed was that.

6       **Q**   **So the work you did, though, through Van**

7   **Meter and Associates was through the Health Care**

8   **Services Division as opposed to the Health Sciences**

9   **Center?**

10      **MR. ROSENFELD:**

11      Objection.

12      **THE WITNESS:**

13      A    Correct. Again, I didn't have the

14   contract, so Dr. Van Meter would be the person to

15   ask specifically who the contract was with and the

16   details of that contract -- I was just, you know,

17   working for him as a contractor to take care of

18   patients.

19      **BY MR. CASTILLE:**

20      **Q**   **Sure.**

21      A    I did not hold the contract, so I don't

22   know the specifics.

23      **Q**   **Okay. All right.**

24      **Your attorney identified a motion for**

25   **summary judgment, and so there's some exhibits that**

Page 40

1       **were attached to that document. Have you read**

2   **through the motion for summary judgment?**

3       A    I have not.

4       **Q**   **Have you read through any of the exhibits**

5   **other than your affidavit?**

6       A    I have not.

7       **Q**   **I want to just hand you the set, and it**

8   **may be easier to go through.**

9       **MR. JUPITER:**

10      Are those the exhibits?

11      **MR. CASTILLE:**

12      Those are the exhibits that were

13   attached to the Plaintiffs Motion for

14   Summary Judgment.

15      **MR. SCHAFFER:**

16      Is this another set?

17      **MR. CASTILLE:**

18      That's another set, Mr. Schafer. I

19   have an extra set if you guys want to look

20   at the extra set, although this set is

21   going to be the one that I'm going to mark

22   for the court reporter as Exhibit #17.

23      (Document marked as DR. MOISES #17

24   for identification.)

25      **MR. SCHAFFER:**

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1       This appears to be different from

2   what Dr. Moises is looking at.

3      (Discussion off the record.)

4      **MR. SCHAFFER:**

5      Maybe not. Okay. I may have been

6   mistaken.

7      **MR. CASTILLE:**

8      And maybe the cause of the confusion,

9   Mr. Schafer, may be that it's

10   covered -- the cover of it says

11   "Exhibits", and it has the caption of the

12   lawsuit; and the top page says statement

13   of material facts in support of partial

14   summary judgment. And in that set of

15   documents there are multiple exhibits, and

16   beginning with Exhibit A and Exhibit B,

17   and so forth.

18      And so I wanted to go through and ask

19   Dr. Moises about a few of those documents.

20   The first one I'll get back to is

21   Exhibit A, which happens to be Dr. Moises'

22   affidavit. I'll get back to that

23   document.

24      But if you could turn to Exhibit B.

25      **THE WITNESS:**

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1 (Reviewing document.)

2 **BY MR. CASTILLE:**

3 **Q Exhibit B -- I'll walk through the**

4 **various pages of it, but Exhibit B, the title page**

5 **is -- and it's labeled down at the bottom**

6 **Exhibit B, for the record, and it's a deposition**

7 **transcript of Dr. Dwayne Thomas. And it's dated**

8 **August 19, 2008, Dr. Moises.**

9 A Okay. Yes. I see it.

10 **Q And bear with me. I want to walk through**

11 **this exhibit with you, so it may take a little**

12 **time.**

13 A Did you say August 8th?

14 **Q It's dated August 19th, 2008.**

15 A August 19th. Yeah. I'm sorry.

16 **Q And, again, this is going to take a**

17 **little time because I want to go through this**

18 **exhibit; so, again, bear with me.**

19 You can see, like, usual deposition

20 transcripts you've got Q that represents the

21 question, and that would have been Mr. Rosenfeld

22 asking questions of Dr. Thomas; and then the little

23 A represents Dr. Thomas' response.

24 **And I want to go through this because**

25 **there may be some information that you know about**

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1 **some of the items that he's talking about. So if**

2 **you flip over to the top left-hand corner of the**

3 **first actual page of that transcript, it says -- 33**

4 **representing page 33 of the transcript, in the**

5 **left-hand corner -- and you'll see that it's**

6 **clipped. That's page 33.**

7 A Okay. 33?

8 **Q Yes. And I think it's right there at the**

9 **top.**

10 A Oh, I see. Right there. Okay, good.

11 All right.

12 **Q And the first question is: Out of the**

13 **streets. Okay -- and this is picking up from the**

14 **continuation of some other questions -- and you're**

15 **recalling an occasion prior to September 30th**

16 **when you visited the two buildings?**

17 **And then Dr. Thomas responds: Yes, sir.**

18 **Do you see where I am, Dr. Moises?**

19 A Uh-huh.

20 **Q Question: And was this the occasion when**

21 **Mr. Plaisance was with you?**

22 **He responds: yes, sir.**

23 **Do you know who Robert Plaisance is?**

24 A I believe he was a former chief financial

25 officer for the LSU Health Care Services Division,

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1 but I'm not 100 percent sure. I know of him.

2 **Q Okay.**

3 **He's recalling a date back in September**

4 **of 2005 -- September 30th of 2005. Do you**

5 **remember the events surrounding September 30th of**

6 **2005? I know that's over 3 years ago.**

7 A Yeah, not that specific date.

8 **Q As we go through maybe some things in**

9 **here, as we go through his testimony, it might**

10 **refresh your memory. So if at any point you start**

11 **to remember, interrupt me and let me know.**

12 A (Nods head up and down.)

13 **Q The deposition goes on.**

14 **He responds: Yes, sir.**

15 **The next question from Mr. Rosenfeld is:**

16 **Okay. And can you tell us what you observed at**

17 **that time?**

18 **Now, Dr. Thomas says: Well, both of the**

19 **buildings were open at that point in time during**

20 **that particular visit. University Hospital was --**

21 **University building was as we left it, as I recall,**

22 **on the last day leaving. The Avery C. Alexander**

23 **building, it was occupied by several physicians**

24 **and -- who were in the process of cleaning up, if I**

25 **recall -- cleaning up the emergency department.**

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1 **Does that now refresh your memory any?**

2 A I mean, I don't remember seeing Dwayne

3 Thomas there that day, but -- correct in that there

4 were many people cleaning up Charity Hospital, or

5 as he referred to the Avery Alexander building.

6 **Q And you would have been there, then, on**

7 **that day cleaning up?**

8 A I may have been there. I was there every

9 day in the whole month of September, until we were

10 forced out on the last day; give or take, the 30th

11 or the 31st, or the 29th. I don't remember the

12 exact date.

13 **Q Okay.**

14 **MR. SCHAFER:**

15 Just one thing. I want to have some

16 clarification of -- because you're asking

17 him about what Dr. Thomas said, and kind

18 of went at it generally. And in his

19 statement he was saying they were in the

20 process of cleaning up, if I recall,

21 cleaning up the emergency department, and

22 I just want to know whether or not by the

23 end of September they were still cleaning

24 the emergency department, whether they

25 were in the process of cleaning some other

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1 area.

2 I don't want there to be any

3 confusion and have it appear that

4 Dr. Moises is saying that Dr. Thomas'

5 recollection is correct or not correct.

6 **BY MR. CASTILLE:**

7 **Q Do you remember in the month of**

8 **December -- month of September 2005 cleaning up the**

9 **emergency department at the Avery Alexander**

10 **building?**

11 A I do. And by September 30th the

12 emergency department was already clean.

13 **Q Okay.**

14 A So there was nobody there cleaning up by

15 the 30th; the job was done for the first three

16 floors. By the 30th we had cleaned and

17 decontaminated the first three floors, and the

18 entire basement was pumped out of all its water.

19 **Q Okay.**

20 **MR. ROSENFELD:**

21 Can we go off the record for a

22 second?

23 (Discussion off the record.)

24 **BY MR. CASTILLE:**

25 **Q All right. Dr. Moises, again, I**

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1 **apologize for the interruptions.**

2 **I'm not trying to pin you down**

3 **necessarily as to dates; I'm trying to get a frame**

4 **of reference in terms of where you were in your**

5 **involvement with the process. I'm aware that there**

6 **are several dates that are discussed in Dr. Thomas'**

7 **deposition, so I'm not trying to pin you down on a**

8 **particular date, but trying to get -- in fact, you**

9 **were following along with me just fine; you were**

10 **answering what I was getting at with regard to when**

11 **you were involved with the cleanup of the emergency**

12 **room with other doctors and the floors.**

13 **And so you were getting to where I was**

14 **going. So I think, so far, we're on the same page.**

15 **And, again, I'm just trying to orient you to some**

16 **of the facts and to where we are. Let me go back**

17 **to the transcript.**

18 **Question: Do you recall a time when**

19 **those physicians were told to leave the building?**

20 **And that's a question from Mr. Rosenfeld.**

21 **And Dr. Thomas responds: Yeah. It was**

22 **actually that particular day.**

23 **Now we're getting more closer to the**

24 **specific day. And if you don't recall the date,**

25 **again, that's okay. But you do recall a time**

Page 48

1 **period when someone asked the physicians, including**

2 **you, to leave the hospital?**

3 A Yes.

4 **Q Okay.**

5 **And you don't know who asked you to --**

6 **you, referring to all of the physicians, including**

7 **yourself -- to leave the building?**

8 **MR. ROSENFELD:**

9 Objection.

10 **THE WITNESS:**

11 A I was told by three people.

12 **BY MR. CASTILLE:**

13 **Q Okay.**

14 A You see, my job was I was not only just

15 helping with the cleanup efforts, I was running the

16 only medical facility we had in Orleans Parish at

17 the Convention Center at the time.

18 **Q Okay.**

19 A So I was going back and forth.

20 **Q Okay.**

21 A So I was told by three different

22 physicians who were having contact with people in

23 the LSU Leadership -- Dr. Peter DeBlieux, Dr. Keith

24 Van Meter and Dr. James Aiken -- that they had

25 received word from both Dr. Smithburg and

Page 49

1 Dr. Thomas that they wanted us to cease to clean

2 up.

3 **Q But you never actually spoke to**

4 **Dr. Thomas directly?**

5 A I did not.

6 **Q Nor did you speak to Mr. Smithburg?**

7 A I did not.

8 **Q Okay.**

9 **If you can follow along with me down to**

10 **page 34, it begins with line number 1 again. You**

11 **see the question on the prior -- same page. Right**

12 **here.**

13 **Just so you'll understand, the**

14 **transcript -- you have multiple transcript pages on**

15 **a single sheet of paper. You'll see where page 34**

16 **of the transcript begins with Dr. Thomas saying,**

17 **yes, it was the same day in response to the**

18 **question.**

19 **Then the question: Okay. And between**

20 **that day and the time of this release of**

21 **Exhibit #1, were you at the building again?**

22 **Answer: I don't recall going back after**

23 **that.**

24 **This is all Dr. Thomas responding.**

25 **Question: So you recall one time in**

Page 50

1 September?

2 This is Dr. Thomas, again, saying that he

3 was there in September; and this is where I'm

4 getting to with you.

5 Answer: Yeah. I recall that because,

6 you know, we were surprised to find them there, and

7 shocked, really.

8 That was Dr. Thomas.

9 But, again, you said you didn't see

10 Dr. Thomas at all during that time period, the day

11 the physicians were asked to leave?

12 A I did not.

13 Q And then he goes on to say, question:

14 Really?

15 He responds: To find them there inside

16 of the building. And with them with their sleeves

17 and pant legs rolled up, cleaning up.

18 And you've already testified that you all

19 had been there for quite some time cleaning up

20 several floors of the building; correct?

21 A Correct.

22 Q So, yeah -- again this is Dr. Thomas

23 responding -- that had to be it because I don't

24 recall going back until we actually moved into the

25 Butterworth building.

Page 51

1 Do you know what the Butterworth building

2 is?

3 A It's the clinic building across the

4 street from Charity Hospital.

5 Q Did you ever work in that building after

6 it was open?

7 A I did not.

8 Q Do you know what sort of services were

9 provided in that building?

10 A Just clinic -- clinic services. That's

11 where they had outpatient clinics and maybe some

12 administrative.

13 Q Okay. Flip to the next page.

14 The next question from Mr. Rosenfeld is:

15 Okay.

16 Then Dr. Thomas then responds: Now, I

17 may have made another brief trip back, but not

18 necessarily to go to the hospital. It was probably

19 to visit the building that we were going to move

20 our administrative offices into and decide where we

21 were going and whose offices were going to be

22 where, and what secretarial support we would need,

23 and that kind of thing.

24 Were you involved with the administration

25 of the Health Care Services Division in any way in

Page 52

1 September of 2005?

2 A What do you mean by administration?

3 Q Dr. Thomas was an administrator?

4 A Correct.

5 Q He was a CEO.

6 Were you involved with that

7 administration?

8 A No.

9 Q Your role was strictly limited as a

10 physician?

11 A Yes.

12 Q Okay.

13 The next question: So you had no advance

14 awareness that these doctors were there in the

15 building.

16 And he responds: I did not, no.

17 Do you know of -- did you or -- contact

18 anyone with the administration to get authority to

19 go into the building in any time in September?

20 MR. SCHAFFER:

21 Objection.

22 MR. ARAGON:

23 Objection.

24 THE WITNESS:

25 A No. Not me personally.

Page 53

1 BY MR. CASTILLE:

2 Q Do you know if anyone else did?

3 A I don't recall. Dr. Van Meter may have.

4 Again, the channels of communication were

5 mainly through Dr. DeBlieux, Dr. Van Meter and

6 Dr. Aiken, who I know were speaking -- definitely

7 Dr. Aiken and Dr. DeBlieux were speaking with

8 Dr. Thomas and Dr. Smithburg on a regular basis

9 throughout the entire month of September.

10 Q And, again, I'm trying to get your

11 understanding. So there will be things that you

12 will say that I don't know, and that's perfectly

13 okay. I just need to know if you don't know, or it

14 wasn't you, or you weren't involved, and that's

15 okay.

16 A Okay.

17 Q So you say you know that these other

18 physicians were speaking to Dr. Thomas and others.

19 How do you know that?

20 A They told me.

21 Q They told you that?

22 A Yes.

23 Q What else did they tell you about going

24 into the building; do you recall?

25 A You mean them --

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1 **MR. ROSENFELD:**  
 2 Let me just enter an objection. It's  
 3 rather broad.  
 4 But if you can answer it, go ahead.  
 5 **THE WITNESS:**  
 6 A They told me nothing specific about  
 7 authority to go into the building. They told me  
 8 that Dr. Smithburg and Dr. Thomas told them that  
 9 they didn't want them in the -- us in the building  
 10 anymore.  
 11 **BY MR. CASTILLE:**  
 12 **Q That was that one time?**  
 13 A No, that was on numerous occasions.  
 14 **Q On numerous occasions you were told not**  
 15 **to go into the building?**  
 16 A Jim -- Dr. Aiken told me on probably two  
 17 or three occasions that he had gotten another call  
 18 from Dr. Smithburg.  
 19 **Q Okay.**  
 20 A Dr. Van Meter can probably -- he was  
 21 there almost every day all day, so he would be  
 22 someone who could definitely answer who was there  
 23 from the LSU Leadership and specifically what was  
 24 told.  
 25 **Q Okay.**

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1 A Dr. DeBlieux did tell me that he was told  
 2 by contractors working for LSU that he was almost  
 3 threatened that he had should not be in that  
 4 building anymore.  
 5 **Q Okay.**  
 6 A Not for safety reasons.  
 7 **Q Okay.**  
 8 A But just that he shouldn't be there.  
 9 **Q You said contractors?**  
 10 A Yes.  
 11 **Q What sort of contractors?**  
 12 A From what I was told, Adams Consulting  
 13 people were on the ground early in September.  
 14 **Q Okay.**  
 15 **And when you say threatening, I just want**  
 16 **to get your understanding of that word because it**  
 17 **can be interpreted a lot of different ways.**  
 18 A Sure. No, from what Dr. DeBlieux told  
 19 me, it was pretty threatening. They were, like,  
 20 you guys need to get out of here now, you shouldn't  
 21 be here.  
 22 **Q Okay. All right.**  
 23 **You said on several occasions. Two,**  
 24 **three occasions were you and the group told to**  
 25 **leave the building? How many times?**

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1 A It could been three or four, probably;  
 2 two, three or four.  
 3 You have to understand, in September  
 4 Dr. Aiken and I were spearheading this to try to  
 5 get health care in any way we could back up and  
 6 running. There was only a handful of doctors.  
 7 **Q Sure.**  
 8 A And him and I were the two key players in  
 9 terms of trying to establish some health care. So  
 10 we met with the US Public Health Service, we were  
 11 going to meetings daily at 9:00 a.m. at Ochsner;  
 12 and so him and I were speaking daily.  
 13 **Q He and -- you and Dr. Aiken?**  
 14 A Dr. Aiken.  
 15 And for whatever reason, because of his  
 16 prior relationships with Dr. Smithburg and  
 17 Dr. Thomas, he was speaking to them on a regular  
 18 basis.  
 19 **Q Okay.**  
 20 **The first time that the group was told to**  
 21 **leave, did the group leave?**  
 22 A Well, it wasn't the group, you have to  
 23 understand.  
 24 **Q Okay.**  
 25 A It was a complete lack of communication.

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1 **Q I see.**  
 2 A There wasn't anybody from LSU on the  
 3 ground for most of September. They weren't even in  
 4 New Orleans.  
 5 **Q Okay.**  
 6 A So we initiated this process in good  
 7 faith; we started the cleanup process. I don't  
 8 recall when the first call from Dr. Smithburg to  
 9 Dr. Aiken came, but that was me relaying it to --  
 10 then to a couple of other people in the group.  
 11 **Q When it was related to you and you**  
 12 **related it to a couple of people in the group, did**  
 13 **you and those couple of other people in the group**  
 14 **leave the facility at that time?**  
 15 A No.  
 16 **Q What did you do?**  
 17 A I just mentioned it to Dr. Van Meter and  
 18 to Dr. DeBlieux -- which you have got to  
 19 understand, unlike what Dr. Thomas said that there  
 20 was maybe 10 people or so, there was almost 200  
 21 people there. There was General Caldwell from the  
 22 82nd Airborne with 100 82nd Airborne military  
 23 there, there was the Navy, there was National Guard  
 24 from Oklahoma and from Alabama. It was almost 200  
 25 people.

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1           **Q Okay.**

2           A So this was a huge effort. And so once

3 we started with the help of the US Army Special

4 Forces, the thing exploded.

5           **Q What do you mean it exploded?**

6           A They were able to mobilize people from

7 all different branches of the military and people

8 who worked at Charity Hospital, who came back to

9 try to make a difference; students, residents,

10 nurses, volunteers, mostly all emergency medicine

11 doctors, because we were the few people that stayed

12 around.

13           And so this wasn't just let me go back

14 and tell the five people cleaning up we should

15 leave because Don Smithburg said we should.

16           **Q Okay.**

17           A The military had kind of taken control.

18 They just wanted the go ahead from the beginning,

19 and Dr. Aiken and Dr. Van Meter, with Dr. Van Meter

20 being chief of emergency medicine and holding a

21 contract for the emergency department, did what he

22 thought was in his best interest -- not his best

23 interest, I'm sorry -- the best interest of the

24 community at the time and the disaster to initiate

25 this cleanup.

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1           **Q Who was in charge of the cleanup?**

2           A You know, officially or unofficially, me,

3 Dr. DeBlieux and Dr. Van Meter spearheaded the

4 clean up.

5           **Q So the 200 or so people that were there**

6 **cleaning up --**

7           A Over the course of 3 weeks.

8           **Q Over the course of 3 weeks?**

9           A (Nods head up and down.)

10           **Q Those 200 or so people were responding to**

11 **and answering to the three of you, essentially?**

12           A Not -- sort of. The person who was

13 really -- the military personnel, the special

14 operations officer, Jason Howard, was the person

15 who really organized. He was able to mobilize the

16 Navy guys from the USS IWO GIMA to bring the pumps,

17 who then got Coast Guard people, who then got the

18 German engineers with their major pumps, who then

19 got General Caldwell and the 82nd Airborne to come,

20 with approval of General Honore --

21           **Q Okay.**

22           A -- who was involved because Dr. Saussy,

23 director of New Orleans EMS, was working directly

24 with General Honore, and she says we need help; we

25 can stand up a hospital in a very short amount of

Page 60

1           time.

2           **Q Okay.**

3           A And so he was in support of that, so he

4 gave the green light for General Caldwell to bring

5 his elite 82nd Airborne troops, about 100, to help

6 with the cleanup. That's why we were able to take

7 a hospital -- it really wasn't destroyed.

8           The basement was flooded, and the Navy

9 guys did their job of pumping the water out. But

10 the rest of the building, especially those three

11 floors, as the pictures will show, were in such

12 good shape after 3 days -- or 3 weeks, because we

13 had so many people cleaning up the hospital. It

14 was clean, decontaminated, and the power was on

15 well before September 30th.

16           **Q Okay. All right.**

17           Let's go back to the deposition

18 transcript, line number 6.

19           **MR. ROSENFELD:**

20           What page is that?

21           **MR. CASTILLE:**

22           This is page 35.

23           **BY MR. CASTILLE:**

24           **Q Did anyone, to the best of your**

25 **understanding? That's the question.**

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1           Answer: Not that I'm aware of, no.

2           This is referring back to the advance

3 awareness issue. The question, again, follows on

4 line 9.

5           Question: And did you observe anyone

6 else at the time you were visiting, now, prior to

7 September 30th, anyone else in the building? And

8 by that I mean the building Charity, other than the

9 doctors?

10           And Dr. Thomas responds, no. I only

11 recall seeing the physician that's there that day.

12           So it's your testimony that at no point

13 during the September period subsequent to the storm

14 landing on August 29, 2005, did you see or talk

15 to Dr. Thomas?

16           A I did not.

17           **Q Okay. Then line 15.**

18           Question: Okay. How many did you

19 observe?

20           And the response: There were -- there

21 were less than 10. I recall Dr. Peter DeBlieux,

22 Dr. Van Meter, Dr. Moises, Dr. Mills, and I think

23 it's Jennifer, is her name. I recall seeing about

24 five that I recall.

25           Now, he says that he recalls seeing you

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1 **at that time.**

2 A And he may have. I just don't recall

3 interacting with him. He may have been there, he

4 may have seen me; I didn't see him.

5 **Q Okay.**

6 A I'm not saying he wasn't there. I'm just

7 saying I just didn't see him.

8 **Q Okay.**

9 **And question: Okay. And that's it?**

10 **Those are the only people you saw?**

11 **And the response: Yeah, that's the only**

12 **ones I remember.**

13 **Question: You remember?**

14 **Answer: Yeah.**

15 **Question: And -- it goes down a little**

16 **further --**

17 **Answer: There may have been others, but**

18 **those are the only ones that I know.**

19 **Question: Okay. Okay. And what did you**

20 **do when you saw them? That's the question.**

21 **Answer: I asked them what -- what are**

22 **they doing there.**

23 **Question: Uh-huh.**

24 **Answer: What are you guys doing in here?**

25 **And, again, just for the record, as we go**

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1 **through this transcript, you don't ever recall**

2 **Dr. Thomas asking you or the group what are you**

3 **doing here?**

4 A This was all on September 30th he's

5 giving testimony to; is that correct?

6 **Q Correct.**

7 A Yeah -- no.

8 Again I'll say, like I said before, on

9 September 30th, the project was complete. There

10 was almost nobody left at the hospital. Peter

11 DeBlieux, Dr. DeBlieux, had already abandoned the

12 project. Dr. Van Meter was still present.

13 **Q What do you mean Dr. DeBlieux abandoned**

14 **the project?**

15 A Well, in the height of the cleanup, in

16 the middle part pre-Rita -- pre-Hurricane Rita,

17 which I think was around the 18th, but I don't

18 recall the date -- when we had, on average, 100

19 people there a day cleaning up, a total of 200 or

20 so over the course of 3 weeks, he was there.

21 But then towards the end of the month he

22 had sort of abandoned the project --

23 **Q Okay.**

24 A -- and he had gone back to Baton Rouge, I

25 guess. So there was only a handful of us by

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1 September 30th, but the job was complete --

2 **Q Okay.**

3 A -- as we saw it. And because, like I

4 said --

5 **Q When you say "complete", do you mean that**

6 **it was ready -- the hospital was ready to be**

7 **reopened?**

8 A The first three floors.

9 **Q The first three floors?**

10 A (Nods head up and down.)

11 **Q Okay.**

12 **Did it actually open?**

13 A No.

14 **Q Do you know if any patients were ever**

15 **treated in that hospital --**

16 A None.

17 **Q -- subsequent to September 30th?**

18 A No.

19 **Q The next page, line 13.**

20 **And -- this is Dr. Thomas again: And,**

21 **like, what's going on. And so we asked and I**

22 **recall Mr. Plaisance making a phone call to Mr.**

23 **Smithburg, who then gave him instructions to tell**

24 **them to vacate the building.**

25 **Do you recall on that day talking to Mr.**

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1 **Plaisance?**

2 A I did not speak with him.

3 **Q Now, I had asked you earlier that on the**

4 **first time that you were informed that -- that LSU**

5 **administration was asking you -- the group to leave**

6 **the building, you said that you didn't leave and**

7 **the group didn't leave. I presume, then --**

8 A I relayed the information.

9 **Q Okay.**

10 **The second time that you were informed**

11 **that LSU Administration was asking the group to**

12 **leave, did the group leave then?**

13 A No. The cleanup continued until the --

14 whether it was the 29th or the 30th, LSU

15 Hospital Police came back to the premises and

16 boarded up the doors, and then allowed no one in.

17 **Q Okay.**

18 A Whether that was the 29th or the

19 30th, I don't recall the exact date. Dr. Van

20 Meter will definitely be able to give those

21 specifics.

22 **Q Now, it's your recollection that around**

23 **that time the LSU police then boarded up the doors**

24 **and had everyone leave the building at that time?**

25 A Yeah. There was no LSU presence prior to

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1 the time that the LSU police or the Hospital Police  
 2 came at the end of the month.  
 3 There were -- I was informed that on  
 4 maybe one or two occasions Don Smithburg drove by,  
 5 that Dr. Thomas was there, all prior to the 30th,  
 6 but I -- again, between splitting my time between  
 7 running the Medical Center -- the medical  
 8 evacuation site at the Convention Center and trying  
 9 to help with the cleanup, I wasn't there the entire  
 10 time.  
 11 **Q How many hours a day do you think you**  
 12 **spent with the cleanup, dividing your time --**  
 13 A It varied. Some days; maybe as much as  
 14 six or seven. Other days, maybe just one or two.  
 15 **Q Okay.**  
 16 A The key players, especially early on, who  
 17 were there all the time were Dr. DeBlieux and  
 18 Dr. Van Meter.  
 19 **Q Dr. Aiken?**  
 20 A Dr. Aiken really wasn't involved with the  
 21 cleanup. He was heavily into the administrative  
 22 stuff with meetings and just trying to work with  
 23 the US Public Health Service to find ways to stand  
 24 up medical facilities.  
 25 **Q Dr. Aiken, was he a part of the Van Meter**

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1 **group?**  
 2 A He was. Same as me. He was a contracted  
 3 emergency physician who worked in the emergency  
 4 department --  
 5 **Q Okay.**  
 6 A -- with a gratis faculty appointment with  
 7 the medical school.  
 8 **Q Was there anything special about his role**  
 9 **or did he have a different role such that he was**  
 10 **interacting with the administrative part more so**  
 11 **than the other physicians?**  
 12 A He, I believe, was the director of  
 13 emergency preparedness for Charity Hospital. So  
 14 because of that, during the storm and shortly  
 15 thereafter, he was interacting much more with  
 16 Don Smithburg and Dwayne Thomas, because his role  
 17 was how are we evacuating, how are we maintaining  
 18 the building. So because of that extra role or  
 19 title that he had, he interacted with  
 20 administration much more than most of the other  
 21 physicians.  
 22 **Q Okay.**  
 23 **What about Dr. DeBlieux, did he have a**  
 24 **role different with the Van Meter group such that**  
 25 **he would have interacted more with the**

Page 68

1 **administration?**  
 2 A I believe he was on the executive board  
 3 for Charity Hospital, which meant he was at that  
 4 inner circle with administration, so he would have  
 5 had more access to them.  
 6 **Q What about Dr. Van Meter, was he --**  
 7 A Definitely Dr. Van Meter. I believe he  
 8 was an executive board member, but he was also  
 9 section chief for emergency medicine for LSU School  
 10 of Medicine. But he held the contract to staff  
 11 that emergency department, so clearly he dealt with  
 12 administration on a daily basis.  
 13 **Q Okay.**  
 14 **Dr. Mills. Who is Dr. Mills; do you**  
 15 **know?**  
 16 A Dr. Trevor Mills, he was the residency  
 17 program director for emergency medicine.  
 18 **Q Was he involved with the administration**  
 19 **any?**  
 20 A Probably not.  
 21 **Q Then Dr. Thomas recalls a doctor by the**  
 22 **name of Jennifer, but doesn't recall her entire**  
 23 **name. Do you know who that is?**  
 24 A Probably Dr. Jennifer Avegno, who, again,  
 25 is a contracted emergency physician in the Van

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1 Meter group.  
 2 **Q Can you spell her last name, please?**  
 3 A A-V-E-G-N-O.  
 4 **Q All right. I'll continue on, going to**  
 5 **line 17, still, of page 36 of the transcript.**  
 6 **Question: Okay. And did you observe**  
 7 **them vacate the building?**  
 8 **Dr. Thomas responds: I did not.**  
 9 **Question: Okay. Well, how long did you**  
 10 **stay inside the building?**  
 11 **Dr. Thomas responds: I would say we**  
 12 **stayed inside of the building and on the first**  
 13 **floor probably no more than -- somewhere between 30**  
 14 **minutes and an hour.**  
 15 **Question: Okay. And when you left, they**  
 16 **were still there?**  
 17 **Answer: They were there and we then**  
 18 **instructed them that they needed to get their**  
 19 **things and leave the building.**  
 20 **And that was your understanding,**  
 21 **Dr. Moises?**  
 22 A Right. I wasn't there at the time. I  
 23 was made aware that the Hospital Police had arrived  
 24 and told them they were no longer allowed in.  
 25 **Q And he goes on to say what you say in**

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1 answer to the question, which is kind of an uh-huh.  
 2 The answer: We had Hospital Police  
 3 on-site and they were informed that they were  
 4 needing to leave the building. We had to -- they  
 5 had to take me to another location in the City for  
 6 a press conference with CNN.  
 7 Question: That very day?  
 8 Answer: That same day, yes.  
 9 Question: And did you instruct the  
 10 Hospital Police to escort the doctors out?  
 11 Answer: Mr. Plaisance did.  
 12 And so your comments earlier, Dr. Moises,  
 13 is that security was advised to have the doctors  
 14 leave; you would agree that that's an accurate  
 15 statement that Dr. Thomas made?  
 16 MR. SCHAFFER:  
 17 Objection.  
 18 MR. ROSENFELD:  
 19 Objection.  
 20 THE WITNESS:  
 21 A It appears something to that effect. I  
 22 wasn't there, so --  
 23 BY MR. CASTILLE:  
 24 Q Okay. Fair enough.  
 25 Question: Okay.

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1 Then answer: I spoke with Dr. DeBlieux  
 2 at length privately about the need for him to -- he  
 3 was the director of emergency medicine training  
 4 program at the time. And he -- you know, he says  
 5 we've got to get our training program started. I  
 6 said, yes, Peter, but this is not a safe place.  
 7 Let me stop there.  
 8 Dr. Thomas said that this is not a safe  
 9 place. He says that he said this to Dr. DeBlieux  
 10 on September 30th. Would you agree with  
 11 Dr. Thomas' assessment of the hospital at that  
 12 time?  
 13 A No.  
 14 MR. SCHAFFER:  
 15 Objection.  
 16 BY MR. CASTILLE:  
 17 Q And why do you disagree?  
 18 A Well, based on his testimony he was only  
 19 there for 30 minutes. But we were in the building,  
 20 and at the time -- from someone who worked there  
 21 for almost 10 years, it not only appeared, but I  
 22 know it was cleaner after we cleaned it up than  
 23 pre-Katrina. The power was on, the air  
 24 conditioning was on --  
 25 Q So if he said that the power was off --

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1 MR. SCHAFFER:  
 2 I'm sorry. Let him finish. He  
 3 wasn't through with his answer.  
 4 BY MR. CASTILLE:  
 5 Q Okay. Go ahead.  
 6 MR. CASTILLE:  
 7 Thank you, Mr. Schafer.  
 8 THE WITNESS:  
 9 A The power was on, it was being cooled. I  
 10 know at some point they turned the power off. I'm  
 11 not sure exactly when. So I know in the end of  
 12 September, we had completed our job.  
 13 Like I said, the basement, the water was  
 14 taken out; they had rewired so that the power could  
 15 be on to light up the buildings, and the pictures  
 16 illustrate that. The first three floors could have  
 17 taken patients, in our opinion.  
 18 BY MR. CASTILLE:  
 19 Q Okay.  
 20 A So I don't know what he was basing his  
 21 opinion on that it wasn't safe.  
 22 Q Okay.  
 23 A Nobody had come in -- and I know this --  
 24 in September, nobody came in, no independent  
 25 engineers or inspectors came in to look at that

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1 building. It wasn't until probably early October.  
 2 Q How do you know?  
 3 A Well, I take that back. There were some  
 4 people that came in. There were so many people, so  
 5 there were some people that may have come in to  
 6 take some data collection.  
 7 Q You said the Adams Management folks,  
 8 though, were threatening folks to leave?  
 9 A Peter DeBlieux. He can tell you the  
 10 specifics on that. That's all I heard from him.  
 11 Q What's your understanding of the Adams  
 12 Management group?  
 13 A Well, they were under contract to build  
 14 the new Charity Hospital. So I'm not sure what --  
 15 what was a little bit disconcerting, is that in  
 16 mid-September, before anybody really looked at the  
 17 building, a press release from LSU came out saying  
 18 that the buildings were so badly damaged they  
 19 weren't going to go back into them.  
 20 And I had a hard time trying to  
 21 understand that, because nobody from LSU was even  
 22 there. We were there all day every day, and so --  
 23 not me, personally, but the people within the  
 24 cleanup group. And so I just find it hard to  
 25 believe that they could have made that assessment

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1 so early on.

2 **Q I have to go back, though. You said that**

3 **the Adams Management folks were threatening the**

4 **cleanup crews to leave.**

5 A Uh-huh. All I know is from what Dr.

6 DeBlieux told me. They were very aggressive with

7 him.

8 **Q So you don't know that they were**

9 **threatening anyone to leave. This is what you've**

10 **learned through Dr. DeBlieux; correct?**

11 A He told me specifically that they told

12 him.

13 **Q Okay.**

14 A The specifics of what that conversation

15 was, I don't know. But he told me that Adams

16 Consulting was there, and they were very

17 threatening towards him and for everybody to get

18 out.

19 **Q Do you know if the Adams Consulting Firm**

20 **is an engineering firm?**

21 A I don't know. I know they're a

22 consulting firm. I don't know specifically what

23 they do.

24 **Q Do you know if they have any engineers on**

25 **staff?**

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1 A I don't know.

2 **Q Any architects on staff?**

3 A I have no idea who they are. I don't

4 know if they sub out everything. I don't know.

5 **Q Do you know if they have any inspectors?**

6 A I don't know.

7 **Q So when you said earlier you didn't see**

8 **any inspectors, if there was a representative from**

9 **the Adams Management group there at the building,**

10 **you wouldn't know what that person did or did not**

11 **do for that company?**

12 A Correct.

13 **Q Okay. All right. I'll pick up again at**

14 **the top of page 38 of the transcript. I had**

15 **started reading it.**

16 **Answer: I said, yes, Peter, but this is**

17 **not a safe place to do that and I said this -- you**

18 **know, you can't do that, you don't have any**

19 **authority to clean it up and restart it.**

20 **Did Dr. DeBlieux -- let me stop there.**

21 **Did Dr. DeBlieux relay to you that**

22 **Dr. Thomas had indicated to Dr. DeBlieux that you**

23 **and your group didn't have authority to clean up**

24 **the building?**

25 A I don't know if it was those exact words,

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1 but he informed me that Dr. Thomas had told him

2 that they didn't want us in the building.

3 **Q Okay.**

4 A They wanted the cleanup efforts to cease.

5 **Q I'll continue. You know -- this is,**

6 **again, Dr. Thomas.**

7 **Answer: You know, this is a state-owned**

8 **building, you know, this has to come from our**

9 **bosses, you know, to say what we can and can't do**

10 **with regards to the facility. And, you know, this**

11 **is not a safe building.**

12 **So, again, as Dr. Thomas says, this is**

13 **not a safe building, you disagree with his**

14 **assessment?**

15 A Yes.

16 **Q And Mr. Rosenfeld then asked: That's**

17 **what you said to him, this is not a safe building?**

18 **Answer: Yes. Yes.**

19 **Question: What was the basis for your**

20 **saying that?**

21 **Then Dr. Thomas responds: Well, the**

22 **building had been flooded, there were windows that**

23 **were blown out, there was water and seepage and**

24 **leakage of asbestos inside the building, there was**

25 **no support for patient services in the building,**

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1 **there were no -- there were no ability to provide**

2 **generator power, there was no oxygen source, there**

3 **was no suction source, and they wanted to open the**

4 **emergency department.**

5 **Let me go back over this statement again**

6 **by Dr. Thomas. When Dr. Thomas says that there was**

7 **water and seepage, do you agree with Dr. Thomas**

8 **that there was water and seepage in the building**

9 **around September 30th?**

10 A There may have been when during -- when

11 the storm hit in late August, but I don't know

12 where the water was seeping from.

13 **Q Okay.**

14 **So on September 30th, the day that**

15 **we're talking about here with Dr. Thomas, it is**

16 **your understanding that there was no water or**

17 **seepage at that time?**

18 A The windows were all boarded up. Navy

19 Seabees came in -- again, this was such an

20 organized effort, we even -- we, meaning the

21 military who was helping organize this -- had all

22 the broken windows boarded up.

23 **Q Okay.**

24 A The building was secure by

25 September 30th, even before that.

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1 **Q With the windows all boarded up?**  
 2 A Windows were all boarded.  
 3 So was there some water that had blown in  
 4 in between the walls during Katrina a month before?  
 5 Probably, as in most of the other buildings.  
 6 **Q Do you think that the hospital could**  
 7 **operate with boarded up windows?**  
 8 A The ones upstairs, sure. Until they got  
 9 them replaced.  
 10 **Q Okay. Let me go --**  
 11 A You've got to understand, I was taking  
 12 care of patients on two cots in a parking lot.  
 13 **Q I understand.**  
 14 **I heard some --**  
 15 A So most people don't really understand  
 16 what we were going through for months. I mean, it  
 17 was pretty third world. That's what's a crime.  
 18 **Q Yep.**  
 19 A So --  
 20 **Q I understand.**  
 21 A A boarded window is way better than a cot  
 22 in the middle of the sun when it's a 100 degrees in  
 23 September.  
 24 **Q Sure.**  
 25 **And Dr. Thomas said leakage of asbestos**

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1 **inside the building. Do you agree that there was**  
 2 **leakage of asbestos inside the building?**  
 3 A From what we could visibly see? No.  
 4 And I'll go back. The main damage was  
 5 flooding to the basement, which all of that water  
 6 was removed.  
 7 **Q Okay.**  
 8 **Dr. Thomas says in that paragraph there**  
 9 **that there was no support for patient services in**  
 10 **the building. Do you agree or disagree?**  
 11 A I'm not sure what he meant by patient  
 12 services. I mean, that's a pretty broad term; that  
 13 could be anything.  
 14 **Q I don't know either. So I'll go on to**  
 15 **the next one.**  
 16 **There were no -- there was no ability to**  
 17 **provide generator power?**  
 18 A That's false. We had generators hooked  
 19 up. They made them take them down, and we've had  
 20 electrical people that said they could have easily  
 21 bypassed the basement and still powered up the  
 22 building.  
 23 What you have to understand is the  
 24 building was powered up in mid-September. The  
 25 order was given to allow Entergy -- the State

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1 Police came in -- I specifically remember the date.  
 2 The State Police came in and saw the cleanup effort  
 3 underway, and said is there any way we can power up  
 4 this building because our antenna's on the roof,  
 5 and we really need that access.  
 6 I didn't know anything about it. I don't  
 7 know how, they got channeled, some kind of way, to  
 8 Entergy; and after the fact, apparently, we found  
 9 out that Rod West, who was the then soon-to-be  
 10 chairman of the Board of Supervisors for LSU, gave  
 11 the authority for Entergy to power up the building  
 12 in mid-September.  
 13 **Q How long did it stay powered up?**  
 14 A That, I don't know. I don't recall when  
 15 they cut it off after.  
 16 But -- so this question of we couldn't  
 17 provide generator power, number one, you didn't  
 18 need it because they were able to bypass it.  
 19 Number two, there were generators powering up the  
 20 building. We had them. They were there.  
 21 **Q Okay.**  
 22 A So --  
 23 **Q So when you say -- you're referring to**  
 24 **"they" a lot, and I wasn't completely following all**  
 25 **of the "theys" in your testimony.**

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1 **When you say they gave the order to power**  
 2 **up the building, who were you referring to?**  
 3 A In this case, somebody asked Entergy to  
 4 power up the building.  
 5 **Q But you don't know who?**  
 6 A I don't know. It had to be the State  
 7 Police. We referred them -- if I remember  
 8 correctly, I think it was me and Dr. Van Meter, and  
 9 we were talking with the State Police person. And  
 10 I think we said, we don't see any reason why it  
 11 can't.  
 12 **Q You said this?**  
 13 A I believe I did say that to the person.  
 14 I said it would be great; we would love to have  
 15 power, because we had had a generator at the time.  
 16 And we referred them, I believe -- and  
 17 Dr. Van Meter may have more specifics on this -- I  
 18 believe to Entergy, and the power was on. I'm not  
 19 sure exactly how long after that, but it was  
 20 powered up.  
 21 **Q On September 30th when you all left the**  
 22 **facility, was it still powered up?**  
 23 **MR. ROSENFELD:**  
 24 Objection.  
 25 **THE WITNESS:**

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1 A I don't recall. I don't know.  
 2 **BY MR. CASTILLE:**  
 3 **Q When I read this and it says: There was**  
 4 **no ability to provide generator power during**  
 5 **Katrina and subsequent hurricanes -- when I think**  
 6 **of a generator, I usually think about the little**  
 7 **generator that powered my house.**  
 8 A Uh-huh.  
 9 **Q Explain to me what we're talking about or**  
 10 **what's referenced here with regards to generator**  
 11 **power?**  
 12 A Sure.  
 13 In September there were huge generators  
 14 being brought into the City by the dozens, and they  
 15 had these two massive generators that easily could  
 16 have powered most of the building; portable mobile  
 17 generators. So they just parked them on a big --  
 18 it was on a flatbed. I remember seeing it outside.  
 19 It was on a big flatbed, and they wired it into the  
 20 building.  
 21 **Q Okay.**  
 22 A Who did the actual wiring, I don't know.  
 23 I'm not -- Dr. Van Meter, probably, would have  
 24 specifics on that.  
 25 **Q Can you give me an idea of when the**

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1 **generators were first brought there? You said**  
 2 **mid-September?**  
 3 A It was pretty early. I think it was  
 4 within the first week of our cleanup efforts. So  
 5 if I can look at my affidavit -- because I always  
 6 have to look at a calendar -- I think it was the  
 7 10th is when I said we initiated the cleanup.  
 8 (Reading to self).  
 9 So on or about the 7th. So I would say,  
 10 you know, the week of the 8th or so, in that time,  
 11 we had generator power.  
 12 **Q Okay. All right.**  
 13 **Dr. Thomas goes on to testify that there**  
 14 **was no oxygen source. Do you agree that there was**  
 15 **no oxygen source?**  
 16 A That, I don't know.  
 17 **Q You don't know.**  
 18 **He testifies further there was no suction**  
 19 **source. Do you agree or disagree?**  
 20 A I don't know.  
 21 **Q Then there's -- on line 29. Question:**  
 22 **Uh-huh.**  
 23 **And then answer: And to safely care for**  
 24 **patients you have to go back up -- you have to have**  
 25 **back up power source.**

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1 **Do you agree with Dr. Thomas' statement**  
 2 **that to safely care for patients you have to have**  
 3 **back up power source?**  
 4 A Tell me again? Are we still on 39, 24?  
 5 **Q Line 29, we're still on page 38 -- I'm**  
 6 **sorry. Page 24 (sic.)**  
 7 A Line 24.  
 8 **Q Line 24, page 38 of the transcript, for**  
 9 **the purposes of our current deposition.**  
 10 A I see.  
 11 **Q And on line 24, it says: And to safely**  
 12 **care for patients you have to have back up power**  
 13 **source.**  
 14 **Do you agree with Dr. Thomas' statement**  
 15 **that to safely care for patients you have to have**  
 16 **back up power source?**  
 17 A Sure. I would agree with that.  
 18 **Q He also testifies you have to have**  
 19 **oxygen. Do you agree with that?**  
 20 A Yes.  
 21 **Q Obviously, he writes in his -- he says in**  
 22 **his testimony in the deposition.**  
 23 **MR. SCHAFFER:**  
 24 Objection; that's too general.  
 25 **MR. CASTILLE:**

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1 I'll rephrase that.  
 2 **BY MR. CASTILLE:**  
 3 **Q I'm just quoting from his deposition, if**  
 4 **you are you're following along, Dr. Moises.**  
 5 **MR. SCHAFFER:**  
 6 If you limit it to that one  
 7 particular statement, but I thought the  
 8 statement was a little broad as to  
 9 agreeing what he said in his deposition  
 10 and that was in general, which --  
 11 **MR. CASTILLE:**  
 12 All right. Thank you. Subject to  
 13 Mr. Schafer's objection.  
 14 **BY MR. CASTILLE:**  
 15 **Q Let me continue with line 1, page 39.**  
 16 **Dr. Thomas then says that: And medical**  
 17 **gases.**  
 18 **He's saying that to safely care for**  
 19 **patients you have to have medical gases. Do you**  
 20 **agree with that statement?**  
 21 A Sure.  
 22 **Q Was there medical gases available in the**  
 23 **hospital at that time?**  
 24 A There may have been portable tanks which  
 25 we could have easily accessed, sure. There's

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1 different ways to get medical gases; it can be  
 2 plugged in from the wall or it can be in a portable  
 3 tank, which most places use. I'm sure that's what  
 4 they used at the Convention Center when they were  
 5 there for 6 months.

6 **Q And that's true for oxygen as well?**  
 7 A Uh-huh.  
 8 I mean, clearly the Convention Center --

9 **Q You when say uh-huh, you mean yes?**  
 10 A I'm sorry. Yes. Sorry. Yes.

11 **Q And you were going to say I'm sure at the  
 12 Convention Center --**  
 13 A Well, I mean, what you've got to  
 14 understand is this was a hospital that we stood up,  
 15 and so some of the specifics regarding gas, if the  
 16 line system couldn't be used for whatever reason,  
 17 you bring in portable tanks. But the physical  
 18 structure was stood up that could have taken  
 19 patients; the bathrooms were cleaned, just like  
 20 every other part of the patient care area.

21 **Q I want to make sure I understand what you  
 22 mean when you say it was stood up.**  
 23 A Sorry.  
 24 **Q I think I understand.  
 25 Tell me what you mean by that.**

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1 that we would be able to stand up or open up that  
 2 facility in a very short amount of time.

3 **Q Again, I'm trying to understand the term  
 4 stand up. I'm not military, so pardon me.  
 5 When the military -- when you use -- let  
 6 me go back to you. When you use the term stand up,  
 7 is that meant in terms of a permanent state or is  
 8 that a temporary state? So when you stand up the  
 9 hospital, were you referring to getting the  
 10 hospital ready on a temporary and emergency basis  
 11 or on a permanent basis?**  
 12 A It could have been either, but our  
 13 intention at that time was at the very least  
 14 temporary --

15 **Q Okay.**  
 16 A -- to have a facility to take patients  
 17 to.

18 **Q Was it also permanent?**  
 19 A Well, it could have been. In September  
 20 we were looking at what can we do now -- what  
 21 structure can be made ready to take care of  
 22 patients, and all the other hospitals were truly  
 23 under water, except for Charity.

24 **Q Okay.**  
 25 A Not to mention because we were the only

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1 A It's actually a term I just started using  
 2 since Katrina, dealing with the military so much,  
 3 and that's where I got it from. I didn't  
 4 understand what it was either.

5 The military uses the term "stand up" and  
 6 "stand down", meaning we're going to build  
 7 something and open it, meaning stand up; or we're  
 8 going to tear it down and go somewhere else, which  
 9 is to stand down. So that's what I meant by stood  
 10 up. My apologies. Yeah.

11 So the military -- and Charity came into  
 12 play there. The issue kept coming up can we stand  
 13 up this facility to take care of patients. And at  
 14 our daily 9:00 a.m. meetings with the US Public  
 15 Health Service, we said we have enough support now  
 16 where we think we can clean and decontaminate this  
 17 building so that we can stand it up for patient  
 18 care, because there was no other facility in  
 19 Orleans Parish that was even close.

20 All the other hospitals were underwater.  
 21 Tulane across the street was underwater because it  
 22 was built lower. No patient care areas were  
 23 flooded at Charity Hospital. And so numerous US  
 24 Public Health Service, and other people from the  
 25 military, toured that facility and were hopeful

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1 doctors left in the City, we just happened to all  
 2 be from Charity, and so that's why, between us and  
 3 between the military personnel who did their  
 4 training there, we just -- coincidental or not, we  
 5 just happened to come together and that's how  
 6 Charity came to be.

7 **Q But none of the other hospitals were in a  
 8 condition to be stood up?**  
 9 A Well, they were all privately-owned, so  
 10 we had no access to those hospitals, so we didn't  
 11 explore those. But just from what I remember, they  
 12 were all truly underwater. I mean, the patient  
 13 care areas were underwater.

14 **Q How much of Charity flooded?**  
 15 A Just the basement.  
 16 **Q Just the basement?**  
 17 A About 10 feet in the basement; no patient  
 18 care areas were flooded. They were dirty because  
 19 people lived there for 5 days.

20 **Q What was in the basement?**  
 21 A The morgue and medical records, and the  
 22 cafeteria; maybe a few other ancillary stuff. No  
 23 patient care services.

24 **Q You said the morgue was down there?**  
 25 A Uh-huh.

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1 **Q Were there any bodies there?**  
 2 **A** I believe they removed some bodies once  
 3 the water levels went down. The military worked  
 4 with all of that, and so they were able to  
 5 remove -- I don't remember how many bodies.  
 6 But they had engineers with the military  
 7 who did daily assessments to look for gases and  
 8 environmental issues, if they were hazardous; and  
 9 daily they were all cleared.  
 10 We had structural engineers with the US  
 11 Army Corps who came in and said, structurally, the  
 12 building was fine to go in and start to clean out.  
 13 And then they brought in all their environmental  
 14 experts from the Navy and the Army, who came in and  
 15 did gas analysis to make sure there was nothing  
 16 toxic going on. That was why 200 people were able  
 17 to clean out that building and nobody got sick or  
 18 got hurt.  
 19 **Q When you said that these engineers were**  
 20 **there doing testing, what's your understanding of**  
 21 **the type of testing? Were they testing to**  
 22 **determine whether it was ready by medical standards**  
 23 **to begin operation?**  
 24 **A** That, I don't know.  
 25 **Q Okay.**

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1 **A** They were looking for toxic substances,  
 2 gases. Okay?  
 3 **Q Did they communicate to you what type of**  
 4 **toxic substances they were looking for?**  
 5 **A** Not specifically. I don't recall.  
 6 Dr. Van Meter, again, since he was there most of  
 7 every day, would be able to relay all of that  
 8 information.  
 9 **Q Do you know if they were testing for any**  
 10 **asbestos contamination?**  
 11 **A** I don't know. But it did seem to fit,  
 12 because one of the documents that I gave you  
 13 where -- when LSU contracted or the state  
 14 contracted someone to do environmental studies, you  
 15 know, we looked at the mold spores in the area that  
 16 we cleaned, and there was less mold, almost none,  
 17 in the areas that we cleaned and decontaminated.  
 18 It was less there than there was outside  
 19 the building, so that fit with what the initial  
 20 engineers were saying.  
 21 **Q When you -- when the group left, when you**  
 22 **left --**  
 23 **A** Uh-huh.  
 24 **Q -- in, say, September 30th --**  
 25 **A** Right.

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1 **Q -- around that area, in the basement you**  
 2 **said the water had been removed; correct?**  
 3 **A** Correct.  
 4 **Q Was there still mud?**  
 5 **A** It was some sludge.  
 6 **Q Some sludge?**  
 7 **A** Yeah.  
 8 **Q On the floors?**  
 9 **A** But the water was all gone.  
 10 **Q How much mud was there on the floor?**  
 11 **A** I don't know. You know, it was a little  
 12 dirty, I guess. The place was always pretty dirty.  
 13 **Q Even before Katrina?**  
 14 **A** There was leaks everywhere; there was  
 15 always a puddle of water here and there. That's  
 16 why when Dr. Thomas says there was seepage in the  
 17 walls and stuff, you have to understand, our  
 18 emergency medicine office was on the 13th floor;  
 19 the carpet was always soaking wet because of leaks  
 20 in the pipes. It was like that for 10 years. You  
 21 know, there was mold growing up the walls.  
 22 So this -- and we were functioning in the  
 23 hospital. So this notion of Katrina caused all  
 24 this, no. I mean, there was some problems that  
 25 Katrina caused, no question, but the seepage, I

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1 don't know what he's talking about seepage since  
 2 Katrina. I'm sure there was some water that got in  
 3 the windows, as with every other building.  
 4 **Q When y'all cleaned up the emergency**  
 5 **department and the three floors, the toilets, were**  
 6 **they backed up or were they functioning properly?**  
 7 **A** I believe they were functioning. By then  
 8 the water was back -- I believe the pressure was  
 9 pretty good, so, yeah, there was no backup.  
 10 **Q No backup?**  
 11 **A** Huh-uh.  
 12 Like I said, from somebody who worked in  
 13 that hospital a lot -- and I worked there a lot  
 14 from '94 until 2005 -- that ED, that emergency  
 15 department, as well as the 2nd and 3rd floor, was  
 16 as clean as it's ever been and decontaminated. And  
 17 the environmental report from those three floors  
 18 showed that.  
 19 **Q Can you pinpoint exactly when the bodies**  
 20 **were removed?**  
 21 **A** Once the water level was low enough where  
 22 they could get to them.  
 23 **Q Do you know when that was?**  
 24 **A** I don't. But it was well organized that  
 25 once they could get to the bodies, they had a team

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1 that went in to remove them, and then the DEMORT,  
 2 which was the Federal agency taking care of them,  
 3 took them out.  
 4 I don't remember how many bodies. I  
 5 believe there was bodies. There may not have been,  
 6 but I believe there might have been a couple of  
 7 bodies, but they were removed.  
 8 **Q So if -- if someone were to say that when**  
 9 **the basement was flooded that there were bodies**  
 10 **floating around, would you have any reason to**  
 11 **disagree or dispute that?**  
 12 **MR. ROSENFELD:**  
 13 Objection.  
 14 **MR. SCHAFFER:**  
 15 Objection.  
 16 **THE WITNESS:**  
 17 A I don't know. I don't know how they were  
 18 stored. They may have been stored in vaults, for  
 19 all I know. I don't know.  
 20 **BY MR. CASTILLE:**  
 21 **Q Okay. Fair enough.**  
 22 **Let me go back to Dr. Thomas' testimony.**  
 23 **In fact, I'm picking up from 24, that paragraph.**  
 24 **And he said to safely care for patients**  
 25 **you have to -- and he goes on further -- have**

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1 A I don't recall what we used. Dr. Van  
 2 Meter can tell you a lot of the stuff that we got  
 3 and where we got it from.  
 4 **Q Okay.**  
 5 **And he also says to safely care for**  
 6 **patients you have to have -- have to pass**  
 7 **inspections by the Office of Public Health.**  
 8 **Do you know if by September 30th the**  
 9 **facility had passed an inspection by the Office of**  
 10 **Public Health?**  
 11 A Not that I'm aware of.  
 12 **Q Do you know if any inspections were**  
 13 **conducted by September 30th -- let me back up.**  
 14 **Do you know if any inspections were**  
 15 **performed by the Office of Public Health between**  
 16 **August 29th of 2005 and September 30th of 2005?**  
 17 A I don't believe there were.  
 18 **Q Do you know if -- from that same period,**  
 19 **August 29, 2005 to September 30, 2005, that any**  
 20 **inspections were done by the fire marshal?**  
 21 A I don't know.  
 22 **Q Would you have any reason to disagree**  
 23 **with Dr. Thomas if he testified that there were no**  
 24 **inspections done by the Office of Public Health**  
 25 **between August 29, 2005 and September 30, 2005?**

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1 **heating and cooling systems cleaned and sanitized.**  
 2 **Do you know if the heating and cooling**  
 3 **systems had been cleaned and sanitized by**  
 4 **September 30th?**  
 5 A I don't recall.  
 6 **Q The bathrooms have to be cleaned and**  
 7 **sanitized, Dr. Thomas testified.**  
 8 **Do you know if the bathrooms had been**  
 9 **cleaned and sanitized?**  
 10 A The whole entire emergency department was  
 11 cleaned and sanitized.  
 12 **Q But just the emergency department,**  
 13 **which -- and the three floors?**  
 14 A And the 2nd and 3rd floor.  
 15 **Q Okay.**  
 16 A Again, my understanding from Dr. Van  
 17 Meter is that we -- because he was there more than  
 18 me, but I know having been there as well -- we  
 19 removed all biodegradables from the first 14  
 20 floors, so anything that would have spoiled to make  
 21 things worse. And we completely cleaned and  
 22 decontaminated the first three floors, which means  
 23 we cleaned things down with agents that would have  
 24 killed any kind of microbes.  
 25 **Q What kind of agents?**

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1 **MR. ROSENFELD:**  
 2 Objection.  
 3 **MR. SCHAFFER:**  
 4 Objection.  
 5 **THE WITNESS:**  
 6 A I don't know.  
 7 **BY MR. CASTILLE:**  
 8 **Q Dr. Thomas, goes on to testify: So you**  
 9 **didn't have a functional fire alarm system.**  
 10 **Do you know if there was a functional**  
 11 **fire alarm system in the hospital at the time?**  
 12 A I don't know.  
 13 **Q It goes on to say that you didn't have a**  
 14 **functional sprinkler system.**  
 15 **Do you know if there was a functional**  
 16 **sprinkler system?**  
 17 A I don't know.  
 18 **Q And he says no medical gases.**  
 19 A I don't know.  
 20 **Q Don't know?**  
 21 A (Shakes head side to side.)  
 22 **Q No medical suction?**  
 23 A I don't know.  
 24 **Q Don't know?**  
 25 **No backup generator power?**

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1 A We had had generators powering up the  
 2 facility, yes.  
 3 Q But was there a backup to that generator  
 4 power?  
 5 A I don't know.  
 6 Q And then he goes on to say and there was  
 7 a dirty building.  
 8 I gather that you would dispute that the  
 9 building was dirty, as it relates to the three  
 10 floors that were cleaned by the crew that you were  
 11 working with?  
 12 A Correct.  
 13 Q And with regard to the other floors of  
 14 the building, do you know whether they were dirty  
 15 or not?  
 16 A I mean, "dirty" is sort of a relative  
 17 term.  
 18 Q That's true.  
 19 A The hospitals you go to in Baton Rouge,  
 20 I'm sure, are very dirty. It's a very relative  
 21 term.  
 22 Q I try to stay away.  
 23 A That's why we have a problem. ICUs kill  
 24 people every day from microbes, so they're all  
 25 technically dirty. So I don't know what --

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1 Q When you say that ICUs kill people every  
 2 day from microbes, that bothers me, of course,  
 3 because I don't want to be in the ICU and be killed  
 4 by microbes; but that also begs the question of  
 5 what level of microbial behavior there needs to be  
 6 before you can reopen a hospital.  
 7 Do you know if any tests were done to  
 8 determine the microbial behavior or the level?  
 9 A In two of the documents I gave you, you  
 10 know, those were environmental studies done where  
 11 they looked for toxins. And I know from looking at  
 12 the results from the areas that we cleaned, looking  
 13 at just mold spores -- which was the big contention  
 14 at the time, that there was too much mold in the  
 15 building -- the mold spores were zero to none, or  
 16 almost none, in the areas that we cleaned. So --  
 17 Q So if Dr. Thomas' statement -- reference  
 18 to a dirty building refers to the level of microbes  
 19 and toxins, you would disagree based on those  
 20 statements, with his statement --  
 21 A Yes.  
 22 Q -- that the building was dirty?  
 23 A Yes. Exactly.  
 24 Q Question -- we're at line 39 of page 39  
 25 of the transcript.

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1 How did you know that? That's  
 2 Mr. Rosenfeld asking that question.  
 3 His response: Well, because I know the  
 4 condition in which we left it and I had spoken with  
 5 my administrators, who were physically on that  
 6 campus.  
 7 Did you see any of the other  
 8 administrators on the campus other -- I know you  
 9 didn't see Dr. Thomas. Did you see any other LSU  
 10 administrator there?  
 11 A I mean, I don't know a lot of them by  
 12 face or name. Dr. Van Meter or Dr. DeBlieux could  
 13 probably better answer that question.  
 14 Q Mr. Rosenfeld asked the same question:  
 15 When you say you spoke with your administrators,  
 16 who were they?  
 17 Dr. Thomas responds: Administrators  
 18 assigned to that campus was Mr. Adler, Mr. Volter.  
 19 Do you know Mr. Volter?  
 20 A I do not.  
 21 Q So if Mr. Volter were there in the  
 22 building at any time from August 29, 2005 through  
 23 September 30, 2005, you wouldn't know that; is  
 24 that correct?  
 25 A Correct.

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1 Q Mr. Ronald Brodis. Do you know  
 2 Mr. Brodis?  
 3 A I know of him.  
 4 Q Okay.  
 5 If you saw him, would you recognize him?  
 6 A Yes.  
 7 Q Okay.  
 8 Do you know if you saw Mr. Brodis in the  
 9 building at any time from August --  
 10 A I don't recall. But I don't believe so.  
 11 Q Okay. I want to get it all out for the  
 12 record.  
 13 So from August 29, 2005 to September 30,  
 14 2005, you don't recall seeing Mr. Brodis in the  
 15 building?  
 16 A Correct.  
 17 Q But you weren't there 24 hours a day?  
 18 A Correct.  
 19 Q Dr. Thomas goes on to testify at line 22:  
 20 Who else was on that campus with them as far as  
 21 administrators are concerned.  
 22 And he says: You're stretching my  
 23 memory.  
 24 The question: That's okay.  
 25 Dr. Thomas then says on line 1 of page 40

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1 of the transcript: The CFO, Mr. Ed Burk, were the  
 2 three main administrators.  
 3 Do you know Mr. Ed Burk?  
 4 A I do not.  
 5 Q So you wouldn't know if he was in the  
 6 building from August 29, 2005 to September 30,  
 7 2005?  
 8 A Correct.  
 9 Q Question: And they were on-site?  
 10 Answer: On-site, physically on-site.  
 11 Yes.  
 12 Question: In September?  
 13 Answer: Yes.  
 14 So you don't have any facts to dispute  
 15 Dr. Thomas' statements here with regard to the  
 16 administrators who were on-site during that time  
 17 period?  
 18 A I do not.  
 19 Q Question: Okay.  
 20 Answer: What do you mean when you say in  
 21 September?  
 22 Question: I mean in September '05, after  
 23 the evacuation.  
 24 Answer: No. They were not. This was  
 25 the condition in which we left the hospital.

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1 Question: Okay. But how did you know  
 2 what the condition of the hospital was on the day  
 3 that you observed the doctors?  
 4 Answer: Well, I can tell you I ventured  
 5 down to the basement, you know, to look in the  
 6 basement with a flashlight and I didn't go up above  
 7 that floor, but I did the basement. And looking at  
 8 the basement there was nothing but -- water had  
 9 been removed and there was mud and muck and stench.  
 10 Was there mud, muck and stench in the  
 11 basement?  
 12 A There was mud. This was no stench, which  
 13 was amazing.  
 14 Q So even though there was mud, there was  
 15 no stench?  
 16 A Correct.  
 17 Q Question: That's what you observed in  
 18 the basement?  
 19 Answer: Yes. Yes.  
 20 Question: The water had been removed?  
 21 Answer: Yes.  
 22 Question: It had been pumped out?  
 23 Answer: That's what we were told, yeah.  
 24 Question: Okay. And so you were in the  
 25 basement and you were on the first floor --

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1 question -- that's the question.  
 2 And the answer is: Yes.  
 3 Question: Did you go above the first  
 4 floor?  
 5 Answer: No, I did not.  
 6 Question: And did anyone prior to that  
 7 day report to you their observations about the  
 8 condition of the building?  
 9 Answer: You have to -- that, I do not  
 10 recall. I know Mr. Arnold made trips down, at  
 11 least, maybe one before. And he may have, but I  
 12 don't recall.  
 13 Do you know Mr. Arnold?  
 14 A I do. I don't know him personally. I  
 15 know of him.  
 16 Q Who is Mr. Arnold?  
 17 A He's the building manager. I don't know  
 18 his exact title, but he knows the building inside  
 19 and out.  
 20 Q Was he there during that time period,  
 21 August 29th through September 30th?  
 22 A You know, I don't recall.  
 23 Q Now, you say he's the building manager?  
 24 A I think something to that effect. He's  
 25 like the building engineer. So, yeah, the physical

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1 plant guy, whatever his title is.  
 2 Q Flip over to the next sheet of paper.  
 3 We're still on page 42 -- 41, rather -- the top.  
 4 Line 22.  
 5 Question: Okay. And on that day --  
 6 prior to that day --  
 7 Answer: All I did was go down hallways  
 8 down the side on the first floor and those were --  
 9 the only thing that was cleaned inside the hospital  
 10 was from front to back, that central corridor. The  
 11 two side corridors were not on either side. They  
 12 were pitch black, wires, water, dirt on the floor,  
 13 and the emergency room -- the emergency room,  
 14 itself, was spotless.  
 15 Go back through that paragraph.  
 16 It says the two side corridors were not  
 17 on either side. Do you know what he's referring to  
 18 when he says the two side corridors?  
 19 A Two small hallways on either side of the  
 20 emergency department.  
 21 Q And he said that on September 30th they  
 22 were pitch black, dark. Do you know if they were  
 23 pitch black, dark at that time?  
 24 A I don't recall. Like I said, we had it  
 25 powered up, and then at some point -- I don't know

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1 who gave the order, but then the power went off and  
 2 I'm not sure when that occurred.  
 3 **Q You say the order, do you know if it was**  
 4 **actually an order or did the power go out for some**  
 5 **other reason?**  
 6 A I mean, unless the City -- you know, the  
 7 power grid for the City went out. I don't recall.  
 8 It's kind of sketchy at that time; power was coming  
 9 up. But if I remember correctly, they made it a  
 10 priority to try to get that part of the grid up  
 11 early.  
 12 **Q Okay. Were there any exposed wires in**  
 13 **the emergency area?**  
 14 A You mean that shouldn't have been  
 15 exposed?  
 16 **Q Correct.**  
 17 A Unlikely.  
 18 **Q Flip over to the next sheet of paper.**  
 19 A 44?  
 20 **Q Yeah. Let's start with 44. And you'll**  
 21 **see Dr. Thomas is testifying, line 1.**  
 22 **Answer: And as I said before, the**  
 23 **emergency room was spotless; it was actually**  
 24 **was -- it actually was pretty amazing how clean it**  
 25 **was.**

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1 **Question: Uh-huh.**  
 2 **Answer: But the rest of the building was**  
 3 **not and there was no power and we had to use**  
 4 **flashlights to see down the corridors and walk.**  
 5 **And as I said, there was dirt and water on the**  
 6 **floors, but the whole central area from the front**  
 7 **to the back had at least been mopped to that bank**  
 8 **of elevators and the front was still boarded up,**  
 9 **except the two glass doors to the front.**  
 10 **Do you agree with his assessment of the**  
 11 **condition of the hospital? It kind of sums it up**  
 12 **there.**  
 13 **MR. SCHAFER:**  
 14 And just that statement that you  
 15 read, I assume?  
 16 **BY MR. CASTILLE:**  
 17 **Q Yeah, just that statement that I read.**  
 18 A Again, I don't recall what was powered up  
 19 on the 30th. If it was part or all, I don't  
 20 recall.  
 21 **Q Okay. We're done with that exhibit.**  
 22 **Again, that's Exhibit B.**  
 23 **MR. SCHAFER:**  
 24 We've been going at it nearly  
 25 2 hours. You want to take a short break?

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1 **MR. CASTILLE:**  
 2 Sure.  
 3 (Recess taken at 11:24 a.m. Back on  
 4 record at 11:37 a.m.)  
 5 **BY MR. CASTILLE:**  
 6 **Q Let me direct your attention now to**  
 7 **Exhibit A, that set of documents which happens to**  
 8 **be your affidavit.**  
 9 A (Reviewing document.)  
 10 **Q The affidavit that I have that was filed**  
 11 **with the motion for summary judgment is dated**  
 12 **January 9, 2009, on page 6 of your affidavit,**  
 13 **signed by you and notarized by Mr. Jupiter.**  
 14 **When did you prepare this affidavit?**  
 15 A On the date or a couple of days before I  
 16 signed it.  
 17 **Q Okay.**  
 18 **Did anybody assist you with preparing it?**  
 19 A Dr. Rosenfeld (sic) -- Steve Rosenfeld.  
 20 **Q All right.**  
 21 **Did he provide you any drafts before you**  
 22 **signed it?**  
 23 A I dictated to him, and he pretty much  
 24 wrote it. And then he gave me my first draft to  
 25 make sure I was okay with everything, and that was

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1 it.  
 2 **Q What did you do with the first draft?**  
 3 A There was just a couple of things, minor  
 4 stuff, that I had to change: just some numbers and  
 5 some wording and -- to clarify my academic  
 6 appointments, and that was it.  
 7 **Q Do you still have that draft?**  
 8 A I do not.  
 9 **Q Did you discuss with him the contents of**  
 10 **the affidavit before you prepared it?**  
 11 A What do you mean?  
 12 **Q Did you talk to him about the affidavit**  
 13 **anytime before January 9th of 2009?**  
 14 A Well, everything that's in the affidavit,  
 15 I told him as I've told everybody.  
 16 **Q Okay.**  
 17 A So I wouldn't say I discussed it. But, I  
 18 just -- yeah, I mean, I told them. What the  
 19 affidavit is is what I've told him, and the news,  
 20 and the media, and everybody, which is -- so we  
 21 didn't discuss what we should put in the affidavit.  
 22 **Q Okay.**  
 23 A So, no.  
 24 **Q How long have you known Dr. Rosenfeld?**  
 25 A Steve? Actually, he's not a doctor.

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1       **Q He knows that I know. I couldn't resist.**  
 2       **(Discussion off the record.)**  
 3       **THE WITNESS:**  
 4       A I met Steve, it was in 2007. I don't  
 5 remember exactly when. I think it was in 2007  
 6 after a City Council meeting.  
 7       **BY MR. CASTILLE:**  
 8       **Q You've known him since then?**  
 9       A Yes.  
 10       **Q What's your relationship with him? He**  
 11 **doesn't represent you, does he?**  
 12       A No, he does not.  
 13       **Q Friends?**  
 14       A Yeah. We've become friends. He likes  
 15 basketball, I like basketball.  
 16       **Q Are y'all working on any other projects**  
 17 **other than this lawsuit?**  
 18       A Well, I'm really not working with him on  
 19 this lawsuit. I've just given him my information  
 20 on what's happened, which is in the affidavit. But  
 21 other than that, I'm not associated with the  
 22 lawsuit.  
 23       **Q Okay.**  
 24       **When did you first learn about the**  
 25 **lawsuit?**

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1       A You mean when was it filed?  
 2       **Q Well, did you know about it when it was**  
 3 **first filed?**  
 4       A Yeah. I did know about it. I don't even  
 5 remember when. I want to say it was in January, I  
 6 think, of last year. But -- yeah, so I was aware  
 7 that it was going to be filed.  
 8       **Q Okay.**  
 9       **Did you assist in the preparation of the**  
 10 **lawsuit?**  
 11       A What do you mean by preparation?  
 12       **Q Did you talk to them about what should be**  
 13 **included in the lawsuit?**  
 14       A No.  
 15       **Q You didn't talk to Steve about what**  
 16 **should be included?**  
 17       A I was kind if used more as a source in  
 18 terms of, you know, what was my role in the LSU  
 19 system in terms of what I did at Charity Hospital;  
 20 and if they had any questions, maybe, about the LSU  
 21 system. But other than that --  
 22       **Q Okay.**  
 23       **And you said you got to know him in 2007,**  
 24 **a lawsuit was filed in January 17th of 2008.**  
 25       A Okay.

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1       **Q How long before January 17th of 2008**  
 2 **was it that you had gotten to meet Steve?**  
 3       A I don't know. Like I said, it was after  
 4 a City Council meeting that we just happened to  
 5 meet. I was there for a City Council meeting, and  
 6 he was there, and we just happened to start  
 7 talking; and that's kind of where the friendship  
 8 initiated.  
 9       **Q When did you first start to talk about**  
 10 **the -- strike that.**  
 11       **Did you go to the Hornets game last**  
 12 **night?**  
 13       A I did.  
 14       **Q Did you go with Steve?**  
 15       A No.  
 16       **Q Was he there?**  
 17       A I don't know.  
 18       **MR. ROSENFELD:**  
 19       Let the record show I wasn't.  
 20       (Discussion off the record.)  
 21       **BY MR. CASTILLE:**  
 22       **Q Let's walk through your affidavit. Let's**  
 23 **start with paragraph 5. We have covered some of**  
 24 **the items discussed in the first few paragraphs.**  
 25       A (Nods head up and down.)

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1       **Q Paragraph 5 of Exhibit A, which is your**  
 2 **affidavit, it says: On Monday -- on the Monday the**  
 3 **storm hit, August 29, 2005, I was located at Tulane**  
 4 **University Hospital. The conditions caused by**  
 5 **storm forced me to stay at Tulane until Thursday,**  
 6 **September 1, 2005, when I left to evacuate my**  
 7 **parents from their home in the Mid-City section of**  
 8 **New Orleans.**  
 9       **Paragraph 6 says: Thereafter, I came to**  
 10 **the Convention Center on Tuesday, September 6,**  
 11 **2005. At that time, I had my first meeting with**  
 12 **officers from the United States Army Special**  
 13 **Forces, two of those officers were Captain Jason**  
 14 **Howard and Captain Robert Byerley.**  
 15       **And were those the officers you were**  
 16 **referring to earlier in the deposition?**  
 17       A Yeah. That coordinated the entire --  
 18 with our guidance, they coordinated the entire  
 19 cleanup effort.  
 20       **Q And that began September 6th, the**  
 21 **cleanup effort?**  
 22       A We talked about doing it, it began the  
 23 following day, I believe, September 7th; they  
 24 mobilized all the resources needed to do that big  
 25 job.

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1           **Q**   **Okay.**

2           **Paragraph 7: These two officers stated**

3           **that they and other members of the Special Forces**

4           **were available to help reopen Charity Hospital.**

5           **They told us they would pump the water out of the**

6           **basement and clean up the building so that it could**

7           **be used for medical care.**

8           **You don't recall exactly how long it took**

9           **them to pump the water out?**

10          **A**    I don't. I do know that they, with their

11          huge resources, pumped the majority of the water

12          out; and then what little bit was left was done by

13          Dr. Van Meter, with a much smaller pump, to make

14          sure all the water was out.

15          **Q**    With me at this meeting, with Special

16          Services Officers, were Drs. Keith Van Meter and

17          James Aiken, fellow emergency department physicians

18          at Charity Hospital. My colleagues and I agreed

19          that reopening Charity Hospital as soon as possible

20          for medical care was essential; therefore, we

21          accepted the offer to accomplish that goal.

22          Was anyone from LSU present at this

23          September 6, 2005 meeting?

24          A    No. They weren't even in the City.

25          **Q**    Was there anyone from the Division of

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1          **Administration there --**

2          A    No.

3          **Q**    -- at this September meeting?

4          A    (Shakes head side to side.)

5          **Q**    On that same day -- this is

6          paragraph 9 -- Tuesday, September 6, 2005, I went

7          with my fellow physicians and Captain Howard and

8          Captain Byerley to Charity Hospital. I observed

9          that the building had been abandoned. No one

10         associated with LSU was inside or outside the

11         building; all the doors on the first floor,

12         including the front door and the emergency room,

13         were wide open. We observed no one available to

14         secure the building.

15         Did you consider Charity Hospital to be

16         open that day on September 6, 2005?

17         A    You mean open for business or just

18         unsecured?

19         **Q**    That's a good question, and that's what I

20         want to get at. Let's start off with was it open

21         for business?

22         A    The doors were --

23         **MR. ROSENFELD:**

24         Objection.

25         **MR. SCHAFFER:**

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1            Objection.

2            **THE WITNESS:**

3            A    The doors were open. It was

4            completely -- there was nobody there; it was

5            abandoned by LSU, Hospital Police, both -- so the

6            doors were wide open.

7            **BY MR. CASTILLE:**

8            **Q**    Okay.

9            I take it, then, obviously no medical

10          services were being provided in the building at the

11          time?

12          A    There was nobody in the building.

13          **Q**    Paragraph 10: I was present when the

14          cleanup commenced on Saturday, September 10, 2005.

15          On the first day the cleanup crew consisted of

16          approximately 50 to 75 individuals, which included

17          Navy personnel from the USS IWO GIMA, who brought

18          with them two large pumps with which they began

19          pumping out water.

20          Paragraph 11: Over on the next 2 to 3

21          days, my physician colleagues and I recruited

22          approximately 100 personnel from the 82nd Airborne

23          Division.

24          So you actually recruited these employees

25          along with your colleagues?

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1            A    I'm not sure exactly how they ended up

2            there. Like I said, General Honore was working

3            closely with Dr. Juliette Saussy, who was director

4            of New Orleans EMS. One of our biggest challenges,

5            in addition to helping to make the City more

6            accessible, was the health care issue because we

7            had zero health care resources in the City.

8            So I had met, on numerous occasions, with

9            General Caldwell, who was the Two-Star General

10          commanding the 82nd Airborne that was in the

11          City. And I don't remember where -- I don't

12          remember how he ended up at Charity; I don't know

13          if I had asked him if he could help us, or if

14          General Honore directed him to bring his troops

15          there.

16          But he was there, and I talked with him

17          while they were cleaning up, and I remember

18          explicitly, you know, I said -- because at the time

19          I think I had already gotten the first message

20          from -- from Dr. Aiken that LSU didn't want any

21          cleanup efforts initiated at the building; that we

22          were to leave.

23          **Q**    When did you learn this?

24          A    At some point before General Caldwell

25          showed up, so it was middle September at some

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1 point. And I remember telling him that LSU may not  
 2 be happy if you clean up this building; and I  
 3 remember explicitly, he said, we're going to clean  
 4 it up and stand it up ready for patient care and if  
 5 they want to use it, then that's their choice.  
 6 I admired his integrity on that because  
 7 he knew this was something that was really vital  
 8 for the City. It wasn't about FEMA dollars and new  
 9 buildings; it was about how can we get the City  
 10 back on its feet. And that's what the military  
 11 does. I mean, it was chaos in the City until the  
 12 82nd Airborne showed up, and within days they  
 13 organized a lot of stuff.  
 14 **Q So before the military came in to stand**  
 15 **up the facility, was it closed?**  
 16 A It was open.  
 17 **Q It was open?**  
 18 A Open meaning the doors were open. So  
 19 that's why I don't understand -- technically, I  
 20 don't know what you mean by open or closed.  
 21 **Q Yeah. And it goes back to, you know, you**  
 22 **kind of made some references in here, too, so I'm**  
 23 **trying to get your understanding of when it was**  
 24 **opened and when it was closed.**  
 25 **So the doors to the building were**

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1 **physically open --**  
 2 A Yes.  
 3 **Q -- when you got there on September 6,**  
 4 **2005?**  
 5 A (Nods head up and down.)  
 6 **Q And they remained open throughout the**  
 7 **entire cleanup period?**  
 8 A We secured it. Once we started, we  
 9 started to secure it a little bit, so we would  
 10 close the doors.  
 11 The first few weeks -- a couple of weeks  
 12 it was a 24-hour operation pumping the water out,  
 13 so there were people there the whole time.  
 14 General Caldwell initially, actually to  
 15 secure the building, both his men and members of  
 16 the National Guard actually -- they stationed men  
 17 there to secure the building to make sure no one  
 18 came in to vandalize it. So for the first couple  
 19 of weeks, we had people -- military -- armed  
 20 military who were actually standing guard at the  
 21 building.  
 22 **Q Okay.**  
 23 **Now, you mentioned that you were working**  
 24 **at the Convention Center providing services?**  
 25 A Yes.

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1 **Q But no services, after August 29th,**  
 2 **2005, were provided at the Charity building?**  
 3 A No. My understanding, from what Dr. Van  
 4 Meter told me, is that Dr. Butler told him that we  
 5 could continue to clean the building.  
 6 **Q Dr. Butler told you that?**  
 7 A Dr. Butler told --  
 8 **Q In September of 2005?**  
 9 A At some point in September --  
 10 **Q Okay.**  
 11 A -- I don't remember the exact date.  
 12 Told him that we could clean it, but we  
 13 were by no means allowed to take care of patients  
 14 inside of it.  
 15 **Q What was Dr. Butler's role?**  
 16 A He was the Chief --  
 17 **Q In September of 2005?**  
 18 A He was the Chief Medical Officer for the  
 19 LSU Health Care Services Division.  
 20 **Q Okay.**  
 21 A So technically he was the medical  
 22 director for the nine Charity Hospitals in the  
 23 state.  
 24 **Q Okay. All right.**  
 25 **When did the hospital close?**

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1 **MR. ROSENFELD:**  
 2 Objection.  
 3 **MR. SCHAFFER:**  
 4 I think we're getting into the same  
 5 type of thing as to what constitutes  
 6 standing up, standing down. If we could  
 7 be more specific, that would be fine.  
 8 **BY MR. CASTILLE:**  
 9 **Q Subject to their objection.**  
 10 A Okay. When did it close? I guess you  
 11 could say technically it closed when LSU boarded it  
 12 up September 30th, and put Hospital Police, and  
 13 let nobody else in.  
 14 **Q Okay.**  
 15 A I would say that -- and they forced us  
 16 out.  
 17 Well, they -- I guess at the point where  
 18 they made it clear they were not interested in  
 19 trying to stand up this building to make it  
 20 patient-ready, whether it be temporary or long  
 21 term. That was clear when they boarded it up and  
 22 told hospital police no one's allowed in without  
 23 their permission.  
 24 **Q Okay.**  
 25 **Paragraph 10: I was present when the**

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1 cleanup commenced on Saturday, September 10, 2005.

2 On the first day, the cleanup crew consisted of

3 approximately 50-75 individuals, which included --

4 I've gone through all of that -- let's see. Let's

5 go down to 12, where I was.

6 Let me finish with 11, though, first.

7 The second sentence is: We also recruited

8 personnel from the Oklahoma National Guard, members

9 of the Alabama Special Forces and Navy Seabees from

10 Florida, as well as other doctors, medical students

11 and nurses from various parts of New Orleans.

12 Again, the "we" is you and your physician

13 colleagues?

14 A Me, Dr. Van Meter, Dr. DeBlieux, our

15 chief residents. So as we recruited, then they

16 told other people, and so -- but spearheading the

17 cleanup definitely was from -- within the LSU

18 system was me, Dr. DeBlieux and Dr. Van Meter.

19 Q And there was no one from the Health

20 Sciences Center involved in this at the time?

21 A Not initially, no. Or ever, as far as I

22 know.

23 Q Paragraph 12: A total of approximately

24 200 people assisted over the course of the

25 following 2 weeks. On any one day there were on

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1 average 50 to 70 people working on cleanup of

2 Charity Hospital. Their work included pumping

3 water out of the basement, cleaning and

4 decontaminating the first three floors of Charity,

5 removing all biodegradables from the first 14

6 floors of Charity, boarding up windows, and other

7 remediation efforts.

8 So y'all cleaned up more than just the

9 first 13 -- first three floors?

10 A Correct.

11 Q You went up as high as the first 14

12 floors?

13 A We removed stuff. We didn't clean it to

14 the point where, in our opinion, it was patient

15 ready. The first three floors were truly cleaned

16 and decontaminated; 3 up to 14, any kind of

17 biodegradable waste was removed to minimize any

18 further damage to the building.

19 Q Okay.

20 When you use the phrase patient ready,

21 what does that mean?

22 A Where we felt, as physicians and someone

23 who takes care of patients, a facility that I could

24 humanely take care of patients in a good way, offer

25 them the services they need, a bed, a monitor, a

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1 clean environment.

2 Q Okay.

3 Paragraph 13: Additionally, an

4 engineering firm from Germany came to help us at a

5 point within the first 5 days of cleanup. This

6 firm, which had brought 15 massive pumps to

7 downtown New Orleans, brought two of these pumps

8 into Charity and used them to pump water out of the

9 basement.

10 Paragraph 14: It took approximately 10

11 days to pump all of the water out of the basement,

12 while most of the workers, including me, were

13 cleaning and decontaminating the first three

14 floors, removing biodegradables from the first 14

15 floors.

16 What are biodegradables?

17 A Anything such as food; anything that can

18 decompose and just release gases or odors.

19 Q So you took the trash out?

20 A We took all the trash out.

21 Q Okay.

22 I'll continue with that paragraph:

23 Boarding windows and weather proofing of the

24 building in a preliminary way. Specifically, I

25 recollect that the Navy Seabees boarded up every

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1 broken window in the building.

2 Paragraph 15: During this approximate

3 10-day cleanup period, I observed no officials from

4 LSU inside Charity Hospital other than the

5 volunteers helping with the cleanup.

6 So you say 10-day period, so that's

7 September 6th -- I'm sorry -- or is that

8 September 10th? I'm not sure when the 10-day

9 period is.

10 A Yeah. It's actually the 10th -- it's

11 from the 10th on.

12 Q So 10th to the 20th?

13 A (Nods head up and down.)

14 Q What happened, then, from -- okay. Maybe

15 I'll get to this.

16 Paragraph 16: When Hurricane Rita came

17 to New Orleans in mid-September, everyone involved

18 in the cleanup of Charity was evacuated from

19 Charity, with the exception of Dr. Keith Van Meter,

20 Dan Sanders, a volunteer, John Wilson, a technician

21 in the hyperbaric unit of the emergency department,

22 and me.

23 So who's Dan Sanders?

24 A Dan Sanders is the husband of the current

25 residency program director of LSU emergency

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1 medicine.  
 2 (Discussion off the record.)  
 3 **BY MR. CASTILLE:**  
 4 **Q And John Wilson, who is he?**  
 5 A John Wilson is a hyperbaric technician  
 6 who worked in the hyperbaric unit at Charity.  
 7 **Q And then you go on to say: Hurricane**  
 8 **Rita caused little flooding and had negligible**  
 9 **impact on the interior of Charity Hospital. After**  
 10 **Hurricane Rita passed through New Orleans, the**  
 11 **cleanup resumed.**  
 12 Paragraph 17: The cleanup was  
 13 essentially complete by September 21st. I  
 14 observed, at that time, that the first three floors  
 15 were spotless, electrical power had been restored,  
 16 and the air-conditioning was functioning.  
 17 We've already covered all of that in your  
 18 deposition, so I won't ask you again.  
 19 I personally took pictures at some point  
 20 in late September 2005 showing the immaculate state  
 21 of Charity Hospital.  
 22 And those were the pictures that you  
 23 produced today?  
 24 A Yes.  
 25 **Q Paragraph 18: During the entire time I**

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1 and my colleagues were engaged in the cleanup of  
 2 Charity Hospital, we were under contract at LSU to  
 3 work at Charity. It was our workplace; we were not  
 4 trespassing, we had to returned to our place of  
 5 employment to do everything in our power to make it  
 6 ready to resume medical services.  
 7 Paragraph 19: At a point early in  
 8 September when intensive cleanup was going on, I  
 9 was made aware, through conversations with my  
 10 colleagues Dr. James Aiken and Dr. DeBlieux, that  
 11 they had been contacted by Dr. Dwayne Thomas --  
 12 This is what you were referring to  
 13 earlier in your testimony; correct?  
 14 A Yes.  
 15 **Q -- the Chief Executive Officer of Charity**  
 16 **Hospital, and Donald Smithburg, head of LSU's**  
 17 **Health Care Services Division, and had been told by**  
 18 **these two individuals that the emergency room**  
 19 **doctors were to stop cleaning and leave the**  
 20 **hospital.**  
 21 And this, again, is all what you had  
 22 testified before; correct?  
 23 A Yes.  
 24 **Q This is consistent with your earlier**  
 25 **testimony?**

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1 A Yes.  
 2 **Q What did you do to prepare for this**  
 3 **deposition; did you meet with anyone, do anything?**  
 4 A Just my attorney.  
 5 **Q Okay.**  
 6 A We just went over the basic ground rules.  
 7 **Q Okay.**  
 8 **Other than meeting with your attorney,**  
 9 **you didn't meet with anyone else?**  
 10 A No.  
 11 **Q Paragraph 20: In late September 2005,**  
 12 **Dwayne Thomas visited Charity Hospital for the**  
 13 **first time.**  
 14 **How do you know this was the first time?**  
 15 A Because I had not seen him prior to that,  
 16 and no one else had told me they had seen him. He  
 17 could have been there before, but my recollection  
 18 is I didn't see him until the very end, from what I  
 19 recall. And, again, I didn't talk to him and I  
 20 don't recall either Dr. DeBlieux or Dr. Van Meter  
 21 telling me that he was there early in September.  
 22 **Q Okay.**  
 23 **Soon thereafter, I and my colleagues were**  
 24 **instructed by members of the LSU Health Sciences**  
 25 **Center's security force that we were to leave**

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1 **Charity Hospital and not return.**  
 2 **Who with the LSU Health Sciences Center**  
 3 **security force instructed you to leave?**  
 4 A This was done by the -- I wasn't told  
 5 directly, but I was told that -- the chief of  
 6 police, Marshall Pierre, made it clear that that's  
 7 when they boarded up the building and said no one  
 8 was allowed in, especially us.  
 9 **Q Do you know Marshall Pierre?**  
 10 A I knew him since he worked at Charity. A  
 11 really nice guy. And then I met with him, as in my  
 12 affidavit, when I toured the building in 2007.  
 13 **Q Okay.**  
 14 A And we talked, and that's when he told me  
 15 specifically what he was instructed to do in late  
 16 September, which was not allow anyone in; and if we  
 17 tried to come in, he was to arrest us.  
 18 **Q In 2005, you say that he was chief of**  
 19 **security for the LSU Health Sciences Center. How**  
 20 **do you know he was at the LSU Health Sciences**  
 21 **Center?**  
 22 A He wasn't. He was chief of police for  
 23 Charity Hospital, which I don't know if they're  
 24 employees of the Health Care Services Division or  
 25 if they're LSU employees.

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1 **Q So you don't know one way or another**  
 2 **whether he was employed by the Health Sciences**  
 3 **Center or the Health Care Services Division?**  
 4 A Right. He was the Hospital Police,  
 5 which -- yeah. Hospital Police.  
 6 **Q Okay.**  
 7 **Did Dr. Hollier come to the hospital at**  
 8 **any time?**  
 9 A I did not see him.  
 10 **Q Were you ever told that Dr. Hollier**  
 11 **instructed anyone, including Mr. Pierre, to have**  
 12 **you all leave the facility?**  
 13 A No. I'm not aware of any conversations  
 14 Dr. Hollier had, other than with Dr. Van Meter.  
 15 But that was more to be more in support of us  
 16 cleaning up the hospital, maybe. But I don't know  
 17 the specifics.  
 18 **Q Okay.**  
 19 **But you think Dr. Hollier had a**  
 20 **conversation with Dr. Van Meter?**  
 21 A I'm sure he did.  
 22 **Q Okay.**  
 23 A I just don't know the specifics of that.  
 24 **Q Okay.**  
 25 A Again, Dr. Van Meter was the chief of

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1 emergency medicine. So his role -- it's equivalent  
 2 to being a chairman of emergency medicine. So he  
 3 would interact with all -- the Dean, the Dean's  
 4 office, the Chancellor, and all of the leadership  
 5 in Baton Rouge; he was our point person.  
 6 **Q Okay.**  
 7 **(Discussion off the record.)**  
 8 **BY MR. CASTILLE:**  
 9 **Q Paragraph 21: During the period of the**  
 10 **cleanup at Charity was taking place in September of**  
 11 **20005, the chief of security for LSU Health**  
 12 **Sciences Center was Marshall Pierre.**  
 13 **And, again, you don't know whether**  
 14 **Marshall Pierre was chief of LSU Health Sciences**  
 15 **Center or some other LSU entity; correct?**  
 16 A Right. I don't know if he was employed  
 17 by the Health Sciences Center or the Health Care  
 18 Services Division, or if there was even a  
 19 difference. I just know he was Hospital Police.  
 20 **Q Okay.**  
 21 **Chief Pierre told me in a private**  
 22 **conversation -- this is -- I'm reading from your**  
 23 **affidavit -- Chief Pierre told me in a private**  
 24 **conversation we held in August of 2007 that in late**  
 25 **September or early October 2005 he had been**

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1 **instructed by his superiors, specifically Dwayne**  
 2 **Thomas and Donald Smithburg, that if anyone from**  
 3 **emergency medicine came back into Charity, he was**  
 4 **to arrest them.**  
 5 **Now, Dwayne Thomas was CEO of MCLANO;**  
 6 **correct?**  
 7 A Charity Hospital, yes.  
 8 **Q And I could go back to what's the**  
 9 **difference between MCLANO and Charity, but we'll**  
 10 **just say whatever they are, it is your**  
 11 **understanding that he was CEO of, your**  
 12 **understanding is, Charity Hospital?**  
 13 A Yes.  
 14 **Q Okay.**  
 15 **And then Don Smithburg was CEO of the**  
 16 **Health Care Services Division?**  
 17 A Yes.  
 18 **Q That conversation took place on a day in**  
 19 **August 2007, when I participated in a walk through**  
 20 **survey of Charity Hospital.**  
 21 **And that's the conversation that you had**  
 22 **with Marshall Pierre; correct?**  
 23 A Yes. Yes.  
 24 **Q And I guess this is consistent with your**  
 25 **earlier statement that it is at that point in**

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1 **September of 2005, September 30th, is when you**  
 2 **believe that the hospital then closed?**  
 3 A Yes.  
 4 **Q Okay.**  
 5 A Physically closed.  
 6 **Q You make the distinction as opposed to**  
 7 **what?**  
 8 A Well, I don't know if they had already  
 9 decided prior to that to administratively close the  
 10 hospital.  
 11 **Q Okay.**  
 12 A The e-mails or the press release may have  
 13 alluded to that, but physically it appeared that  
 14 they closed the hospital September 30th.  
 15 **Q Let's talk about the administratively**  
 16 **part. You talked about the physical closure, and**  
 17 **you believe the physical closure of the building**  
 18 **took place around September 30th of 2005;**  
 19 **correct?**  
 20 A Correct.  
 21 **Q But the administrative decision to close**  
 22 **the hospital, what do you know about that?**  
 23 A Not much.  
 24 **Q Not much?**  
 25 A Just from what I've seen in the press.

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1       **Q Okay.**

2       A I was not, you know, included in any of

3 those discussions because I wasn't at that level.

4       **Q Okay.**

5       A So all I was made aware of was what was

6 in the press releases.

7       **Q Okay.**

8       **So you know what everyone else knows from**

9 **reading the newspaper --**

10      A Yes.

11      **Q -- and the press releases?**

12      A Yes.

13      **Q Did you participate in any meetings with**

14 **Don Smithburg regarding an administrative decision**

15 **to close the hospital?**

16      A Not in September of 2005.

17      **Q When did -- did you ever participate in a**

18 **meeting with him?**

19      A In January 2006.

20      **Q And tell me what happened then.**

21      A A New York Times article was released

22 where I was quoted, and Dr. DeBlieux was quoted, as

23 well as a few others, about our frustration with

24 not going back into Charity Hospital, and Don

25 Smithburg wasn't really happy with it.

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1                So him and Mike Butler and Mike Kaiser --

2 Mike Kaiser was then, I think, the Assistant Chief

3 Medical Officer for the LSU Health Care Services

4 Division -- anyway, we had a meeting, myself,

5 Dr. Van Meter, Dr. Aiken, Dr. Juliette Saussy,

6 Dr. Leila Dunbar, and we had a meeting with Don

7 Smithburg, who made it clear that we weren't going

8 back into Charity Hospital. It didn't fit with the

9 plan, their future plan.

10              He showed us a big binder, which was

11 his -- essentially the plan for the new vision.

12 And he made it clear that we were to stop anything

13 of the sort to try to go back into Charity

14 Hospital; definitely not publicly. So that was the

15 meeting -- the one meeting I had with Don

16 Smithburg.

17       **Q I want to make sure I understand what**

18 **you're saying. You're saying that he made it clear**

19 **to you and the other physicians not to go back into**

20 **the hospital on January 2007?**

21       A Well, physically we couldn't. But he

22 made it clear that we weren't to speak about going

23 back into Charity Hospital.

24       **Q What do you mean?**

25       A Just like that. I mean, he said you're

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1       not to talk about going back into Charity Hospital.

2 We're moving forward, this is our new plan. He

3 showed us the vision.

4       **Q Okay.**

5       A He says -- and that's where we were even

6 threatened by Dr. Butler, clearly. He said if we

7 continue to push the issue of Charity Hospital,

8 there would be grave consequences to, quote,

9 "biblical proportions". I remember that vividly.

10      **Q Okay.**

11      **What did you take that to mean?**

12      A It was a 2-hour tongue-lashing; it meant

13 they were going to pull our contract and try to

14 make our life miserable. It was a clear threat.

15      **Q Okay.**

16      **What else did they say?**

17      A It went on for 2 hours. I just sat

18 there. It was -- it was -- but that was

19 essentially the gist of it.

20      **Q Do you -- in that meeting did you take**

21 **that as the point in which the administrative**

22 **decision had been made to close the hospital?**

23      **MR. ROSENFELD:**

24              Objection.

25      **THE WITNESS:**

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1       A That's when they made it clear to us --

2 to me, that's when I assume it's clear they have a

3 different plan and, for whatever reason, old

4 Charity is not in that plan.

5      **BY MR. CASTILLE:**

6      **Q Okay. All right.**

7      **Who else was in that meeting?**

8      A In addition to me and -- it was myself,

9 Dr. Keith Van Meter, Dr. Juliette Saussy. I

10 believe Dr. James Aiken was there, but I don't

11 recall; he may not have been there. Dr. Peter

12 DeBlieux and Dr. Leila Dunbar.

13              And from the LSU side it was Don

14 Smithburg, Dr. Mike Kaiser and Dr. Mike Butler.

15      **Q Okay.**

16      **And was this a declaration that it was**

17 **closed because there's a lot made about**

18 **declarations about the closure of the hospital or**

19 **that they, at any point during the meetings, say I,**

20 **Don Smithburg, I, Dr. Michael Butler, have decided**

21 **to close Charity Hospital?**

22      A Don Smithburg didn't say it at that

23 meeting, but he did say it at a future meeting.

24      **Q Okay.**

25      **Tell me about that meeting.**

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1 A That was at a City Council meeting.

2 **Q Okay.**

3 **What happened?**

4 A He was asked by Councilwoman Shelley

5 Midura who closed Charity Hospital, and Don

6 Smithburg said I closed Charity Hospital.

7 **Q Okay.**

8 **Any other LSU officials at that City**

9 **Council meeting?**

10 A I believe he was alone. There was some

11 other people with him, I don't know who, but he was

12 the only one testifying. It was in May of 2007, I

13 believe.

14 **Q Okay. Okay.**

15 **Any other statements about closure at the**

16 **hospital?**

17 A That's the only ones; the main ones that

18 I recall. I mean, everything else is in the press.

19 **Q In that first meeting, tell me, again,**

20 **when it was; January 2007?**

21 A The first week of January 2007. I don't

22 recall the date.

23 **Q And the City Council meeting?**

24 A Second, 3rd, 4th, something like that.

25 And the City Council meeting was in May -- May

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1 2007. I want to say the 17th, but I don't recall

2 the date.

3 **Q What about at this January 2007 meeting;**

4 **was there anyone there from the Health Sciences**

5 **Center? Dr. Hollier?**

6 A No. He wasn't there. Just those three

7 members, and I'm not sure if they had dual roles.

8 **Q Okay.**

9 **What about the City Council meeting on**

10 **May 2007; was anyone there from the Health Sciences**

11 **Center?**

12 A I don't recall.

13 **Q Dr. Hollier?**

14 A I don't remember. He may have been

15 there, but I don't remember.

16 **Q Go down a little further in your**

17 **affidavit, towards the bottom, the last sentence on**

18 **that page.**

19 **During that walk-through, the further**

20 **part of my private conversation with LSU HFC**

21 **Security Chief Pierre, he told me he was going to**

22 **another hospital because of all the lies**

23 **surrounding Charity Hospital post-Katrina.**

24 **You quoted him saying, quote, "because of**

25 **all the lies", close quote. Did he elaborate to**

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1 **you as to what he meant by "all the lies"?**

2 A No. He didn't get into specifics, but

3 everybody sort of knew there was -- the whole

4 issue, why the building was closed when everybody

5 felt it should have been reopened, temporary or

6 permanent. He -- I could just see his frustration,

7 but he didn't get into specifics.

8 **Q Do you feel that it should have been**

9 **reopened in 2005?**

10 **MR. ROSENFELD:**

11 Objection.

12 **MR. SCHAFER:**

13 Which part? The emergency room or

14 the hospital; temporary or permanent?

15 **BY MR. CASTILLE:**

16 **Q Good question.**

17 **The Charity Hospital building, do you**

18 **think that it should have been open in September of**

19 **2005?**

20 A Shortly thereafter, I think it could have

21 been opened in October.

22 **Q The whole building?**

23 A At least the first three floors.

24 **Q Okay.**

25 **What about now, today?**

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1 A Well, we haven't been in the building;

2 it's been shuttered for 2 years, so it would need a

3 little bit of work. But I think within a few weeks

4 we could easily, in my opinion, be back in.

5 **Q And reopen the building?**

6 A Yes.

7 **Q All right.**

8 **To open a building -- let's go back to**

9 **2005, during the cleanup period. Are there any**

10 **governmental standards that you're aware of that**

11 **need to be met to reopen a building after a natural**

12 **disaster?**

13 **MR. ROSENFELD:**

14 Objection.

15 **THE WITNESS:**

16 A I don't know.

17 **BY MR. CASTILLE:**

18 **Q Okay.**

19 **And, again, that's Exhibit A of the**

20 **motion for partial summary judgment.**

21 **What time do you need to be done? I know**

22 **we're working around your schedule.**

23 A 1:45.

24 **Q Turn to Exhibit D.**

25 **MR. SCHAFER:**

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1 Did you say B or D?  
 2 **MR. CASTILLE:**  
 3 D as in dog.  
 4 **THE WITNESS:**  
 5 A (Reviewing document.)  
 6 **BY MR. CASTILLE:**  
 7 **Q To save a little time, in this exhibit**  
 8 **here, Mr. Rosenfeld is asking Dr. Thomas about**  
 9 **legislative approval to close the Charity Hospital**  
 10 **building.**  
 11 **Do you know anything about what's**  
 12 **required from the legislature to close the Charity**  
 13 **Hospital building?**  
 14 **MR. SCHAFER:**  
 15 Objection. But go ahead.  
 16 **THE WITNESS:**  
 17 A Just from what I've read, there's a  
 18 statute -- I forget which one -- but it says that  
 19 the legislature is required to close any Charity,  
 20 ER or hospital.  
 21 **BY MR. CASTILLE:**  
 22 **Q Okay.**  
 23 A They're the only ones that have the  
 24 authority to do that.  
 25 **Q You produced to me some exhibits; and in**

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1 **resolution sufficient, based on your understanding,**  
 2 **for the legislature to authorize the closure of a**  
 3 **hospital emergency room?**  
 4 **MR. SCHAFER:**  
 5 Objection.  
 6 **THE WITNESS:**  
 7 A HCR89 was a resolution that just asked  
 8 for the assessment of the building. It had nothing  
 9 to do with closing or not closing the hospital; it  
 10 was just to authorize an independent assessment.  
 11 Up until that particular resolution was written,  
 12 the only assessment that was made of the building  
 13 was by Adams Consulting.  
 14 **BY MR. CASTILLE:**  
 15 **Q Okay.**  
 16 A We felt that was biased; the legislature  
 17 obviously agreed because they unanimously voted  
 18 that resolution in.  
 19 It was finally carried out and the  
 20 Foundation for Historical Louisiana was an  
 21 independent party that was charged with carrying  
 22 out that mission; they hired the best firm in the  
 23 world, and they carried it out. There were three  
 24 options to their resolution, and they chose to look  
 25 at the whole building rather than just parts of it.

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1 **there, you had two concurrent resolutions. What's**  
 2 **your understanding of those resolutions?**  
 3 A Well --  
 4 **MR. SCHAFER:**  
 5 Let me lodge an objection to that.  
 6 **THE WITNESS:**  
 7 A HCR89 was a resolution that I assisted  
 8 Representative Ken Odinet in helping to write, so  
 9 that we could obtain an independent assessment and  
 10 try to use Charity Hospital, either part or whole,  
 11 in the interim because health care was in such  
 12 shambles.  
 13 **Q Has that assessment been done?**  
 14 A It has been done now.  
 15 **Q Okay.**  
 16 A Just recently it was completed.  
 17 **Q Now, you said that in that statute your**  
 18 **understanding is that the legislature has to**  
 19 **approve the closure of a hospital or emergency**  
 20 **room; right?**  
 21 A That was the statute from 2003.  
 22 **Q Okay.**  
 23 **And you provided the resolutions, so you**  
 24 **have a little bit more knowledge about this process**  
 25 **than the average person would know. Is a**

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1 **Q You said they chose to, who are you**  
 2 **referring to?**  
 3 A The Foundation and the architects and the  
 4 company looking at the building, assessing the  
 5 building.  
 6 **Q Do you know if, in the Foundation's**  
 7 **findings, that they determined that the hospital**  
 8 **was ready to be reopened within the next few weeks**  
 9 **from, let's say, starting now?**  
 10 A I think -- like I said, we had crafted  
 11 that in the spring of 2006.  
 12 **Q Okay.**  
 13 A Because there was such a sense of urgency  
 14 for health care, and there still is. And so if  
 15 carried out initially, as it would have, it would  
 16 have addressed being able to hopefully reopen those  
 17 first three floors; it would have answered that  
 18 question.  
 19 The fact that it didn't get carried out  
 20 for over 2 years is why looking at the first three  
 21 floors wasn't as much of an option now as looking  
 22 at the entire building, is my understanding.  
 23 They opted to stand up University  
 24 Hospital, so -- what they looked at was the whole  
 25 building.

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1 If they would have been able to do this  
 2 in 2006, I'm sure they would have looked at all  
 3 three facets of that particular resolution, which  
 4 was can we use the first three floors, which is  
 5 what we cleaned and decontaminated; can we mobilize  
 6 the operating rooms in ICU for temporary trauma  
 7 center, because there was still no trauma center,  
 8 essentially; and then can we look at the whole  
 9 building to see long term is this a viable option.

10 **Q Under the Foundations proposal, what is**  
 11 **your understanding of the earliest in which Charity**  
 12 **could be reopened as a hospital?**

13 **MR. SCHAFFER:**  
 14 Objection.

15 **THE WITNESS:**  
 16 A Well, they -- the scope in which they  
 17 decided to take of this project was looking at the  
 18 building long term. So because it took so long to  
 19 implement this resolution, that's why I think it  
 20 just -- the focus changed a little bit.

21 **BY MR. CASTILLE:**  
 22 **Q Okay. All right.**  
 23 **I'm trying to think of a quick way to go**  
 24 **through these exhibits with you in light of the**  
 25 **time constraints; and all I did is, obviously, just**

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1 **glance through them. At some point I think I**  
 2 **probably want to take a few minutes and go off the**  
 3 **record and read through them so I can better ask**  
 4 **you questions about them.**

5 **Let me continue with Exhibit D,**  
 6 **Dr. Thomas' deposition. Dr. Thomas -- in here, if**  
 7 **you look at page 65, lines 4 through 7 -- he says:**  
 8 **Where we did that was less a concern to me,**  
 9 **personally, and so I didn't get into those kinds of**  
 10 **discussions because those discussions occurred**  
 11 **above my pay grade.**

12 **Steve is asking him about was he involved**  
 13 **with the decision to get legislative approval or**  
 14 **not to close the hospital, and he says that those**  
 15 **discussions occurred above his pay grade.**

16 **You don't have any information to suggest**  
 17 **that he would have been involved in the**  
 18 **administrative decision to close the hospital**  
 19 **contrary to what he said here?**

20 **MR. SCHAFFER:**  
 21 Objection.

22 **THE WITNESS:**  
 23 A I don't know.

24 **BY MR. CASTILLE:**  
 25 **Q He goes on a little further -- and,**

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1 **again, I'm trying to speed it up a little bit. He**  
 2 **says in 9 through 14: My job was to reestablish**  
 3 **services, take care of patients. I'm a physician**  
 4 **by trade, and so my primary responsibility is how**  
 5 **do we take care of patients, where do we take care**  
 6 **of patients, what do you need to take care of**  
 7 **patients. And that's what I did.**

8 **That's kind of consistent with what you**  
 9 **thought your responsibility was as a physician;**  
 10 **correct?**

11 A (Nods head up and down.)

12 **Q Question: Okay -- line 15.**

13 **Answer: And, so, again, to expand on**  
 14 **that --**

15 **Question: Sorry.**

16 **Answer: -- I don't consider the non-use**  
 17 **of a building closure of the hospital.**

18 **Do you consider non-use of the building**  
 19 **closure of the hospital?**

20 **MR. ROSENFELD:**  
 21 Objection.

22 **THE WITNESS:**  
 23 A Yes.

24 **BY MR. CASTILLE:**  
 25 **Q Okay.**

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1 **So you disagree with Dr. Thomas'**  
 2 **assessment here?**

3 A I do. Yes.

4 **Q Then he goes on to wrap up: So I guess I**  
 5 **had never thought about it -- about it in terms of**  
 6 **going to a legislature and asking their permission**  
 7 **to use a building or not use a building. I think**  
 8 **it's a matter of the services provided and not**  
 9 **necessarily the location.**

10 A That's the problem, though.

11 **Q Okay.**

12 **What's the problem?**

13 **MR. ROSENFELD:**  
 14 There's no question before you.

15 **THE WITNESS:**  
 16 Oh, okay.

17 **BY THE WITNESS:**  
 18 **Q But what's the problem?**

19 A I don't know. It's just -- he's basing  
 20 it on services and there was no services.

21 **Q Okay. I don't understand what you mean**  
 22 **by that.**

23 **MR. ROSENFELD:**  
 24 There's no question before you.

25 **MR. CASTILLE:**

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1 I posed a question. I said what do  
 2 you mean by that.  
 3 **THE WITNESS:**  
 4 A What's the question? What do you want to  
 5 know?  
 6 **BY MR. CASTILLE:**  
 7 **Q You said that there were no services,**  
 8 **that's the problem. And I said, well, what do you**  
 9 **mean by that?**  
 10 A I guess all I'm trying to say is here he  
 11 made it just sound like it's okay that the building  
 12 was closed because we're still supplying the  
 13 services.  
 14 **Q Okay.**  
 15 A And as a practicing physician in the  
 16 community, he was not.  
 17 **Q I'm sorry. The music got in the way. So**  
 18 **I'll ask you again to repeat what you just said.**  
 19 A All I'm saying is in this case, he didn't  
 20 take -- he didn't have a problem with Charity  
 21 Hospital being closed because he assumed that they  
 22 replicated the services in the community.  
 23 **Q Okay.**  
 24 A And that they didn't, not to what they  
 25 had pre-Katrina.

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1 **Q Okay.**  
 2 **Have the services now been restored?**  
 3 A I'm not working at Charity, so I'm not  
 4 sure what the services are; but I can tell you at  
 5 the time, they weren't.  
 6 **Q At what time?**  
 7 A At 2005 and shortly thereafter.  
 8 **Q Okay.**  
 9 A I worked in the tents, and so they  
 10 weren't -- they did not replicate the services.  
 11 The building was closed and there was no services.  
 12 **Q So in September of 2005, the services, as**  
 13 **you understand it, were not adequate; correct?**  
 14 A Correct.  
 15 **Q And they had not been replicated such**  
 16 **that they were equal to or comparable to that of**  
 17 **the services that were provided at Charity Hospital**  
 18 **at the time?**  
 19 A Correct.  
 20 **Q When did you leave Charity?**  
 21 A I resigned in March of 2006 -- either  
 22 February or March.  
 23 **Q What was your understanding of the**  
 24 **conditions or the services as of March of 2006 when**  
 25 **you left; had any of them been restored?**

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1 A We were -- at that time we just moved  
 2 into the Lord & Taylor building, which is more like  
 3 an urgent care.  
 4 **Q Okay.**  
 5 A So we clearly still did not have any  
 6 capability to take care of anybody sick.  
 7 Ambulances with very sick patients had to go to the  
 8 major hospitals.  
 9 So the building was closed, we had tents,  
 10 and we had temporary walls at Lord & Taylor that we  
 11 called Medical Center of Louisiana in New Orleans,  
 12 but the capacity to take care of sick patients  
 13 wasn't there.  
 14 **Q You said ambulances went to other major**  
 15 **hospitals. The other major hospitals, by that**  
 16 **time, had come back on line?**  
 17 A Only Touro. The other ones had never  
 18 closed.  
 19 **Q So all other hospitals were open except**  
 20 **Charity at that time?**  
 21 A In the City? No. All the hospitals were  
 22 still closed except for Touro. Actually, Tulane  
 23 had just opened.  
 24 **Q So if the services had been restored to**  
 25 **match the pre-Katrina levels, would you then not**

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1 **have a problem with what he's saying?**  
 2 **MR. ROSENFELD:**  
 3 Objection.  
 4 **MR. SCHAFER:**  
 5 I'm confused, and I'll make an  
 6 objection to the question.  
 7 **THE WITNESS:**  
 8 Repeat the question.  
 9 **BY MR. CASTILLE:**  
 10 **Q Okay.**  
 11 **You said to me -- and I read the**  
 12 **statement to you, he says: I think it's a matter**  
 13 **of services provided, not necessarily the location.**  
 14 **And you said you have a problem with his statement.**  
 15 **So my question to you is that if the**  
 16 **services had been restored to pre-Katrina levels in**  
 17 **2005 or in 2006, would you still have a problem**  
 18 **with his statement about closure of the building**  
 19 **not being as important as providing the services?**  
 20 A Yeah. I mean, because the building was  
 21 more than just clinical services; it was medical  
 22 education as well, but they didn't replicate the  
 23 services.  
 24 **Q Okay.**  
 25 A So --

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1       **Q** So in terms of your having a problem, if  
 2 the services had been replicated and medical  
 3 education had been provided, let's say, in some  
 4 other building down the road, would you still have  
 5 a problem with Dr. Thomas' statement?  
 6       **MR. SCHAFFER:**  
 7       I'll make an objection.  
 8       **THE WITNESS:**  
 9       A My concern was with what was going on at  
 10 that present time.  
 11 **BY MR. CASTILLE:**  
 12       **Q** But your concern, as you indicated, is  
 13 based on his equating or saying that, again, I  
 14 think it's a matter of services provided and not  
 15 necessarily the location. And I guess I'm trying  
 16 to get an understanding of what you meant when you  
 17 said that.  
 18       A All I'm trying to say is they didn't  
 19 replicate the services. Like I'm saying, the  
 20 building was closed, the services weren't there,  
 21 even though he makes it seem like they were. So  
 22 that's how he justifies keeping the building  
 23 closed; that it's not the building, it's as long as  
 24 we take care of patients. And they weren't able to  
 25 take care of patients as long as that structure was

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1 closed.  
 2       **Q** What if, instead of standing up  
 3 University Hospital, that they stood up Charity and  
 4 kept University closed; would you have considered  
 5 that to be a closure of the hospital?  
 6       **MR. SCHAFFER:**  
 7       Objection.  
 8       **MR. ROSENFELD:**  
 9       Objection.  
 10       **THE WITNESS:**  
 11       A Closure of what hospital?  
 12 **BY MR. CASTILLE:**  
 13       **Q** Closure of University Hospital.  
 14       A I guess. I mean, they're not opening the  
 15 building that was open pre-Katrina.  
 16       **Q** Okay.  
 17       But they kept the building closed, but  
 18 moved all the University services into the Charity  
 19 Hospital building.  
 20       A Not all.  
 21       **Q** Pardon?  
 22       A Not all the services.  
 23       **Q** I'm saying if they had. I'm just  
 24 reversing it. Obviously they closed Charity, that  
 25 building, and they stood up University.

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1       A Right.  
 2       **Q** But if the reverse had been done, if they  
 3 had closed University and reopened Charity, would  
 4 the closure of the University building be  
 5 considered a closure of the hospital?  
 6       **MR. ROSENFELD:**  
 7       Objection.  
 8       **MR. SCHAFFER:**  
 9       Objection. I think we're getting  
 10 into a legal conclusion there.  
 11       **THE WITNESS:**  
 12       A Yeah. You know, if a building is not  
 13 open, then it's closed. You know, legally I can't  
 14 tell you whether administrative, physically -- I  
 15 mean, clearly if a building was open and now  
 16 nobody's in it, then technically --  
 17 **BY MR. CASTILLE:**  
 18       **Q** The building is closed?  
 19       A -- I guess it's closed.  
 20       But legally, I don't -- you know, Dwayne  
 21 Thomas even said at a meeting that I was at, you  
 22 know, it's clear their decision to go into  
 23 University means he could not offer the same  
 24 services that they had when Charity was open. He  
 25 told us that at a meeting. This was way back, I

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1 think, in 2007.  
 2       **Q** Okay.  
 3       A So when he talks about it's not the  
 4 building, it's the services, well, he made it clear  
 5 that because they were in a smaller building,  
 6 services weren't replicated, and he's trying to do  
 7 the best he can.  
 8       **Q** Right.  
 9       **MR. CASTILLE:**  
 10       Let's take break so I can go through  
 11 your documents you produced, and we'll go  
 12 back on record again.  
 13       (Recess taken at 12:37 p.m. Back on  
 14 record at 1:01 p.m.)  
 15       **MR. CASTILLE:**  
 16       Back on the record.  
 17       We have obviously quite a few  
 18 documents that were produced today in  
 19 accordance with the subpoena duces tecum.  
 20 To allow all counsel an opportunity to  
 21 review those documents before proceeding  
 22 with Dr. Moises deposition, we're going to  
 23 conclude the deposition today; and we're  
 24 tentatively agreeing to reschedule the  
 25 deposition for Friday morning, 9:30,

1 provided we reach some agreement with  
 2 regard to the pending hearing that is  
 3 scheduled for that morning. But as it  
 4 relates to today's deposition, we're  
 5 concluded for today.

6 **MR. ROSENFELD:**

7 That's fine.

8 **MR. SCHAFER:**

9 All right.

10 (Testimony was recessed at 1:02 p.m.  
 11 to be resumed on Friday, February 6, 2009  
 12 at 9:30 a.m.)

13 \* \* \*

14  
 15 Rhonda Scalia, Certified Court  
 16 Reporter in and for the State of  
 17 Louisiana, Certificate #25007, officiated  
 18 in reporting the continuation of the  
 19 Deposition of JAMES P. MOISES, M.D.

20 \* \* \*

21  
 22 (The Witness was reminded that he was  
 23 still under oath and Testimony was resumed  
 24 with all Counsel present on Friday,  
 25 February 6, 2009.)

MR. SCHAFER: (On record 2/6/09 at 10:02  
a.m.)

I have one thing before we get started. I mentioned to you that I was withholding two documents and was going to file a motion for protective order. I have dictated the motion memorandum, if you would like to see them, and the memorandum is very good; I can assure you.

**MR. CASTILLE:**

I will say that I am quite confident that it is, and I'm sure that Dr. Rosenfeld would also agree.

**MR. SCHAFER:**

Since you are taking this deposition for all purposes and not just in connection with the motion for summary judgment, I am going to release the two documents to you.

**MR. CASTILLE:**

Thank you.

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1 Let me say a couple of things  
 2 on the record before we get  
 3 started. One is, Dr. Moises, I  
 4 have agreed to take your  
 5 deposition today with some  
 6 reluctance because of time  
 7 constraints. I have a trial this  
 8 afternoon that I advised the Court  
 9 of and all parties, and so I'm  
 10 very limited and very likely that  
 11 I'll get very far with your  
 12 deposition today and conclude it,  
 13 and we'll like to continue it  
 14 another day.  
 15 I will propose, because I know  
 16 that I am not going to finish, I  
 17 will propose that on February 16  
 18 is a date I set is available, if  
 19 you are available, to reserve that  
 20 date to take it.  
 21 **MR. SCHAFFER:**  
 22 It's a Monday. I'm okay.  
 23 **THE WITNESS:**  
 24 I'm okay.  
 25 **MR. CASTILLE:**

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1 What we had said is that we  
 2 would take one of the plaintiffs,  
 3 Ms. Washington's, deposition and  
 4 what I will be willing to do  
 5 because I don't know if Dr. Moises  
 6 has a conflict that afternoon --  
 7 **THE WITNESS:**  
 8 I'm wide open.  
 9 **MR. CASTILLE:**  
 10 So that way what we can do is  
 11 perhaps take both that day, and  
 12 I'm available all that day and we  
 13 can probably get both done on the  
 14 16th.  
 15 **MR. ROSENFELD:**  
 16 Why don't we start in the  
 17 morning with this one.  
 18 **MR. CASTILLE:**  
 19 That would be my preference.  
 20 The only thing I mention, and you  
 21 all can sort that out, is that I  
 22 know that in the afternoon Ms.  
 23 Washington runs into a problem.  
 24 I'll do my best to finish, but  
 25 I'll let you sort that out among

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1 yourselves, but I'm available at  
 2 all times on that day.  
 3 **CONTINUED EXAMINATION BY MR. CASTILLE:**  
 4 **Q. The document I wanted to talk about**  
 5 **next, and I haven't had a chance to go through**  
 6 **them all in detail, but the one that I**  
 7 **labelled as Exhibit #2, we've begun some**  
 8 **discussion about that and you had mentioned**  
 9 **that you had worked with Representative Odinet**  
 10 **in crafting this document; is that correct?**  
 11 A. Yes.  
 12 **Q. Are you working with Representative**  
 13 **Odinet or any other legislators on any other**  
 14 **resolutions at this time?**  
 15 A. I guess I should explain what  
 16 "working" means. I'm not an employee or  
 17 being paid; he just asked for my input on  
 18 crafting some resolution, which means my  
 19 knowledge about what happened in September  
 20 '05 and what could we do to possibly get a  
 21 resolution that may help with the assessment  
 22 of the building. But that was it. It was a  
 23 one-hour discussion in the spring of 2006  
 24 before the session, and that's it.  
 25 So no, I'm not working with him or

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1 anyone else.  
 2 **Q. Did he contact you or did you**  
 3 **contact him?**  
 4 A. I don't recall.  
 5 **Q. What prompted your having the**  
 6 **discussion with Representative Odinet?**  
 7 A. His son was the chief resident of  
 8 emergency medicine at LSU who was involved  
 9 with the cleanup in September. So, clearly,  
 10 he had insight to the issues from his son.  
 11 **Q. What's his son's name?**  
 12 A. Mike Odinet.  
 13 **Q. Was Dr. Odinet involved with the**  
 14 **cleanup effort?**  
 15 A. Yes.  
 16 **Q. Was he there during the time period**  
 17 **at the Charity building when you were there?**  
 18 A. Yes. In September of 2005.  
 19 **Q. Do you know how often he worked**  
 20 **with the cleanup?**  
 21 A. I don't.  
 22 **Q. How often did you see Dr. Odinet?**  
 23 A. Whenever I was there, I would see  
 24 him there so he was there pretty frequently.  
 25 **Q. You said he was the chief resident**

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1 of emergency medicine?  
 2 A. He was in 2005, yes.  
 3 **Q. It was Dr. Odinet that suggested**  
 4 **that you speak with his father the**  
 5 **representative?**  
 6 A. Again, I don't recall how the  
 7 introduction came about.  
 8 **Q. And you said it was a one-hour**  
 9 **meeting?**  
 10 A. About one hour.  
 11 **Q. Did you provide Representative**  
 12 **Odinet with any documents?**  
 13 A. No.  
 14 **Q. Tell me what was discussed in that**  
 15 **one-hour conversation?**  
 16 A. Just what could he do to help with  
 17 hopefully restoring healthcare with Charity  
 18 as a player.  
 19 **Q. You said -- and I want to make sure**  
 20 **I understood your comment. He said he wanted**  
 21 **to know what he could do to help with**  
 22 **restoring healthcare. Was it healthcare**  
 23 **specifically with Charity or just restoring**  
 24 **healthcare to the City of New Orleans?**  
 25 A. That, I don't know. He knew that

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1 we worked at Charity Hospital. His son was  
 2 the chief resident there, and we were trying  
 3 to use Charity Hospital to address the  
 4 healthcare issues at that time. And the only  
 5 assessments that were out about Charity  
 6 Hospital was those assessments released by  
 7 LSU. So we had just asked for another  
 8 assessment of the building to see, that was  
 9 in our opinion, unbiased, someone that wasn't  
 10 under contract by LSU to look at the building  
 11 to decide if the first three floors could be  
 12 used, if the trauma center's operating room  
 13 and ICU could be used, and while they're  
 14 there to look at the entire building to see  
 15 if there was any long-term use to be  
 16 renovated as a healthcare facility. And  
 17 that's essentially the gist of what HR89 is?  
 18 **Q. Did Representative Odinet say to**  
 19 **you that he wanted to order LSU to reopen**  
 20 **Charity Hospital at that time?**  
 21 A. He didn't use the words "order."  
 22 **Q. Did he use anything to that affect?**  
 23 A. No, I don't believe so. I don't  
 24 recall. But as the way the resolution is  
 25 written, you can see it brings them in as a

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1 player, so he asked.  
 2 **Q. Brings who in as a player?**  
 3 A. LSU.  
 4 **Q. You say brings them in as a player;**  
 5 **during your conversation with Representative**  
 6 **Odinet, did you suggest to him or he suggest**  
 7 **to you that LSU is not the only player?**  
 8 A. I don't recall. We knew the two  
 9 players was, LSU which managed the building;  
 10 they oversaw Charity Hospital, and I don't  
 11 recall whether, through his due diligence,  
 12 whether he wanted to involve facilities in  
 13 planning or anyone else.  
 14 **Q. You mentioned who the players were.**  
 15 **On Page 3 of the resolution refers to the**  
 16 **office of facility planning and control in the**  
 17 **state division of administration, and that's**  
 18 **who you were referring to earlier when you say**  
 19 **facility planning?**  
 20 A. Correct.  
 21 **Q. So he envisioned the office of**  
 22 **facility planning as a player, to use your**  
 23 **word?**  
 24 **MR. SCHAFER:**  
 25 Objection.

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1 A. Again, I offered to him what I  
 2 thought should be looked at at the building  
 3 to try to restore the healthcare services.  
 4 **Q. In that building?**  
 5 A. In that building.  
 6 **Q. Were you showing concern about**  
 7 **restoring healthcare in general or just**  
 8 **restoring it in that building?**  
 9 A. There was specific needs that the  
 10 city needed from that time, from Katrina up  
 11 until the time we drafted that, and mental  
 12 health was one; emergency services was  
 13 another and trauma services. So my role in  
 14 this was to give him the information he  
 15 needed so that he could try to find a way to  
 16 meet those needs.  
 17 **Q. You still practice medicine in New**  
 18 **Orleans?**  
 19 A. Yes.  
 20 **Q. What is your understanding of the**  
 21 **mental health and trauma services and other**  
 22 **services that were previously provided in the**  
 23 **Charity building? Do you know whether those**  
 24 **have been restored in any way here in New**  
 25 **Orleans through the LSU system?**

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1 A. I'm not sure what their capacity is  
 2 now because I'm no longer working in the LSU  
 3 system, not clinically, if matches what they  
 4 had pre-Katrina.  
 5 **Q. When did you stop working in the**  
 6 **LSU system?**  
 7 A. I believe March 2006 is when I  
 8 resigned, gave my notice of resignation.  
 9 **Q. You really don't know what mental**  
 10 **health services are being provided through the**  
 11 **LSU system on a Charity basis?**  
 12 A. Not right now, not specifically.  
 13 **Q. What about trauma?**  
 14 A. I know from what I've read in the  
 15 newspaper that they restored their trauma  
 16 unit which is now just recently become Level  
 17 1 trauma right now in the last couple of  
 18 months, Level 1 status.  
 19 **Q. What other services were offline**  
 20 **that were previously provided in Charity in**  
 21 **March of 2006 when you resigned as you recall?**  
 22 A. That was offline?  
 23 **Q. Offline.**  
 24 A. The crisis intervention unit was  
 25 closed, the entire third floor -- the first

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1 three floors of Charity Hospital, the third  
 2 floor was mental health, which included about  
 3 ninety in-patient beds, mental health beds;  
 4 and approximately fifty crisis intervention  
 5 unit beds, CIU beds; the second floor was all  
 6 of the specialty clinics, which my  
 7 understanding pre-Katrina saw about 375,000  
 8 visits a year, and then the first floor was  
 9 emergency services.  
 10 **Q. Those services were offline as of**  
 11 **March 2006?**  
 12 A. Yes.  
 13 **Q. Any other services that you were**  
 14 **aware of that were offline that were**  
 15 **previously provided in Charity prior to the**  
 16 **hurricane as of March 2006?**  
 17 A. I mean, the hospital was closed.  
 18 So whatever services that were being  
 19 performed in Charity Hospital pre-Katrina,  
 20 there was no building, as far as I know, no  
 21 other services being offered at that time in  
 22 the spring of 2006.  
 23 **Q. I don't know what you know about**  
 24 **this, but do you know whether those services**  
 25 **were redirected to other locations?**

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1 A. That's what was reported, that  
 2 those services were sent out to the other  
 3 Charity Hospitals in the system. The problem  
 4 was those services were not in the city.  
 5 **Q. But you don't know if those**  
 6 **services that you've identified have since**  
 7 **been restored to the city even though they may**  
 8 **not be restored to the building?**  
 9 A. I don't know to what capacity.  
 10 **Q. When Dr. Thomas testified and gave**  
 11 **a deposition like you're giving now, he**  
 12 **testified that all services that were**  
 13 **previously provided in the Charity building**  
 14 **pre-Katrina have been restored, with the**  
 15 **exception of maybe one. Would that be**  
 16 **surprising to you?**  
 17 **MR. SCHAFFER:**  
 18 As of what date?  
 19 **MR. CASTILLE:**  
 20 As of the date of his  
 21 deposition.  
 22 **MR. SCHAFFER:**  
 23 Do you have that date?  
 24 **MR. CASTILLE:**  
 25 August 19, 2008.

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1 **MR. SCHAFFER:**  
 2 I'm going to object to the  
 3 question.  
 4 **MR. CASTILLE:**  
 5 That's an approximate date.  
 6 **THE WITNESS:**  
 7 Repeat the question, please.  
 8 **MR. CASTILLE:**  
 9 Can you read back the question,  
 10 please?  
 11 (At this time, the court reporter  
 12 read back the requested portion of the  
 13 transcript.)  
 14 A. Again, I don't work in the LSU  
 15 system for the healthcare services division  
 16 so I'm not sure what the clinical capacity is  
 17 now and whether they fully restored all the  
 18 services that they had pre-Katrina, meaning  
 19 access, availability, expertise, I don't  
 20 know.  
 21 **BY MR. CASTILLE:**  
 22 **Q. When I took your deposition earlier**  
 23 **during the week, you mentioned that you**  
 24 **provided some background information to Mr.**  
 25 **Rosenfeld to assist with the preparation of**

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<p>1 <b>the petition. Do you remember that</b></p> <p>2 <b>discussion?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. Do you know what the two legal</b></p> <p>5 <b>claims are in the lawsuit?</b></p> <p>6 A. Not specifically. I know the</p> <p>7 lawsuit is about the closure of Charity</p> <p>8 Hospital.</p> <p>9 <b>Q. Do you know that it's also about</b></p> <p>10 <b>the reduction in services in healthcare in New</b></p> <p>11 <b>Orleans through the Charity Hospital system?</b></p> <p>12 A. Vaguely I'm aware of that.</p> <p>13 <b>Q. Have you read the petition?</b></p> <p>14 A. I have not.</p> <p>15 <b>Q. Did Representative Odinet, in your</b></p> <p>16 <b>one-hour discussion with him back in the</b></p> <p>17 <b>spring of 2006, did he say that he wanted a</b></p> <p>18 <b>resolution that would order LSU to reopen</b></p> <p>19 <b>Charity Hospital?</b></p> <p>20 A. He did not tell me that, and</p> <p>21 clearly from the resolution, there's not that</p> <p>22 strong of language in there; it's a request.</p> <p>23 <b>Q. What do you mean?</b></p> <p>24 A. I don't have the resolution in</p> <p>25 front of me but from what I remember, it</p>	<p>1 of the access in capacity within the LSU</p> <p>2 system in New Orleans at this time. I don't</p> <p>3 know the details of it. I know that they</p> <p>4 recently achieved Level 1 status of their</p> <p>5 trauma center, and I know they've opened</p> <p>6 University Hospital; but I don't know about</p> <p>7 access to clinics. I don't know about access</p> <p>8 to specialty care. When we wrote that</p> <p>9 resolution -- I'm sorry, when Representative</p> <p>10 Odinet drafted that resolution, those</p> <p>11 services were not available in the city.</p> <p>12 <b>Q. So when you were saying at that</b></p> <p>13 <b>time, you were putting it in the context of</b></p> <p>14 <b>what services weren't available at the time</b></p> <p>15 <b>what the needs of the city was at the time, as</b></p> <p>16 <b>opposed to things have changed now and I'm not</b></p> <p>17 <b>speaking to whatever the conditions are now;</b></p> <p>18 <b>correct?</b></p> <p>19 A. I don't know what the conditions</p> <p>20 are now at University. Like I said, I'm not</p> <p>21 a clinician there. So I don't know, for</p> <p>22 example, does someone have access to a GI</p> <p>23 doctor or neurologist or a cancer doctor; I</p> <p>24 don't know. Pre-Katrina they had access on</p> <p>25 the second floor.</p>
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<p>1 specifically asked for an independent</p> <p>2 assessment with the Foundation for Historical</p> <p>3 Louisiana essentially organizing that</p> <p>4 assessment and then working with facilities</p> <p>5 in planning LSU and the LRA to see if there's</p> <p>6 a way to stand up or restore services at</p> <p>7 Charity Hospital to meet the demands in the</p> <p>8 community at that time.</p> <p>9 <b>Q. You said this a couple of times "at</b></p> <p>10 <b>that time." Has the situation changed? I</b></p> <p>11 <b>know this is regular session 2006 and we're</b></p> <p>12 <b>now in 2009. When you say at that time, are</b></p> <p>13 <b>you suggesting that the conditions, under</b></p> <p>14 <b>which this resolution was prepared, have</b></p> <p>15 <b>changed in some way?</b></p> <p>16 <b>BY MR. SCHAFFER:</b></p> <p>17 Let me enter an objection.</p> <p>18 Do you understand the question?</p> <p>19 A. You want to know if the services</p> <p>20 available now are different from the services</p> <p>21 that are available at the time the resolution</p> <p>22 was written?</p> <p>23 <b>BY MR. CASTILLE:</b></p> <p>24 <b>Q. Let's start there, yes.</b></p> <p>25 A. Again, I don't know the specifics</p>	<p>1 <b>Q. There are four plaintiffs in this</b></p> <p>2 <b>lawsuit. Do you know Melvin LeBlanc?</b></p> <p>3 A. I do not.</p> <p>4 <b>Q. Have you ever treated Melvin</b></p> <p>5 <b>LeBlanc?</b></p> <p>6 A. I may have. I mean, I worked at</p> <p>7 Charity for ten years, and if he was a</p> <p>8 Charity patient -- I took care of thousands</p> <p>9 of patients, so I don't know specifically if</p> <p>10 I took care of him.</p> <p>11 <b>Q. Do you know if Melvin LeBlanc was</b></p> <p>12 <b>ever denied access to Charity care in New</b></p> <p>13 <b>Orleans after Hurricane Katrina?</b></p> <p>14 A. I don't know.</p> <p>15 <b>Q. I suspect you'll say the same thing</b></p> <p>16 <b>with respect to the others, but I'll ask</b></p> <p>17 <b>anyway just to get clarification.</b></p> <p>18 <b>Do you know Lucille Moore?</b></p> <p>19 A. No.</p> <p>20 <b>Q. You wouldn't know whether she has</b></p> <p>21 <b>been denied access to healthcare in the</b></p> <p>22 <b>Charity system since August 29, 2005?</b></p> <p>23 A. I wouldn't know.</p> <p>24 <b>Q. And the same would be true then for</b></p> <p>25 <b>Delilah Hall?</b></p>

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1 A. I don't know her.  
 2 **Q. And the same thing would be true**  
 3 **for Betty Washington?**  
 4 A. I don't know her.  
 5 **Q. Do you know anyone that's been**  
 6 **denied healthcare through the LSU Charity**  
 7 **system since the closure of Charity Hospital**  
 8 **since August 29, 2005?**  
 9 **BY MR. Schafer:**  
 10 **Objection.**  
 11 A. I don't know of anybody specific by  
 12 name, but having worked as a physician at  
 13 Tulane Hospital, there's been numerous cases  
 14 of patients that I took care of in the  
 15 emergency department. Again, I don't know  
 16 their names or what dates that I saw them who  
 17 were refused specialty care or specialty  
 18 treatment at University Hospital.  
 19 **Q. And you've met some of those**  
 20 **patients?**  
 21 A. Many.  
 22 **Q. Would you have any way of**  
 23 **documenting or if you had to go back and**  
 24 **figure out who those patients were?**  
 25 A. There's just no way.

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1 **Q. You know that they were denied care**  
 2 **how?**  
 3 A. They told me. For instance,  
 4 fractures, the policy of University Hospital  
 5 when they reopened -- I don't remember the  
 6 date -- was anybody who had sustained a  
 7 broken bone at an outlying hospital in the  
 8 metropolitan area but wanted to seek repair  
 9 that may have required surgery at University,  
 10 they were refused and sent back to those  
 11 private facilities.  
 12 **Q. They were refused as in you can't**  
 13 **have something done at the University; you**  
 14 **have to go to the outlying facility?**  
 15 A. They wouldn't let them in the  
 16 clinic to even be seen by the specialist.  
 17 That was the policy from Dr. Thomas.  
 18 **Q. Which clinic?**  
 19 A. Orthopedics clinic is what I'm  
 20 aware of.  
 21 **Q. Where is the orthopedic clinic?**  
 22 A. I have no idea.  
 23 **Q. So when you say clinics and**  
 24 **outlying areas, do you know where those**  
 25 **clinics are?**

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1 A. You misunderstood. If someone  
 2 went, for instance, to East Jefferson  
 3 Hospital and had a broken bone that required  
 4 surgery or just orthopedic care, of which  
 5 most broken bones don't require emergency  
 6 treatment, a lot of times they're sent as an  
 7 outpatient; their option is to see a private  
 8 orthopedist in the clinic, and if they don't  
 9 have any funding, then referred to the public  
 10 hospital system usually is the case, and  
 11 that's the way it was pre-Katrina.  
 12 Post-Katrina, when they reopened  
 13 and they had these clinics because this is  
 14 from what I was told at a meeting when  
 15 Dr. Thomas was there, because of unlimited  
 16 resources, those patients were denied access  
 17 and sent back to the private hospitals for  
 18 definitive care.  
 19 **Q. When was this meeting?**  
 20 A. This is a meeting when they just  
 21 opened University a few weeks after and they  
 22 invited medical directors and nursing  
 23 directors and administrators and CEOs from  
 24 all of the hospitals in the metropolitan  
 25 area.

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1 **Q. Do you know what year that was?**  
 2 **BY MR. SCHAFFER:**  
 3 Let's let him finish his  
 4 answer.  
 5 A. It was shortly after they reopened  
 6 University, which I believe is in 2007 or  
 7 2006; I don't recall. But it was shortly  
 8 after they reopened University and Dr. Thomas  
 9 and Dr. Fontenot invited directors and  
 10 executives from all of the private hospitals,  
 11 and since I was the director of Tulane  
 12 University emergency department, that's why I  
 13 was there, and I was present with the chief  
 14 nursing officer from Tulane. And that's when  
 15 we asked specific questions and that's when  
 16 he said they didn't have the resources or the  
 17 space, and so they couldn't handle those  
 18 patients; and so they were being referred  
 19 back to the hospitals that offered them their  
 20 initial care.  
 21 **Q. This meeting was different from the**  
 22 **meeting that you had spoke about in our**  
 23 **earlier part of your deposition on Tuesday of**  
 24 **whether there was a meeting with Dr. Butler**  
 25 **and Dr. Smithberg?**

1 A. Correct. That was a completely  
2 different meeting.

3 **Q. What else was discussed in that**  
4 **meeting?**

5 A. It was about an hour meeting.  
6 There was at least 50 to 75 people there,  
7 mostly people from the University but people  
8 from all of the other hospitals they  
9 represented. They just talked about what  
10 their services were, what they could offer.

11 **Q. So there were representatives from**  
12 **all of the area hospitals?**

13 A. They were all invited. I don't  
14 remember who may have been there. And I  
15 don't know if every hospital sent a  
16 representative.

17 **MR. CASTILLE:**

18 It's 20 minutes to eleven.  
19 Again, I apologize, but I've got a  
20 trial that starts this afternoon  
21 and I have to get back.

22 I want to conclude here, and I  
23 again am prepared to start as  
24 early as you would like to to  
25 accommodate your schedule.

1 **THE WITNESS:**

2 Whatever works with you guys.

3 **MR. SCHAFER:**

4 I'm an early riser. You have  
5 to drive in from Baton Rouge.

6 **MR. CASTILLE:**

7 Let's say nine o'clock.

8 **MR. ROSENFELD:**

9 Sure. On the 16th?

10 **MR. CASTILLE:**

11 In the 16th.

12 \* \* \* \*

13 (Testimony was recessed at 10:37 a.m. to  
14 be resumed on Monday, February 16, 2009 at  
15 9:30 a.m.)

16 Lori Cobb, Certified Court Reporter in  
17 and for the State of Louisiana, Certificate  
18 #87248, officiated in reporting the  
19 continuation of the Deposition of James P.  
20 Moises, M.D.

21 (The Witness was reminded that he was  
22 still under oath and Testimony was resumed  
23 with all Counsel present on Monday, February  
24 16, 2009)

## CONTINUED EXAMINATION

BY MR. CASTILLE: (On record 2/16/09 9:30 a.m.)

Q All right. Dr. Moises, we're back continuing your deposition again today. It's February 16, 2009.

You provided us with a number of exhibits the first time that we met. One of them was a CD or DVD of some video footage. I want to go through that quickly, and do that first because I wanted to first verify the length of the video.

A Okay.

MR. CASTILLE:

And I have it here on my laptop and, to the extent that anyone else wants to look at it.

It's not very long, as I understand it, at least the copy that I have, so I'm going to back it up a little bit and --

(Discussion off the record. Start playing video footage.)

BY MR. CASTILLE:

Q I'm playing the video now, and you'll see at the bottom of the little screen it counts off the number of seconds, which indicates how long the video is. I'm going to pause it for just a moment.

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1 **Now, I presume that's video footage that**  
 2 **you took of the Charity Hospital building on some**  
 3 **day in 2005. Do you --**  
 4 A I did not shoot this video. Dr. Shawn  
 5 Carpenter did.  
 6 **Q Who is Dr. Shawn Carpenter?**  
 7 A He's a former LSU emergency medicine  
 8 resident who was part of the cleanup crew, and he  
 9 shot this video.  
 10 **Q How did you end up with a copy of the**  
 11 **footage?**  
 12 A We spoke, and he gave me a copy of the  
 13 video.  
 14 **Q Okay. All right.**  
 15 **Do you know what prompted him to shoot**  
 16 **the footage?**  
 17 A Just to document like we were; taking  
 18 pictures of the cleanup efforts.  
 19 **Q When was it exactly; do you remember?**  
 20 A In September of 2005. I don't remember  
 21 the exact date.  
 22 **Q Okay. (Continuing to play video**  
 23 **footage.)**  
 24 **I saw someone dressed in military attire.**  
 25 **I presume, at that time, that's when certain**

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1 **persons from the military were there at the time?**  
 2 A Yes.  
 3 **Q Who all was there; do you recall?**  
 4 A I don't know them by names.  
 5 **Q Not persons, but what branch of the**  
 6 **military?**  
 7 A The 82nd Airborne, Oklahoma National  
 8 Guard, I believe National Guard from Alabama,  
 9 probably Louisiana, as well. I wouldn't know  
 10 beyond that.  
 11 **Q We'll continue the footage, and it**  
 12 **appears that the person who is videotaping is going**  
 13 **down the hallway. What area of the hospital --**  
 14 A This is the accident room, which is our  
 15 trauma room.  
 16 **Q Okay.**  
 17 A Trauma area.  
 18 **Q What floor is that?**  
 19 A This is the first floor of the emergency  
 20 department.  
 21 **Q And this area here?**  
 22 A We call that Room 4, which is our trauma  
 23 resuscitation.  
 24 **Q I see a sign with Charity Hospital**  
 25 **Level 1.**

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1 **MR. ROSENFELD:**  
 2 Let's just show that it's at about 1  
 3 minute, 7 seconds now.  
 4 **MR. CASTILLE:**  
 5 Okay. Good point. Thank you.  
 6 **BY MR. CASTILLE:**  
 7 **Q Is this all still the first floor?**  
 8 A Yes, that's the waiting room of the  
 9 emergency department.  
 10 **Q And that's the area with the chairs with**  
 11 **1 minute about 19 seconds.**  
 12 A This is the major emergency room, which  
 13 is the medical section of the emergency room.  
 14 **Q That was about 1 minute 28 seconds.**  
 15 **I see you now pictured in this particular**  
 16 **scene?**  
 17 A (Nods head up and down.)  
 18 **Q Who are these folks that you're talking**  
 19 **to?**  
 20 A The guy on the right is Dr. Keith Van  
 21 Meter, and I don't know who the guy on the left  
 22 was.  
 23 **Q That was at about 1 minute 46 seconds.**  
 24 **Okay. And the video footage stopped at**  
 25 **about 2 minutes, 2-and-a-half minutes or so. Is**

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1 **that the end of the footage as you understand it?**  
 2 A Yes. That's all I had.  
 3 **Q All right.**  
 4 **Well, that covers that exhibit, and**  
 5 **that's Exhibit Number 17 (sic). I just wanted to**  
 6 **confirm the length of it, and those questions that**  
 7 **I asked.**  
 8 **This other thing -- since we're doing the**  
 9 **audio visual now, we can probably do this quickly**  
 10 **as well. The photographs that you produced are**  
 11 **attached and labeled Exhibit I n Globo #16, Moises.**  
 12 **I'll hand you another copy of those photographs.**  
 13 **The copy I've handed to you is a**  
 14 **black-and-white copy. The first page has new**  
 15 **metallic paper along with the first picture, and I**  
 16 **just want you to walk me through --**  
 17 **MR. ROSENFELD:**  
 18 Off the record for a second.  
 19 (Discussion off the record.)  
 20 **BY MR. CASTILLE:**  
 21 **Q All right. We're back on the record. I**  
 22 **think we're all ready to proceed now. I just**  
 23 **wanted to walk through the photographs. I covered**  
 24 **the first page.**  
 25 **Dr. Moises, could you tell us when**

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1 **these -- let's start off with the first photograph.**  
 2 **Do you know when this first photograph was taken?**  
 3 A In September, 2005. I couldn't tell you  
 4 the exact date.  
 5 **Q Okay.**  
 6 **And if you flip over to the next page, in**  
 7 **that In Globo Exhibit Number #16, there are two**  
 8 **pictures on that page. The one at the top appears**  
 9 **to have -- I think that's exam rooms with a scale**  
 10 **in the middle of the picture; is that right?**  
 11 A Yes.  
 12 **Q What floor is this?**  
 13 A That appears to be the 3rd floor, the  
 14 psychiatric floor.  
 15 **Q And, again, in about September of 2005,**  
 16 **you think this picture was taken?**  
 17 A Correct.  
 18 **Q And those -- the picture below, there's a**  
 19 **marking at the bottom right-hand corner. It says**  
 20 **February 9, 2006. Do you know if that's an**  
 21 **accurate date?**  
 22 A Yes.  
 23 **Q This was February 9, 2006 that this**  
 24 **picture was taken?**  
 25 A Yes.

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1 **Q What room is this?**  
 2 A That looks to be the laboratories on the  
 3 eleventh floor.  
 4 **Q And you took this photograph?**  
 5 A I don't recall. Actually, no.  
 6 February 9th, I wasn't in the building anymore,  
 7 so this picture most likely came from Dr. Van  
 8 Meter.  
 9 **Q Do you know why Dr. Van Meter gave you a**  
 10 **copy of this picture?**  
 11 A We had pictures back at that time -- we  
 12 kind of pooled all of the pictures that we had of  
 13 the building together.  
 14 **Q What was the reason for that?**  
 15 A We were just trying to find a way to  
 16 kick-start health care in the City at that time,  
 17 and so we felt reopening Charity was a viable  
 18 option.  
 19 **Q That was approximately 2 years ago. Do**  
 20 **you still think that's a viable option today?**  
 21 A In my opinion, yes.  
 22 **Q Do you know if the condition of this**  
 23 **laboratory on the 11th floor had changed any since**  
 24 **you were last in the building back in 2005, by the**  
 25 **time this picture was taken in February of 2006, if**

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1 **you know?**  
 2 **MR. SCHAFER:**  
 3 Could we first establish that the  
 4 picture depicts the condition when he was  
 5 last on this floor?  
 6 **BY MR. CASTILLE:**  
 7 **Q Does it depict the condition of the**  
 8 **laboratory when you were last on the floor?**  
 9 A Yes.  
 10 **Q All right. And we'll flip over to the**  
 11 **next page, and I'll go ahead and number these**  
 12 **pages. The first one, page 1 of the In Globo**  
 13 **Exhibit; then page 2, and now we'll be on page 3.**  
 14 **And on page 3 there's a picture with a**  
 15 **banner Center for Excellence in Infectious**  
 16 **Diseases. Do you know when this picture was taken?**  
 17 A Either in September or in February.  
 18 **Q Do you know if you took the picture or**  
 19 **Dr. Van Meter?**  
 20 A I don't recall.  
 21 **Q And this is also -- what floor is that?**  
 22 A I don't remember. Probably the  
 23 9th floor, but I don't remember.  
 24 **Q And the picture below, what is that a**  
 25 **picture of, if you know?**

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1 A A renovated room on the 5th floor.  
 2 **Q Taken February -- it appears to be**  
 3 **February 9, 2006?**  
 4 A Correct.  
 5 (Discussion off the record.)  
 6 **BY MR. CASTILLE:**  
 7 **Q Now, page 4, which I've numbered. The**  
 8 **picture at the top, what is that a picture of?**  
 9 A That's a picture of our SPECT scanner.  
 10 **Q What floor?**  
 11 A I believe it's on the first floor.  
 12 **Q Do you know when it was taken?**  
 13 A I do not. Either September or February.  
 14 **Q Do you know if you took it or**  
 15 **Dr. Van Meter?**  
 16 A Dr. Van Meter most likely took that one.  
 17 **Q And the next picture below it on page 4?**  
 18 A Hyperbaric unit -- hyperbaric chamber in  
 19 the hyperbaric unit.  
 20 **Q Again, February, September?**  
 21 A Correct. Either or.  
 22 **Q And this would have been Dr. Van Meter or**  
 23 **you?**  
 24 A I don't recall. Either one of us.  
 25 **Q And the next page, page 5, there's a**

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1 notation in the top left-hand corner, February 9,  
 2 2006.  
 3 Would this have been you or Dr. Van  
 4 Meter?  
 5 A Dr. Van Meter.  
 6 Q And do you know what floor this is?  
 7 A Probably floor number 5.  
 8 Q And then the picture below it, it's also  
 9 dated February 9, 2006. It appears to have a room  
 10 number on it, 514.  
 11 What floor is this?  
 12 A Probably the 5th floor.  
 13 Q Also taken by Dr. Van Meter, you think?  
 14 A Correct.  
 15 MR. SCHAFFER:  
 16 Just for the record, it appears to be  
 17 a duplicate of the photograph on page 3.  
 18 MR. CASTILLE:  
 19 Okay. Thank you.  
 20 BY MR. CASTILLE:  
 21 Q And when we flip over to page 6, it  
 22 appears that those two photos may be duplicates  
 23 also.  
 24 A The top is.  
 25 Q The top is. You're right.

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1 The second one at the bottom is a picture  
 2 of what?  
 3 A The major emergency room.  
 4 Q Okay.  
 5 Did you take this picture?  
 6 A Either myself or Dr. Van Meter, but most  
 7 likely me.  
 8 Q Okay.  
 9 And at the bottom it says September 21,  
 10 2005. That would have been the date that the  
 11 picture was taken?  
 12 A Yes.  
 13 Q On page 7, the picture has at the top a  
 14 notation of September 21, presumably 2005. Part of  
 15 the numbering is cut off.  
 16 Would you have taken this picture?  
 17 A Most likely, yes.  
 18 Q And this is a picture of what?  
 19 A Our trauma room, or the official name was  
 20 the accident room.  
 21 Q And the picture below that was taken  
 22 when?  
 23 A Either September or February.  
 24 Q Do you know if you took this picture?  
 25 A I don't recall.

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1 Q And this is a picture of what?  
 2 A Either the 5th or the 9th floor, it  
 3 appears.  
 4 Q All right. The next page will be page 8.  
 5 Now, the top picture is a picture of what?  
 6 A It appears to be the intensive care unit.  
 7 Q Do you know when it was taken?  
 8 A I do not.  
 9 Q Do you know who took the picture?  
 10 A I don't recall.  
 11 Q And the picture below is a picture of  
 12 what?  
 13 A It appears to be one of the operating  
 14 rooms.  
 15 Q Do you know if you took the picture?  
 16 A I don't recall.  
 17 Q Do you know when?  
 18 A I don't know.  
 19 Q Flip over to the next page, which I'm  
 20 marking as page 9, and the picture at the top is a  
 21 picture of what?  
 22 A Auditorium on the 2nd floor.  
 23 Q Do you know when it was taken?  
 24 A No. Probably September, 2005.  
 25 Q Would you have taken this picture?

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1 A I don't recall.  
 2 Q What about the picture below?  
 3 A A picture of the basement.  
 4 Q I note that there's a date at the bottom,  
 5 May 2, 10:47.  
 6 Do you know if you took this picture?  
 7 A I did not.  
 8 Q Do you know who took it?  
 9 A I don't know.  
 10 Q Do you know who gave you this picture?  
 11 A It was in my collection. It most likely  
 12 came from Dr. Van Meter.  
 13 Q Did you get any pictures from anyone  
 14 other than Dr. Van Meter?  
 15 A Jason Howard.  
 16 Q Jason Howard was the officer --  
 17 A The military special operations officer  
 18 who helped us clean up, but this picture definitely  
 19 would not have been from him because he was not at  
 20 the facility May 2nd.  
 21 MR. ROSENFELD:  
 22 I just want the record to reflect  
 23 that is shows 05.02, which could be  
 24 May 2nd or February 5th, depending on  
 25 how you --

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1       **THE WITNESS:**  
 2       Oh, yeah.  
 3       **MR. ROSENFELD:**  
 4       -- on how it's chronicled; and if the  
 5       person has the camera dated and timed  
 6       correctly. Mine never is.  
 7       **MR. CASTILLE:**  
 8       And that would be a correct  
 9       assumption or point to point out; that is,  
 10      we assume all of these dates are correct  
 11      and to the extent that we can verify that  
 12      through Dr. Moises, we'll try.  
 13      **BY MR. CASTILLE:**  
 14      **Q Flip over to the next page. What is**  
 15      **this? What's in this picture here?**  
 16      A The top picture is a picture taken in the  
 17      spring of 2006, showing a cluttered trauma room or  
 18      Room 4 compared to the picture below, which was a  
 19      picture taken September 21, 2005, right after we  
 20      cleaned it up, showing how orderly and clean it  
 21      was.  
 22      **Q Did you take both of these pictures?**  
 23      A I took the bottom picture. I did not  
 24      take the top picture.  
 25      **Q Do you know who took the top picture?**

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1       A I do not.  
 2       **Q Flip over to the next page that I'm**  
 3       **marking as number 11.**  
 4       **The top picture, would you describe it,**  
 5       **please?**  
 6       A The top picture shows a cluttered and  
 7       dirty major emergency room that was taken some time  
 8       in the spring of 2006.  
 9       **Q Okay. Anything else about that picture?**  
 10      A No. Other than the lights are still on  
 11      in that picture, so it's powered up.  
 12      **Q Do you know who took it?**  
 13      A I do not.  
 14      **Q The picture below, what is this a picture**  
 15      **of?**  
 16      A Again, this is a picture taken in the  
 17      spring of 2006, showing a powered-up trauma room  
 18      that is -- now appears to be dirty, not clean like  
 19      we left it in September of 2005.  
 20      **Q Do you know who took this picture?**  
 21      A I do not.  
 22      **Q All right.**  
 23      **On the next page, could you describe the**  
 24      **top picture?**  
 25      A It just shows Charity Hospital with power

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1       on in September 29, 2005.  
 2       **Q Okay. Did you take this picture?**  
 3       A Most likely, yes.  
 4       **Q The picture below on page 12, same thing?**  
 5       A Yes. Powered-up Charity Hospital with  
 6       lights on.  
 7       **Q September 29, 2005?**  
 8       A I can't recall if that was the day,  
 9       because the power was on past that date, so it  
 10      could have been September or beyond.  
 11      **Q If you flip to the next page, page 13.**  
 12      **The top of the page 13, describe that picture.**  
 13      A It appears to be military personnel who  
 14      were -- during the cleanup efforts were going down  
 15      to check for any toxic gases or substances that may  
 16      have been present.  
 17      **Q Do you know when this was taken?**  
 18      A September of 2005.  
 19      **Q You said military personnel?**  
 20      A I believe it was military personnel.  
 21      **Q What floor were they on?**  
 22      A They were going into the basement.  
 23      **Q All right.**  
 24      **And the picture below?**  
 25      A The picture below is a picture right when

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1       we began to start to pump the water out of Charity  
 2       Hospital. You can see the hose going into the  
 3       water.  
 4       The two military guys in the above  
 5       picture were going down those stairs where you see  
 6       the water at, obviously, after the water had been  
 7       pumped out. That stairwell is located in the  
 8       emergency department, coming in off the ramp of the  
 9       emergency department.  
 10      **Q Where is the stairwell located?**  
 11      A That stairwell is right when you come  
 12      into the emergency department off the emergency  
 13      department ramp. That stairwell is right there,  
 14      which takes you down into the basement.  
 15      **Q And, again, in September of 2005?**  
 16      A Yes.  
 17      **Q And then on the next page, page 14,**  
 18      **describe the top picture, please?**  
 19      A You see a sampling of the personnel that  
 20      was there to help with the cleanup efforts.  
 21      That large blue pump is one of the pumps  
 22      from the German engineering firm that was in town.  
 23      Ultimately, we had two of those pumping 24 hours a  
 24      day.  
 25      And you can see Navy personnel that was

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<p>1 there in the navy blue. You see a couple of the</p> <p>2 Army personnel with their fatigues on, and then</p> <p>3 some civilians.</p> <p>4 <b>Q Again, in September 2005?</b></p> <p>5 A Yes.</p> <p>6 <b>Q And then the picture below, what is that</b></p> <p>7 <b>a picture of?</b></p> <p>8 A The picture below shows the entrance to</p> <p>9 the emergency department from the ramp that I</p> <p>10 talked about in the last picture. And those are</p> <p>11 all hoses and pumps to both ventilate and to pump</p> <p>12 the water out of the basement; so all of these</p> <p>13 hoses would be going down those stairs that we saw</p> <p>14 in the previous picture into the basement to pump</p> <p>15 the water out.</p> <p>16 As you can see, there was no water on the</p> <p>17 first floor. All of the water being pumped out was</p> <p>18 in the basement.</p> <p>19 <b>Q Okay. The next page, page 15?</b></p> <p>20 A Again, just a closer-up picture of the</p> <p>21 sides of the pump that was used. I don't remember</p> <p>22 the exact capacity, but it far exceeded any pump</p> <p>23 that we had domestic in the US that was mobile that</p> <p>24 could pump water.</p> <p>25 <b>Q Okay. Do you have any other pictures</b></p>	<p>1 Excuse me, Mr. Castille. I want to</p> <p>2 put on the record -- I would appreciate it</p> <p>3 if you could ask him one question at a</p> <p>4 time.</p> <p>5 I'm having some trouble just keeping</p> <p>6 up with you, Dr. Moises.</p> <p>7 <b>BY MR. CASTILLE:</b></p> <p>8 <b>Q Now, when was the last time you read</b></p> <p>9 <b>through this resolution?</b></p> <p>10 A I don't recall. Months ago.</p> <p>11 <b>Q Months?</b></p> <p>12 A (Nods head up and down.)</p> <p>13 <b>Q Take a moment and look through that</b></p> <p>14 <b>resolution, if you don't mind.</b></p> <p>15 <b>MR. CASTILLE:</b></p> <p>16 We'll go off the record for just a</p> <p>17 minute and allow you to do that. I want</p> <p>18 to ask you some questions, and I want you</p> <p>19 to be familiar with it.</p> <p>20 <b>THE WITNESS:</b></p> <p>21 Is there one particular area?</p> <p>22 <b>MR. CASTILLE:</b></p> <p>23 Off the record for just a minute.</p> <p>24 (Recess taken at 10:01 a.m. Back on</p> <p>25 record at 10:05 a.m.)</p>
<p style="text-align: right;">Page 200</p> <p>1 <b>related to Charity or pictures of Charity after</b></p> <p>2 <b>August 29, 2005?</b></p> <p>3 A No. Not that I recall. This is my</p> <p>4 collection.</p> <p>5 <b>Q Let's go back to Exhibit Number #2. That</b></p> <p>6 <b>would be the Odinet Resolution.</b></p> <p>7 <b>If I recall correctly, you said you met</b></p> <p>8 <b>with Representative Odinet for about an hour as he</b></p> <p>9 <b>was preparing this resolution; is that correct?</b></p> <p>10 A Correct.</p> <p>11 <b>Q And that would have been in the spring of</b></p> <p>12 <b>2006?</b></p> <p>13 A Correct.</p> <p>14 <b>Q Did you look at any drafts of the</b></p> <p>15 <b>resolution as he was preparing it?</b></p> <p>16 A I believe there may have been one draft</p> <p>17 that I looked at. I do not have that. Essentially</p> <p>18 it was what the final version was.</p> <p>19 <b>Q When you met with him, did he have a</b></p> <p>20 <b>draft already prepared or did you speak with him,</b></p> <p>21 <b>and then later he began to prepare a draft?</b></p> <p>22 A He prepared -- after we spoke. He</p> <p>23 prepared the draft after we spoke. He did not have</p> <p>24 one at our first meeting.</p> <p>25 <b>MR. ROSENFELD:</b></p>	<p style="text-align: right;">Page 202</p> <p>1 <b>BY MR. CASTILLE:</b></p> <p>2 <b>Q All done?</b></p> <p>3 A Uh-huh. Yeah.</p> <p>4 <b>Q We're back on the record.</b></p> <p>5 <b>Dr. Moises, since we began your</b></p> <p>6 <b>deposition, have you discussed your deposition</b></p> <p>7 <b>testimony with anyone other than your lawyer?</b></p> <p>8 A No.</p> <p>9 <b>Q The first paragraph here -- let me ask</b></p> <p>10 <b>this question first.</b></p> <p>11 <b>How long after you met with</b></p> <p>12 <b>Representative Odinet was it that you were provided</b></p> <p>13 <b>with a draft of the resolution?</b></p> <p>14 A It might have been the following couple</p> <p>15 of days or so. I don't recall. Within a week.</p> <p>16 <b>Q So you met with him on a certain day, and</b></p> <p>17 <b>then within a week he provided you a draft of the</b></p> <p>18 <b>resolution?</b></p> <p>19 A Yes.</p> <p>20 <b>Q That first paragraph, let's start off</b></p> <p>21 <b>with that paragraph, and I just gave you an</b></p> <p>22 <b>opportunity to read that paragraph.</b></p> <p>23 <b>Did you help with the drafting of this</b></p> <p>24 <b>language any?</b></p> <p>25 A No.</p>

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1 Q And the first time you saw this language  
 2 was when you received a copy of the draft of the  
 3 resolution?  
 4 A Yes.  
 5 Q The second paragraph gave some historical  
 6 information about Big Charity. Did you provide any  
 7 of the information that's included in this  
 8 paragraph?  
 9 A No.  
 10 Q Having read the entire resolution, is  
 11 there any information that you provided  
 12 Representative Odinet that's in this resolution?  
 13 A The part -- the resolved part of the  
 14 resolution.  
 15 Q Let's flip to that, then. It might save  
 16 us a little time.  
 17 So if we flip to page 2 where it says  
 18 "therefore be it resolved", that's the section  
 19 you're referring to?  
 20 A Correct.  
 21 Q What did you do to assist him with this  
 22 section?  
 23 A The three parts: One, where we looked to  
 24 evaluate the first three floors to reopen it on an  
 25 interim basis; the next resolve, which was to

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1 evaluate the operating room and the ICU to see if  
 2 we could reopen the trauma unit or trauma center in  
 3 the City; and the third part was to evaluate the  
 4 entire structure to see its viability and use for  
 5 long term care.  
 6 Q Okay. You broke that up into three  
 7 separate sections. You talked about the first  
 8 section being about opening up the first three  
 9 floors on an interim basis; the second being  
 10 opening up the ICU; and then the third being  
 11 evaluating the entire structure.  
 12 Did I accurately summarize what you just  
 13 said?  
 14 A Yes.  
 15 Q So I notice that there are 1, 2, 3, 4, 5,  
 16 6, 7 -- 7 be-it-resolved sections. Let's start off  
 17 with the first one, just so that I am clear about  
 18 what it is that you helped with.  
 19 So if we start off with the first one --  
 20 and I apologize for having to do this, but I want  
 21 to be clear for the record -- it says: Therefore  
 22 be it resolved that the Louisiana Legislature does  
 23 hereby urge and request the Governor and Office of  
 24 Facility Planning and Control of the Division of  
 25 Administration to work with the Louisiana State

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1 University Board of Supervisors and the LSU Health  
 2 Sciences Center to develop and implement a plan to  
 3 use a portion of the Medical Center of New Orleans,  
 4 (Big Charity Hospital) to provide medical services  
 5 the to the New Orleans community and region on an  
 6 interim basis while efforts continue towards  
 7 construction of a new facility.  
 8 Is that your reference to using the  
 9 3rd floor, because it says using a portion of the  
 10 Medical Center of New Orleans.  
 11 MR. ROSENFELD:  
 12 Objection.  
 13 BY MR. CASTILLE:  
 14 Q Mr. Rosenfeld is objecting to form. And  
 15 I want to get some clarification, so I think it's a  
 16 good objection.  
 17 You mentioned using part of the hospital  
 18 on an interim basis. And that part in this  
 19 paragraph doesn't say 3rd floor, but when you said  
 20 3rd floor earlier, is that the part that you were  
 21 referring to?  
 22 MR. ROSENFELD:  
 23 Objection.  
 24 THE WITNESS:  
 25 A My part -- my contribution to this is

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1 under a specific resolve number -- Resolve  
 2 Number 3, 4, and 5.  
 3 BY MR. CASTILLE:  
 4 Q Okay.  
 5 So if we number these -- I'll go back and  
 6 number the first one, second one beginning at the  
 7 top of page 3, and the -- I'll go down page 3 and  
 8 number them 3, 4, 5, 6, and 7.  
 9 So your contribution to the resolution  
 10 would have been limited to 3, 4 and 5?  
 11 A Yes.  
 12 Q Okay. All right. I'll ask you about  
 13 those sections, then, instead.  
 14 So paragraph 3, which is the second  
 15 paragraph on page 3 of 4, it begins with: Be it  
 16 further resolved that the independent evaluation  
 17 team is hereby requested to assess the first three  
 18 floors, excluding the basement.  
 19 Why excluding the basement?  
 20 A Oh, well, the basement was not used for  
 21 health care purposes, so it would have meant there  
 22 was no reason to assess that. We were looking to  
 23 try to reestablish health care services, and the  
 24 1st, 2nd and 3rd floor were floors that would have  
 25 allowed that to happen; the 1st floor being

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1 emergency services, the 2nd floor being outpatient  
 2 clinics, and the 3rd floor being mental health.  
 3 **Q Do you know what equipment was in the**  
 4 **basement? We talked about this a little bit in the**  
 5 **first part of your deposition, but what was in the**  
 6 **basement?**  
 7 A Pre-Katrina?  
 8 **Q Pre-Katrina.**  
 9 A From what I can recall, the morgue was  
 10 there, medical records was there, the cafeteria,  
 11 and I'm not sure of what else.  
 12 **Q Do you know if there was any mechanical**  
 13 **equipment there?**  
 14 A I don't know specifically. I'm sure  
 15 there was.  
 16 **Q Any air-conditioning, heating systems?**  
 17 A I don't know.  
 18 **Q You don't know if any of the plumbing**  
 19 **systems were located there?**  
 20 A I don't know.  
 21 **Q All right.**  
 22 **We'll go to the fourth be-it-resolved**  
 23 **section. It begins with: Be it further resolved**  
 24 **that the independent evaluation team is hereby**  
 25 **requested to evaluate the operating room and**

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1 **intensive care units.**  
 2 **And you contributed to this paragraph;**  
 3 **correct?**  
 4 A Yes.  
 5 **Q Explain to me how that worked. You met**  
 6 **with him, Representative Odinet, you had an**  
 7 **hour-long discussion, and these three paragraphs,**  
 8 **3, 4 and 5, that summed up your conversation with**  
 9 **him?**  
 10 A This was my contribution to the  
 11 resolution.  
 12 **Q Okay.**  
 13 A Everything else -- this is Representative  
 14 Odinet's resolution.  
 15 **Q Sure.**  
 16 A So Representative Odinet with his  
 17 staffer, I gave them what I thought would be  
 18 pertinent if they were going to try to submit a  
 19 resolution to reevaluate Charity. And, from a  
 20 physician who worked there, what I felt was  
 21 important from a health care standpoint was those  
 22 three different ways to evaluate it.  
 23 **Q So it was you, Representative Odinet, and**  
 24 **then the staffer also?**  
 25 A Yes.

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1 **Q Do you remember that staffer's name?**  
 2 A I do not.  
 3 **Q Male or female?**  
 4 A Female.  
 5 **Q And then the third paragraph that you**  
 6 **contributed to would be the one we've identified as**  
 7 **the fifth be-it-further-resolved paragraph that**  
 8 **begins with: Be it further resolved that the**  
 9 **independent evaluation team is hereby requested to**  
 10 **examine and evaluate the entire Big Charity**  
 11 **structure; is that right?**  
 12 A Yes.  
 13 **Q That paragraph goes on to say: To**  
 14 **determine the advisability of repairing or**  
 15 **restricting the entire facility, with the possible**  
 16 **outcome being that greater information about the**  
 17 **extent of the damage to the building may reveal**  
 18 **more damage, which qualifies for funding under FEMA**  
 19 **guidelines, thereby increasing the funding**  
 20 **available for repairs and for construction of a new**  
 21 **facility.**  
 22 **In your discussion with Representative**  
 23 **Odinet, did you discuss the possibility of building**  
 24 **a new facility?**  
 25 A No.

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1 **Q So this part of this paragraph, you**  
 2 **didn't contribute to that part?**  
 3 A No.  
 4 **Q Did he ask you your opinion with regard**  
 5 **to construction of a new facility?**  
 6 A No.  
 7 **Q Did you discuss with him that one of the**  
 8 **possible outcomes would be that greater information**  
 9 **about the extent of the damage to the building may**  
 10 **reveal more damage?**  
 11 A No.  
 12 **Q Did you discuss with him any of the FEMA**  
 13 **guidelines?**  
 14 A No.  
 15 **Q Okay.**  
 16 **The next paragraph, I take it you didn't**  
 17 **contribute to that paragraph at all?**  
 18 A No.  
 19 **Q So any reference to the Foundation for**  
 20 **Historical Louisiana, you would not have made any**  
 21 **contributions in terms of their involvement?**  
 22 A No.  
 23 **MR. ROSENFELD:**  
 24 Objection.  
 25

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1 **BY MR. CASTILLE:**  
 2 **Q Do you know if any representatives for**  
 3 **the Foundation for Historical Louisiana met with**  
 4 **Representative Odinet?**  
 5 A I don't know.  
 6 **Q Had you met with any representatives from**  
 7 **the Foundation for Historical Louisiana around the**  
 8 **time you were meeting with Representative Odinet?**  
 9 A No.  
 10 **Q So any of the other language -- you would**  
 11 **have no idea where he got the rest of the language**  
 12 **in the resolution?**  
 13 **MR. ROSENFELD:**  
 14 Objection.  
 15 **BY MR. CASTILLE:**  
 16 **Q Is that correct?**  
 17 A That's correct, yes.  
 18 **Q And you no longer have copies of the**  
 19 **draft that he provided you; correct?**  
 20 A No, I do not.  
 21 **Q Okay.**  
 22 **Turn to Exhibit Number #3. Exhibit**  
 23 **Number #3 appears to be a resolution -- senate**  
 24 **resolution. Senate Resolution Number 21 by Senator**  
 25 **Gray, who notes at the top Regular Session 2008.**

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1 **This would be representative Cheryl Gray?**  
 2 A I believe so, yes.  
 3 **Q Did you meet with Senator Gray regarding**  
 4 **the preparation of this resolution?**  
 5 A No.  
 6 **Q You gave me a copy of this resolution.**  
 7 **How did you get a copy of it?**  
 8 A I don't recall.  
 9 **Q Do you know who gave it to you?**  
 10 A I don't. I may have -- I most likely  
 11 took it offline.  
 12 **Q Do you know when you may have done that?**  
 13 A I don't know.  
 14 **Q Do you know anything about -- do you have**  
 15 **any firsthand information at all about the contents**  
 16 **of this resolution?**  
 17 A No.  
 18 **Q I take it, then, from your answer that**  
 19 **you didn't discuss with Senator Gray any of the**  
 20 **other possible uses for the Charity building, other**  
 21 **than for a hospital?**  
 22 A No.  
 23 **Q Do you know what Phoenix of New Orleans**  
 24 **is? Page 2, paragraph 6.**  
 25 A I don't know who that is.

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1 **Q It's actually the first paragraph of that**  
 2 **page.**  
 3 **I notice that Senator Gray, in her**  
 4 **resolution, establishes through this resolution**  
 5 **that a committee be formed. Have you participated**  
 6 **in any of these committee meetings?**  
 7 A No.  
 8 **Q The last paragraph of that resolution**  
 9 **says: Be it further resolved that the task force**  
 10 **shall make a written report of its findings to the**  
 11 **legislature, including in its report the best**  
 12 **future use of the former Charity Hospital building**  
 13 **and any legislation recommended in order to fully**  
 14 **achieve its future use, at least 30 days prior to**  
 15 **the beginning of the 2009 Regular Session of the**  
 16 **Legislature.**  
 17 **Do you know anything about the report or**  
 18 **anything that's being referenced in this paragraph?**  
 19 A No.  
 20 **Q Have you met with any other members of**  
 21 **the legislature regarding Charity Hospital?**  
 22 A I did meet with Cheryl Gray.  
 23 **Q When?**  
 24 A I don't recall. It was, I believe, last  
 25 year during the session.

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1 **Q What did you discuss with her?**  
 2 A I just went over with her my -- my  
 3 opinion of Charity Hospital and its use for health  
 4 care in the city.  
 5 **Q Okay.**  
 6 **Anything else?**  
 7 A No. That was it.  
 8 **Q Okay.**  
 9 **Was anyone else with you at the time you**  
 10 **met with her?**  
 11 A No. Just Senator Gray and myself.  
 12 **Q Do you recall what she said in response**  
 13 **to your comments?**  
 14 A Not specifics. I think the only thing  
 15 that I do recall is that she said she was going to  
 16 try to put together a task force to look at Charity  
 17 Hospital.  
 18 **Q Is this resolution the result of that**  
 19 **conversation?**  
 20 **MR. ROSENFELD:**  
 21 Objection.  
 22 **THE WITNESS:**  
 23 A I don't know if this was -- this came out  
 24 after the fact, so I'm not sure if this was the  
 25 task force she was talking about or something

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<p>1 other -- some other task force. I just had that</p> <p>2 one meeting with her and that was it.</p> <p>3 <b>BY MR. CASTILLE:</b></p> <p>4 <b>Q And it was just the two of you?</b></p> <p>5 A (Nods head up and down.)</p> <p>6 <b>Q Where did you meet?</b></p> <p>7 A In her office at the Capital.</p> <p>8 <b>Q Was anyone else present?</b></p> <p>9 A No.</p> <p>10 <b>Q No staffers?</b></p> <p>11 A No.</p> <p>12 <b>Q All right. Let's turn to Exhibit</b></p> <p>13 <b>Number #4.</b></p> <p>14 A (Reviewing document.)</p> <p>15 <b>Q Do you know when you received a copy of</b></p> <p>16 <b>this document?</b></p> <p>17 A I do not.</p> <p>18 <b>Q Do you know who gave it to you?</b></p> <p>19 A I don't recall.</p> <p>20 <b>Q Do you know who is Adam Nossiter?</b></p> <p>21 A I believe he is a New York Times</p> <p>22 reporter.</p> <p>23 <b>Q Have you spoken to Mr. Nossiter?</b></p> <p>24 A Not since 2005.</p> <p>25 <b>Q Did you talk to him around December of</b></p>	<p>1 brief discussion in December.</p> <p>2 <b>Q I take it you weren't involved any in the</b></p> <p>3 <b>preparation of this document?</b></p> <p>4 A No.</p> <p>5 <b>Q I take it that you never met with anyone</b></p> <p>6 <b>from Adams Management?</b></p> <p>7 A No.</p> <p>8 <b>Q You don't know who gave you a copy of</b></p> <p>9 <b>this document?</b></p> <p>10 A I do not know.</p> <p>11 <b>Q Okay.</b></p> <p>12 <b>There's some handwriting in the top</b></p> <p>13 <b>right-hand corner, it says: Mechanical, electrical</b></p> <p>14 <b>plumbing on the first page, which is page 4.1.</b></p> <p>15 <b>Do you recognize that handwriting?</b></p> <p>16 A I do not.</p> <p>17 <b>Q At the middle of the page just below the</b></p> <p>18 <b>table there's also some handwriting.</b></p> <p>19 <b>Do you recognize that handwriting?</b></p> <p>20 A I do not.</p> <p>21 <b>Q Can you read the handwriting?</b></p> <p>22 A I can't even understand what it says, no.</p> <p>23 (Discussion off the record.)</p> <p>24 <b>BY MR. CASTILLE:</b></p> <p>25 <b>Q Have you shared the contents of this</b></p>
<p style="text-align: right;">Page 216</p> <p>1 <b>2005?</b></p> <p>2 A Probably before that. More like November</p> <p>3 of 2005.</p> <p>4 <b>Q What did you talk to him about?</b></p> <p>5 A About our presence in Charity Hospital;</p> <p>6 our cleanup efforts.</p> <p>7 <b>Q If you flip to the third page, which is</b></p> <p>8 <b>numbered at the bottom, 4.3, you see at the top it</b></p> <p>9 <b>has much more clearly Adam Nossiter's name and a</b></p> <p>10 <b>date of December 6, 2005, 9:28, and what appears to</b></p> <p>11 <b>be a fax number.</b></p> <p>12 <b>Do you recognize that fax number?</b></p> <p>13 A I do not.</p> <p>14 <b>Q Do you know if you faxed this report to</b></p> <p>15 <b>Mr. Nossiter?</b></p> <p>16 A I don't recall. I don't know.</p> <p>17 <b>Q Do you know if he faxed it to you?</b></p> <p>18 A Again, I don't know. Unlikely he would</p> <p>19 have faxed it to me.</p> <p>20 <b>Q Having the date of December 6, 2005 now</b></p> <p>21 <b>been noted for the record, do you think you spoke</b></p> <p>22 <b>with Mr. Nossiter around December 6th of 2005?</b></p> <p>23 A I know I spoke with him for the story</p> <p>24 that he ran in early December. We spoke in either</p> <p>25 in October or November 2005, so we may have had a</p>	<p style="text-align: right;">Page 218</p> <p>1 <b>document with anyone or discussed it with anyone?</b></p> <p>2 A I'm sure I have.</p> <p>3 <b>Q I think last time you testified that you</b></p> <p>4 <b>didn't meet with any Adams Management inspectors,</b></p> <p>5 <b>contractors or engineers at any time in September</b></p> <p>6 <b>or October of 2005; correct?</b></p> <p>7 A That's correct.</p> <p>8 <b>Q And when you were in the hospital, did</b></p> <p>9 <b>you observe any radiological concerns?</b></p> <p>10 <b>MR. ROSENFELD:</b></p> <p>11 Objection.</p> <p>12 <b>THE WITNESS:</b></p> <p>13 A I don't understand the question.</p> <p>14 <b>BY MR. CASTILLE:</b></p> <p>15 <b>Q There's a reference in the document, page</b></p> <p>16 <b>5.1 --</b></p> <p>17 <b>MR. ROSENFELD:</b></p> <p>18 5.1?</p> <p>19 <b>MR. CASTILLE:</b></p> <p>20 It says 5.1 at the bottom, which</p> <p>21 would be the recommendation section.</p> <p>22 <b>MR. ROSENFELD:</b></p> <p>23 Yeah.</p> <p>24 <b>BY MR. CASTILLE:</b></p> <p>25 <b>Q The middle of that page has a paragraph</b></p>

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1 that begins with "additionally". Do you see that  
 2 paragraph?  
 3 A Yes.  
 4 Q Additionally through the course of the  
 5 assessment, the team was made aware of LSU's health  
 6 physicist -- made aware by LSU's health physicist  
 7 of various radiological sources of concern that  
 8 could pose health hazards and should be dealt with  
 9 accordingly in an expedient manner.  
 10 And so my question was: Were you aware  
 11 of any radiological sources or concerns when you  
 12 were present in the hospital in September of 2005?  
 13 A We had no concerns.  
 14 Q No concerns about?  
 15 A Hot spots or radiologic spots.  
 16 Q If you go down a couple more paragraphs  
 17 there's a section that's in bold, and it says:  
 18 Given the dangerous nature of the facilities at  
 19 this time, they should not be occupied for any  
 20 purpose short term or long term, especially  
 21 inpatient use.  
 22 Were you aware of this language in the  
 23 report in September of 2005?  
 24 A I didn't see this report in September of  
 25 2005.

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1 Q When was the first time you saw this  
 2 report?  
 3 A I don't recall.  
 4 Q That paragraph goes on to say: The  
 5 facility presents a significant fire hazard, given  
 6 the inability to fight potential fire, as well as  
 7 the inability to establish the integrity of the  
 8 medical gas piping networks and natural gas supply  
 9 lines located throughout the building.  
 10 Did you notice any of these hazards  
 11 identified in this section?  
 12 A No hazards were identified.  
 13 Q It says: No personnel should enter these  
 14 buildings with the exception of those engaged in  
 15 the emergency removal of assets.  
 16 I take it no one notified you of Adams'  
 17 recommendations with regard to this sentence  
 18 either?  
 19 A Correct.  
 20 Q All right.  
 21 The next document we have is Exhibit  
 22 Number #5. It's a document that has Blitch/Knevel  
 23 Architects in the top right-hand corner. It's to  
 24 Mr. Mark Moses, and this is a document you  
 25 provided.

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1 Do you know when you were provided a copy  
 2 of this document?  
 3 A I do not recall.  
 4 Q Do you know who gave it to you?  
 5 A I don't recall.  
 6 Q Have you read this document?  
 7 A Not in its entirety, no.  
 8 Q Do you know anything about the document  
 9 at all?  
 10 A Not specifically.  
 11 MR. SCHAFER:  
 12 Objection to the form of the  
 13 question.  
 14 MR. CASTILLE:  
 15 Okay.  
 16 BY MR. CASTILLE:  
 17 Q Okay. I notice that you also provided  
 18 Exhibit Number #6, which is a GAO document dated  
 19 March 28, 2006. I take it you were not involved in  
 20 any way with the preparation of this document?  
 21 A No.  
 22 Q Do you know when you were provided a copy  
 23 of it?  
 24 A I don't recall.  
 25 Q Do you know who provided you a copy?

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1 A I believe I took it offline. It's a  
 2 public document. So I downloaded it from the GAO  
 3 website.  
 4 Q Do you know when you did that?  
 5 A I don't recall.  
 6 Q Have you read the document?  
 7 A Most of it, yeah.  
 8 Q I don't know when was the last time you  
 9 read it, I don't want to go through it in detail if  
 10 I don't need to, but -- I'll go through just  
 11 certain sections, then.  
 12 Let's start off with the first paragraph  
 13 on the first page of the document. The third  
 14 sentence begins with "among other things".  
 15 A (Nods head up and down.)  
 16 Q Do you see that?  
 17 A Yes.  
 18 Q Among other things, the hurricane  
 19 resulted in the sudden closure of hospitals and  
 20 loss of other health care providers, including one  
 21 of the largest hospitals in the area, Medical  
 22 Center of Louisiana in New Orleans, which suffered  
 23 extensive damage and remains closed.  
 24 Do you agree or disagree with that  
 25 statement?

Page 223	Page 225
<p>1 <b>MR. ROSENFELD:</b> 2 Objection.</p> <p>3 <b>MR. SCHAFER:</b> 4 We'll join in. I think it might be 5 compound.</p> <p>6 <b>THE WITNESS:</b> 7 A (Reviewing document.) 8 Yes.</p> <p>9 <b>BY MR. CASTILLE:</b> 10 <b>Q Yes, you agree?</b> 11 A Yes.</p> <p>12 <b>Q Flip over to page 2. It says "results in 13 brief".</b> 14 A (Reviewing document.)</p> <p>15 <b>Q I take it that you would agree with the 16 first sentence of that section that reads: Since 17 Hurricane Katrina hit New Orleans, the health care 18 infrastructure was severely damaged and the 19 availability of health services declined 20 significantly.</b> 21 A Yes.</p> <p>22 <b>Q Turn over to page 4. In the middle of 23 that page is a section that's labeled: The health 24 care infrastructure was significantly damaged. 25 Read that paragraph for me, please, to yourself.</b></p>	<p>1 <b>Do you know when you came -- when you got 2 a copy of this document for the first time?</b></p> <p>3 A I do not.</p> <p>4 <b>Q Do you know who gave it to you?</b></p> <p>5 A I don't recall.</p> <p>6 <b>Q Have you read this document?</b></p> <p>7 A I've read through it, yes.</p> <p>8 <b>Q Okay. I want to spend a little more time 9 on this document.</b></p> <p>10 <b>The first paragraph of this letter 11 references the time period in which you and the 12 other doctors were in the hospital. It references 13 October 1, 2005; the letter itself is dated 14 October 2, 2005. The first sentence: ATC 15 Associates was contacted to conduct a limited 16 health and safety evaluation of the basement area 17 of the LSU Charity Hospital in New Orleans, 18 Louisiana.</b></p> <p>19 <b>Did you meet with or talk to anyone from 20 this company at any point in which you were in the 21 hospital in September of 2005?</b></p> <p>22 A No.</p> <p>23 <b>Q Do you know Mr. Dan Mahaffey?</b></p> <p>24 A I do not.</p> <p>25 <b>Q The letter goes on to read: A walk</b></p>
Page 224	Page 226
<p>1 A (Reviewing document.)</p> <p>2 <b>Q The first sentence states: Including 3 emergency hospital, and clinic facilities, was 4 severely damaged by Hurricane Katrina. 5 Would you agree with that statement?</b></p> <p>6 A Yes.</p> <p>7 <b>Q Then the second sentence: The MCLNO, 8 along with its Level 1 trauma unit, was forced to 9 close.</b></p> <p>10 <b>I take it you agree with that?</b></p> <p>11 <b>MR. ROSENFELD:</b> 12 Objection.</p> <p>13 <b>THE WITNESS:</b> 14 A I would say forced to temporarily close.</p> <p>15 <b>BY MR. CASTILLE:</b> 16 <b>Q Flip over to Exhibit Number #8.</b></p> <p>17 <b>MR. ROSENFELD:</b> 18 Did you say Exhibit Number #8?</p> <p>19 <b>MR. CASTILLE:</b> 20 Exhibit Number #8, yes.</p> <p>21 <b>BY MR. CASTILLE:</b> 22 <b>Q This document is dated October 2, 2005. 23 It is to Mr. Dan Mahaffey, Facility Planner. At 24 the top it states, ATC Environmental Health and 25 Safety Professionals.</b></p>	<p>1 <b>through of the facility was conducted on October 2 after, 2005 after meeting Mr. Walt Adams at the 3 facility.</b></p> <p>4 <b>Do you know Mr. Walt Adams?</b></p> <p>5 A I do not.</p> <p>6 <b>Q I take it, then, you wouldn't recall if 7 you saw him at any time in the Charity Hospital 8 building in September or October of 2005?</b></p> <p>9 A That is correct.</p> <p>10 <b>Q And it goes on to say the assessment was 11 conducted by Mr. Daniel T. Woody, certified 12 industrial hygienist and representative of ATC.</b></p> <p>13 <b>Do you know Mr. Daniel Woody?</b></p> <p>14 A I do not.</p> <p>15 <b>Q I take it then you wouldn't recall if you 16 ever saw or met him in September or October of 17 2005?</b></p> <p>18 A That's correct.</p> <p>19 <b>Q Flip to the next page.</b></p> <p>20 <b>MR. SCHAFER:</b> 21 It doesn't have a number.</p> <p>22 <b>BY MR. CASTILLE:</b> 23 <b>Q I don't see a number on the page, but I 24 will call it the second page of the document. 25 Unfortunately, the pages aren't numbered as a part</b></p>

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1 of the document.

2 That page begins with "Observations" as a

3 heading, and it notes: The following observations

4 were noted during the site visit, which took place

5 on October 1st of 2005.

6 And October 1, 2005 would have been a day

7 or two after you and the other doctors were asked

8 to leave the facility; is that correct?

9 A I'm sorry. What date was that again?

10 Q October 1, 2005?

11 A On or about that date, yes.

12 Q The observations that are noted is that

13 there was black water observed on walls and floors

14 throughout the basement area, including elevator

15 shafts.

16 Did you observe the same thing?

17 A There was muck on the walls, yes.

18 Q Little to no lighting currently exists in

19 the basement. Was that correct at the time?

20 A Yes. That's correct.

21 Q It goes on to say in number 3: Several

22 thousand gallons of black water are pooled in

23 various areas of the basement, including a back

24 hallway, the HVAC shop, the mechanical rooms, the

25 kitchen, and the atrium adjacent to the morgue.

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1 Did you observe several thousands of

2 gallons of black water pooled in that area?

3 A I'm not sure exactly where those areas

4 are at, so I couldn't comment on that.

5 Q You don't know if the HVAC shop was

6 located in the basement?

7 A I don't know where that's at.

8 Q You don't know if there is a mechanical

9 room located in the basement?

10 A I do not.

11 Q If you go a little further down, one of

12 the sections says elevated --

13 MR. ROSENFELD:

14 I'm sorry. Hold on just one second.

15 Where were we?

16 MR. CASTILLE:

17 The bulleted section that says:

18 Elevated hydrogen sulfide readings were

19 observed when walking through the debris

20 and mud.

21 MR. SCHAFFER:

22 Does it say where the area is?

23 BY MR. CASTILLE:

24 Q I think we're talking about the basement

25 here?

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1 A That appears to be the case, yes.

2 Q Do you know what hydrogen sulfide is?

3 A I'm familiar with it, yes.

4 Q What's the significance of hydrogen

5 sulfide being in the basement; do you know?

6 A Number one, I'm not sure what they mean

7 by elevated; and number two, we had -- throughout

8 the entire time pumping out the water we had

9 personnel who were monitoring for hydrogen sulfide,

10 as well as other toxic gases, of which they found

11 none that were at dangerous levels.

12 Q And these are --

13 A Not to mention, from someone who knows

14 the effects of hydrogen sulfide, when we were down

15 there we did not feel any of the effects if it was

16 high.

17 Q What are the effects of hydrogen sulfide?

18 A Itchy, eyes burn, and maybe have some

19 respiratory issues.

20 Q What exactly is hydrogen sulfide?

21 A It's a hydrogen sulfide gas.

22 Q And so when you were in the hospital in

23 September -- you had previously noted one of the

24 pictures where there was a team of military

25 personnel that you indicated was going down into

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1 the basement area checking for toxic gases?

2 A Exactly. They went down with their

3 oxygen tanks on just to be sure, and they came out

4 saying there was no signs of any toxicity.

5 Q Okay.

6 The next bulleted sentence says: Glass,

7 needles and other sharp and protruding objects were

8 noted throughout the basement area.

9 Did you notice any of these objects?

10 A I don't recall. Maybe there were a few.

11 Q If you go down a little further it says:

12 There was extensive water damage and mold growth

13 observed.

14 Did you notice any of that?

15 MR. SCHAFFER:

16 We're still in the basement?

17 MR. CASTILLE:

18 Yes. This is all in the basement

19 area.

20 THE WITNESS:

21 A I'm not sure what they mean by water

22 damage. Everything was concrete in the basement.

23 BY MR. CASTILLE:

24 Q No mold growth?

25 A Mold, it's hard to tell what's mold and

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1 what's mud and what's muck.  
 2 **Q If you go down a little further it says:**  
 3 **Suspect bodily fluids were observed on the floor of**  
 4 **the forms room adjacent to the morgue, and in the**  
 5 **morgue.**  
 6 **Did you observe any of this bodily fluid?**  
 7 A I don't recall.  
 8 **Q So when you go down to the last section,**  
 9 **that heading is Potential Health and Safety**  
 10 **Hazards. It indicates: Slip trips and falls.**  
 11 **Falling objects and debris. Electrical shock.**  
 12 **Drowning. And open holes.**  
 13 **You didn't observe any of these hazards?**  
 14 A No.  
 15 **Q I take it if you go to the next page and**  
 16 **go through the list of additional Potential Health**  
 17 **and Safety Hazards, you didn't notice any of these**  
 18 **either?**  
 19 **You can take a moment and look through**  
 20 **these, Doctor.**  
 21 **MR. SCHAFER:**  
 22 Go ahead and look at them, and I'll  
 23 get some coffee.  
 24 **MR. CASTILLE:**  
 25 It's a short list, and we'll go off

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1 the record for a moment.  
 2 (Recess taken at 10:48 a.m. Back on  
 3 record at 10:52 a.m.)  
 4 **BY MR. CASTILLE:**  
 5 **Q All right. Dr. Moises, I take it you've**  
 6 **had an opportunity to read the rest of the bulletin**  
 7 **points under the Potential Health and Safety**  
 8 **Hazards section of the document.**  
 9 **Did you observe any of these health and**  
 10 **safety hazards when you were in the hospital?**  
 11 A Some of them.  
 12 **Q Okay. Which ones did you observe?**  
 13 A In the basement, that is, there was  
 14 insufficient lighting; clearly, since there was  
 15 still muck in the basement, there was a chance to  
 16 develop a dermal exposure, a rash; it was hot down  
 17 there, clearly, because there was no  
 18 air-conditioning in the basement, so heat stress;  
 19 exits weren't identified because, clearly, there  
 20 was no electricity in the basement.  
 21 That's about it.  
 22 **Q Let's flip over to the next page. I**  
 23 **notice that Daniel T. Woody's name is listed as the**  
 24 **author of the letter, but it's not signed; and**  
 25 **also, at the top right-hand corner there's a little**

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1 **bubble that says formatted bullets and numbering,**  
 2 **which suggests that perhaps this is a draft.**  
 3 **Do you know if this is a draft or the**  
 4 **final document?**  
 5 A I do not know.  
 6 **Q Again, you don't recall who you got this**  
 7 **document from?**  
 8 A I do not know who I got this from.  
 9 **Q Flip over to the next page. It begins**  
 10 **with "Direct Examination Report". This particular**  
 11 **report is dated September 21, 2005.**  
 12 **I take it from your prior testimony that**  
 13 **you don't recall seeing any representative of**  
 14 **either ATC or Hygeia Laboratories, Inc. at the**  
 15 **hospital on September 19, 2005?**  
 16 **MR. ROSENFELD:**  
 17 Objection.  
 18 **THE WITNESS:**  
 19 A That's true.  
 20 **BY MR. CASTILLE:**  
 21 **Q The reason I say September 19th is that**  
 22 **in the right-hand section of the page it says date**  
 23 **collected, referencing the date in which the sample**  
 24 **was collected. And so I used that date as opposed**  
 25 **to the date of the report, just to clarify the**

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1 **record.**  
 2 **And so, again, on September 19, 2005, you**  
 3 **don't recall ever seeing any of the representatives**  
 4 **previously identified from ATC and Hygeia**  
 5 **Laboratories?**  
 6 A I did not.  
 7 But, furthermore, this was at University  
 8 Hospital, which I did not go to at all during  
 9 September of 2005.  
 10 **Q Okay.**  
 11 A So any of this that pertains to  
 12 University, I was not there.  
 13 **Q The next document, then, is dated**  
 14 **September 19, 2005. It's entitled Spore Trap**  
 15 **Fungal Report, University Medical Center.**  
 16 **Do you know what that refers to, which**  
 17 **building?**  
 18 A University Hospital.  
 19 **Q And, again, you would not have been in**  
 20 **that building at any time?**  
 21 A No.  
 22 **Q Flip over to the next report dated**  
 23 **September 22, 2005.**  
 24 A (Nods head up and down.)  
 25 **Q This document appears to refer to Charity**

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<p>1 Hospital; is that correct?</p> <p>2 A Yes.</p> <p>3 Q And it says: Date collected,</p> <p>4 September 19, 2005 in the right-hand corner. Do</p> <p>5 you see that?</p> <p>6 A Yes.</p> <p>7 Q Do you recall if you were in the building</p> <p>8 on September 19, 2005? "The building" being</p> <p>9 Charity Hospital.</p> <p>10 A I don't recall.</p> <p>11 Q And this report references several</p> <p>12 floors, 7th floor, 9th floor, 11th floor, and 13th</p> <p>13 clinical -- I think that R. stands for room.</p> <p>14 Do you see those references?</p> <p>15 A Yes.</p> <p>16 Q Do you know if you had occasion to go to</p> <p>17 any of those floors on September 19, 2005?</p> <p>18 A I don't recall.</p> <p>19 Q Do you recall going to any of these</p> <p>20 floors at any time during the month of September,</p> <p>21 2005?</p> <p>22 A Yes. All of these floors.</p> <p>23 Q Okay.</p> <p>24 There's a section, if you go down below</p> <p>25 the reference to the location, it refers to</p>	<p>1 floor, 17th floor, 5th floor, 3rd floor, all</p> <p>2 going back to September 19, 2005.</p> <p>3 Did you also have occasion on or around</p> <p>4 September 19, 2005 to go to these floors?</p> <p>5 A Probably not the 17th floor or the</p> <p>6 15th floor; but the lower floors, the 5th floor</p> <p>7 and 3rd floor, yes.</p> <p>8 Q Okay.</p> <p>9 Let's flip over to the next document,</p> <p>10 Exhibit #9, which is a document that you provided</p> <p>11 to us. It's dated October 18, 2005. It's from</p> <p>12 Greg Jordan to Matthew Parker. In the top</p> <p>13 right-hand corner, the letterhead indicates</p> <p>14 Columbia Analytical Services.</p> <p>15 Do you know when you received this</p> <p>16 document?</p> <p>17 A I do not.</p> <p>18 Q Do you know who gave it to you?</p> <p>19 A I don't recall.</p> <p>20 MR. ROSENFELD:</p> <p>21 One second, please.</p> <p>22 (Discussion off the record.)</p> <p>23 BY MR. CASTILLE:</p> <p>24 Q Do you recall when you -- I think I just</p> <p>25 asked you this. You don't recall how it is that</p>
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<p>1 background debris as being for the 7th floor</p> <p>2 radiology area, very heavy; 9th floor mental</p> <p>3 health, heavy; 11th floor, heavy; and 13th floor</p> <p>4 clinical room as being heavy.</p> <p>5 Do you know what that references to?</p> <p>6 A I do not.</p> <p>7 Q Flip back to the page before. There's an</p> <p>8 asteric at the bottom of that page that notes:</p> <p>9 Background debris is an indication of the amounts</p> <p>10 of non-fungal biological and non-biological</p> <p>11 particulate matter present on the sample and is</p> <p>12 characterized as very light, light, moderate,</p> <p>13 heavy, very heavy. Heavy background debris may</p> <p>14 obscure spores reducing spore visibility during</p> <p>15 analysis. Consequently, spore counts from heavy</p> <p>16 background debris should be considered minimal.</p> <p>17 I don't know if that helps you any in</p> <p>18 terms of what background debris means.</p> <p>19 A Okay.</p> <p>20 Q I don't know if you have any particular</p> <p>21 insight, so I'm trying to go through these quickly,</p> <p>22 if you do or don't. If you don't, just let me know</p> <p>23 so I can go through these a little faster.</p> <p>24 And I see the same similar type of</p> <p>25 reference on the next page, page 2 of 3, 15th</p>	<p>1 you came to gain possession of this document?</p> <p>2 A I don't recall.</p> <p>3 Q Do you know anything about the document,</p> <p>4 other than just what it says?</p> <p>5 A That's it.</p> <p>6 (Discussion off the record.)</p> <p>7 BY MR. CASTILLE:</p> <p>8 Q Look over at page 10 -- Exhibit #10.</p> <p>9 A (Reviewing document.)</p> <p>10 Q I notice on this document -- and it's on</p> <p>11 Foundation for Historical Louisiana letterhead,</p> <p>12 dated May 23, 2007. I notice that you're bcc'd on</p> <p>13 this document?</p> <p>14 A (Nods head up and down.)</p> <p>15 Q Do you see that at the bottom?</p> <p>16 A Yes.</p> <p>17 Q Do you know why you were bcc'd?</p> <p>18 A Once the HR89 was unanimously passed by</p> <p>19 the State legislature, I gave a presentation to the</p> <p>20 Foundation for Historical Louisiana on the</p> <p>21 background to how HR89 came about, and this was</p> <p>22 just the executive director keeping me apprized of</p> <p>23 the progress of HR89 being implemented.</p> <p>24 Q Did you provide any documents at this</p> <p>25 presentation?</p>

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1 A No. Not that I recall.

2 **Q Do you remember what you said to them?**

3 A Essentially just what was in the

4 resolution and our efforts to clean up Charity in

5 September of 2005, and the background to HR89.

6 **Q Did you say anything other than what you**

7 **already testified to?**

8 A No.

9 **Q Do you remember when you made that**

10 **presentation?**

11 A I do not.

12 **Q The letter is written to Mr. Jerry Jones.**

13 **Do you know Mr. Jones?**

14 A I know of him.

15 **Q Have you ever met with him before?**

16 A No.

17 **Q The persons who signed this document, do**

18 **you know these folks?**

19 A Just Carolyn Bennett, who I've met with.

20 **Q Let's flip to the next document. This**

21 **document is also dated May 23, 2007. It's Exhibit**

22 **Number #11.**

23 A (Reviewing document.)

24 **Q Do you know how it is that you came about**

25 **to get a copy of this? I gather since you were**

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1 **bcc'd that you were sent a copy directly from**

2 **Ms. Bennett?**

3 A Correct.

4 **Q Why were you copied on this document?**

5 A Again, she was just keeping me apprized

6 of the progress of trying to implement HR89.

7 **Q Okay.**

8 **Flip over to the next document. This**

9 **document is Exhibit Number #12.**

10 **Do you know how you ended up with a copy**

11 **of this document?**

12 A I don't recall. Probably directly from

13 Dr. Suter, since I was president of the Louisiana

14 Chapter of the Emergency College of -- American

15 College of Emergency Physicians, so he may have

16 sent this directly to me or it was sent to our

17 chapter office.

18 **Q Okay.**

19 **But it wasn't sent to you directly?**

20 A I don't recall. It may have been.

21 **Q Exhibit Number #13, this is a document**

22 **you prepared? That's the bound booklet.**

23 A I'm sorry. Repeat the question.

24 **Q Exhibit Number #13, is this a document**

25 **you prepared?**

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1 A No. I offered some input, but this was

2 prepared by Dr. Van Meter.

3 **Q Do you know what it was prepared for?**

4 A Just to summarize our efforts to return

5 to Charity Hospital to restore health care in the

6 City.

7 **Q And currently you're employed by Tulane;**

8 **correct?**

9 A We're under contract, so I'm not employed

10 by Tulane.

11 **Q Are you involved any with the**

12 **administration at Tulane?**

13 A I am the Acting Co-director of the

14 Emergency Department for another 2 weeks. I've

15 resigned that post effective March 1st, so I do

16 interact with administration.

17 **Q But you're going to continue to contract**

18 **with Tulane? You just resigned that particular**

19 **post?**

20 A Dr. Van Meter has the contract, and so I

21 work as an independent contractor for him at Tulane

22 Hospital.

23 **Q Okay.**

24 **And you're continuing that?**

25 A Yes.

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1 **Q That has nothing to do with your**

2 **resignation from the --**

3 A Correct.

4 **Q When was this document prepared; do you**

5 **know?**

6 A I don't recall.

7 **Q Do you know if it was ever presented to**

8 **anyone?**

9 A I've given copies to various people over

10 the last year or so.

11 **Q When was the last time you spoke with**

12 **Dr. Van Meter?**

13 A Maybe a week or so ago.

14 **Q Did you talk about this lawsuit?**

15 A Not specifics of the lawsuit, no.

16 **Q Did you talk generally about it?**

17 A Not really.

18 **Q What did you talk about?**

19 A We talk regularly because of me being at

20 the administrative level at Tulane; we have issues

21 with the contract there. But I told him I was

22 deposed. We didn't talk about specifics of the

23 case, though.

24 **Q Did you talk about anything generally?**

25 A General what?

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1 **Q** You said you didn't talk about anything  
 2 specific. What did you talk about with reference  
 3 to the case?  
 4 A Just that I was being deposed and it was  
 5 going to go to 3 days. Nothing specific, though.  
 6 **Q** I noticed that throughout the document  
 7 are some of the same pictures that you provided us  
 8 that make up Exhibit #16. Were you involved in the  
 9 preparation of this document any?  
 10 A I offered some input, like I said, to  
 11 Dr. Van Meter, but he organized the entire book.  
 12 **Q** There's a narrative section in the  
 13 booklet that's not numbered, but after the section  
 14 with the various graphs and charting, it begins  
 15 with new hospital construction or is labeled New  
 16 Hospital Construction Versus Pragmatic Renovation  
 17 of Existing Hospitals.  
 18 Were you involved with the drafting of  
 19 this section any?  
 20 A This would mostly be Dr. Van Meter, his  
 21 opinion.  
 22 **Q** Mostly as opposed to your not being  
 23 involved at all or just him mostly drafting it?  
 24 A I haven't read this in a while. Some of  
 25 my thought may have been incorporated into this,

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1 but this is his writing.  
 2 **Q** Take a look at it and we'll go off the  
 3 record for a couple of minutes. I don't want to go  
 4 through each section, but if you could read through  
 5 it with the -- towards if there was a section that  
 6 you were involved with the drafting, that you would  
 7 indicate that to us, please?  
 8 A There's none.  
 9 **Q** There's none?  
 10 A I don't have to read it to tell you  
 11 there's none. I did not draft any of this.  
 12 **Q** Okay.  
 13 Let's turn, then, to Exhibit Number #15.  
 14 A (Reviewing document.)  
 15 (Discussion off the record.)  
 16 **MR. CASTILLE:**  
 17 Just to clarify for the record that I  
 18 have previously mentioned that the disc  
 19 that we looked on my laptop computer was  
 20 Exhibit Number #17, it's actually Exhibit  
 21 Number #14 in the order of exhibits  
 22 attached to Dr. Moises' deposition.  
 23 **BY MR. CASTILLE:**  
 24 **Q** And so now we're at Exhibit Number #15,  
 25 which is a document dated November 9, 2007 from

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1 Eric Paulson and Sally-Ann Roberts to you,  
 2 Dr. Moises.  
 3 Is there something significant about the  
 4 location of the Charity Hospital building being  
 5 located downtown versus somewhere else in your  
 6 opinion?  
 7 **MR. ROSENFELD:**  
 8 Objection.  
 9 **THE WITNESS:**  
 10 A With reference to what?  
 11 **BY MR. CASTILLE:**  
 12 **Q** I notice in the narrative section that  
 13 Dr. Van Meter, in Exhibit #13, talks about  
 14 location, location, location in one of the  
 15 paragraphs and that being important to Tulane, LSU,  
 16 and that Charity would be located downtown where it  
 17 is.  
 18 Is there a particular significance, in  
 19 your opinion, about its location needing to be  
 20 downtown versus any other location?  
 21 **MR. ROSENFELD:**  
 22 Objection.  
 23 **THE WITNESS:**  
 24 A Yeah. In my opinion, having it where  
 25 it's at now serves the community better.

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1 **BY MR. CASTILLE:**  
 2 **Q** Do you know if any other institution,  
 3 other than LSU, has a particular interest with it  
 4 being located at its current site? I don't know if  
 5 you can answer that one, but go ahead.  
 6 **MR. SCHAFER:**  
 7 Objection. I don't quite know what  
 8 institution means.  
 9 **MR. CASTILLE:**  
 10 It's very, very broad. If I were  
 11 answering that question, I would say I  
 12 could list a whole bunch of people who  
 13 have problems with it being moved.  
 14 **BY MR. CASTILLE:**  
 15 **Q** Let me ask specifically, do you know --  
 16 you said you were working currently at Tulane. Do  
 17 you know -- I don't know if you're involved in any  
 18 of those discussions at all.  
 19 Do you know if Tulane has a particular  
 20 interest that you're aware of with regard to where  
 21 the Charity building would be located?  
 22 A I don't know their position.  
 23 **Q** Let me ask a very broad question, and  
 24 there's a part of me that says what is the big  
 25 deal -- and maybe you can elaborate and explain,

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1 because maybe I don't quite get it -- with whether  
 2 there's a new hospital versus rebuilding the  
 3 current Charity Hospital? Why is it so important,  
 4 at least in your mind, that we rebuild the hospital  
 5 in this building versus a new location?  
 6 **MR. SCHAFER:**  
 7 Objection, but go ahead.  
 8 **THE WITNESS:**  
 9 A In my opinion, going back into Charity  
 10 Hospital is the right thing to do for all the right  
 11 reasons: Number one, it saves a lot of money.  
 12 Number two, we don't have an urban  
 13 wasteland in that whole downtown area.  
 14 Number three, the building is significant  
 15 for a lot of reasons, not only the thousands of  
 16 doctors and the millions of patients that we cared  
 17 for in the past, but the fact that it has a future.  
 18 Number four, the experts have given their  
 19 opinion; the seventh largest architectural firm in  
 20 the world has thoroughly evaluated the building and  
 21 said this building could be used in a shorter  
 22 amount of time and for less money.  
 23 Number five, in terms of time, 10 years  
 24 or more, to build a new hospital where you would  
 25 have to expropriate property from people who were

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1 living there just seems kind of wrong.  
 2 There's a lot of students and residents  
 3 now whose education is adversely affected by the  
 4 lack of a training institution. So, in my opinion,  
 5 we're putting out very much incompetent doctors.  
 6 That's just -- we've lost our ability to recruit,  
 7 but we're also giving them inadequate training.  
 8 So there's many reasons why going to back  
 9 into Charity is for all the right reasons. My  
 10 opinion.  
 11 **Q Sure. Sure.**  
 12 **Anything else?**  
 13 **MR. SCHAFER:**  
 14 Let me enter an objection. I don't  
 15 feel he was prepared to come here to  
 16 expound on that, so if something comes up  
 17 later, then I certainly want him to have  
 18 the opportunity to explain.  
 19 **BY MR. CASTILLE:**  
 20 **Q Sure.**  
 21 **If you have anything else now versus**  
 22 **later -- if you have something later --**  
 23 A No. I think those are the key points.  
 24 **Q All right.**  
 25 **What about the lawsuit itself? The**

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1 lawsuit itself purports to suggest that LSU  
 2 illegally closed the Charity Hospital building.  
 3 **Do you have any facts or information that**  
 4 **you can provide us that either supports or is in**  
 5 **any way related to that contention?**  
 6 **MR. ROSENFELD:**  
 7 Objection.  
 8 **MR. SCHAFER:**  
 9 Objection. It's kind of a mixed fact  
 10 and legal question.  
 11 **THE WITNESS:**  
 12 A All I know is from what I've read from  
 13 the law that, I believe, is from 2003 that says  
 14 only the State legislature has the authority -- or  
 15 it says no Charity Hospital Emergency Department or  
 16 Hospital can close without legislative approval.  
 17 That's about the extent of what I know legally  
 18 about the illegal closure of Charity Hospital.  
 19 **BY MR. CASTILLE:**  
 20 **Q What about the facts; do you have any**  
 21 **facts that support that it was closed without**  
 22 **legislative approval?**  
 23 **MR. SCHAFER:**  
 24 Same objection.  
 25 **THE WITNESS:**

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1 A Just -- all I know is that post-Katrina,  
 2 we were there and we made efforts to stand it up  
 3 and make it ready to use. And from someone who  
 4 worked there for a period of probably 10 years  
 5 before, physically I know it was ready to take care  
 6 of patients, and then we were forced out and the  
 7 building was once again closed.  
 8 **BY MR. CASTILLE:**  
 9 **Q Do you know who closed Charity?**  
 10 A I do not.  
 11 **Q Okay.**  
 12 **Have you reviewed any additional**  
 13 **documents, other than these documents, to prepare**  
 14 **for your deposition in any way?**  
 15 A Huh-uh. Not that I can recall.  
 16 **MR. CASTILLE:**  
 17 Off the record for just a few  
 18 minutes.  
 19 (Recess taken at 11:24 a.m. Back on  
 20 record at 11:26 a.m.)  
 21 **BY MR. CASTILLE:**  
 22 **Q I'll ask you real quickly about two**  
 23 **documents provided the last time we met. I've**  
 24 **labeled them Exhibits #18 and #19. And I will go**  
 25 **ahead and attach it to the deposition. Those are**

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<p>1 the documents that Mr. Schafer provided to me.</p> <p>2 The first document is -- the first</p> <p>3 document is from Kurt and it says, Hi Michael.</p> <p>4 What is this document?</p> <p>5 A (Reviewing document.)</p> <p>6 (Document marked as DR. MOISES #18</p> <p>7 for identification.)</p> <p>8 MR. ROSENFELD:</p> <p>9 Off the record, please.</p> <p>10 (Recess taken at 11:29 a.m. Back on</p> <p>11 record at 11:33 p.m.)</p> <p>12 BY MR. CASTILLE:</p> <p>13 Q Exhibit Number #18. Again, this is a</p> <p>14 document that Mr. Schafer provided to me the last</p> <p>15 time we met. It's not dated. At the bottom it</p> <p>16 suggests that it's from Kurt, K-U-R-T, and it says,</p> <p>17 Hi Michael.</p> <p>18 Do you know why you had these documents</p> <p>19 in your possession?</p> <p>20 A It was sent to me from Jason Howard. I</p> <p>21 don't know who Michael or Kurt is.</p> <p>22 Q And you don't know when this letter --</p> <p>23 this first document, I don't know if it's a letter</p> <p>24 or e-mail -- do you know when it was drafted?</p> <p>25 A I do not know.</p>	<p>1 been redeployed. I don't know.</p> <p>2 Q And you don't have the e-mail itself with</p> <p>3 the date on it; do you?</p> <p>4 A Unlikely.</p> <p>5 Q Do you know these two documents were sent</p> <p>6 to you at the same time?</p> <p>7 A Yes.</p> <p>8 MR. CASTILLE:</p> <p>9 All right. That's all I have. Thank</p> <p>10 you.</p> <p>11 MR. ROSENFELD:</p> <p>12 We have no questions.</p> <p>13 (End of testimony at 11:35 p.m.)</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 (Document marked as DR. MOISES #19</p> <p>2 for identification.)</p> <p>3 BY MR. CASTILLE:</p> <p>4 Q This second document, Exhibit #19, it's</p> <p>5 not signed. It says at the second page, bottom,</p> <p>6 Sincerely, Jason J. Howard. And that's the Jason</p> <p>7 Howard that you were just referring to?</p> <p>8 A Yes.</p> <p>9 Q And he sent this to you?</p> <p>10 A Yes.</p> <p>11 Q It says: Dear Sir or Ma'am. Was it</p> <p>12 addressed to you or was it addressed to someone</p> <p>13 else?</p> <p>14 A It was e-mailed to me.</p> <p>15 Q It was e-mailed to you? Do you know when</p> <p>16 it was e-mailed to you?</p> <p>17 A I don't recall.</p> <p>18 Q I think I asked you this before, but I'll</p> <p>19 ask you again.</p> <p>20 You don't know where Jason Howard is now,</p> <p>21 do you?</p> <p>22 A I don't. I think the last time we spoke,</p> <p>23 which was probably at least a year-and-a-half to</p> <p>24 2 years ago, he was back in Alabama. But I don't</p> <p>25 know if he's still with the military or if he's</p>	<p>1 REPORTER'S CERTIFICATE</p> <p>2 I, Lori Cobb, a Certified Court Reporter</p> <p>3 (Certificate #87248) for the State of Louisiana, do</p> <p>4 hereby certify that the foregoing 231 pages</p> <p>5 constitute the transcript of the Deposition of</p> <p>6 JAMES P. MOISES, M.D., taken on Tuesday, February</p> <p>7 6, 2009; and Monday, February 16, 2009, in the</p> <p>8 above-entitled and numbered cause; that said</p> <p>9 witnesses were duly sworn by me and thereafter</p> <p>10 testified as hereinabove set forth;</p> <p>11 That the proceedings were reported by me</p> <p>12 in Stenographic shorthand, and is a true and</p> <p>13 correct transcript to the best of my ability and</p> <p>14 understanding.</p> <p>15 That I am not of Counsel, nor related to</p> <p>16 any person participating in this cause, and am in</p> <p>17 no way interested in the outcome of this event.</p> <p>18 This certification is valid only for a</p> <p>19 transcript accompanied by my digital signature and</p> <p>20 the image of my State authorized seal on this page.</p> <p>21 SIGNED THIS THE 23RD DAY OF FEBRUARY, 2009.</p> <p>22 _____</p> <p>23</p> <p>24 LORI COBB, CCR</p> <p>25</p>