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1 CAUSE NO. 2007-54438
2 DAVID AND KATHLEEN PLUCHINSKY,) IN THE DISTRICT COURT OF
INDIVIDUALLY AND AS)
3 REPRESENTATIVES OF THE JOHN)
ALBERT PLUCHINSKY ESTATE,)
4 PLAINTIFFS,)
5 VS.) HARRIS COUNTY, T E X A S
6 HOUSTON RACQUET CLUB, STEPHEN)
GRIFFIN, DAVID LAMKIN,)
7 GUILLERMO PALMER, AND)
LG Supv,)
8 DEFENDANTS.) 281ST JUDICIAL DISTRICT

9

10 *****

11 ORAL VIDEOTAPED DEPOSITION
12 SUPV CC #1
13 July 7, 2008

14 *****

15 ORAL VIDEOTAPED DEPOSITION OF SUPV CC #1
16 produced as a witness at the instance of the Plaintiffs
17 and duly sworn, was taken in the above-styled and
18 numbered cause on July 7, 2008, from 10:06 a.m. to
19 4:01 p.m. before Roxanne K. Smith, Certified Shorthand
20 Reporter in and for the State of Texas, reported by
21 computerized stenotype machine at the offices of
22 David Gerger & Associates, 700 Louisiana, Suite 2300,
23 Houston, Texas, pursuant to the Texas Rules of Civil
24 Procedure and the provisions stated on the record or
25 attached hereto.

0002

1 A P P E A R A N C E S

2

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22 Mr. Derek Martin, Videographer
Mr. David Pluchinsky
23 Mr. Stephen Griffin
24 * * * * *

25
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0004

1 (Exhibits 14J, 52I and 85 marked)

2 THE VIDEOGRAPHER: Today's date is Monday,
3 July 7th, 2008. The time is 10:06 a.m. We're on the
4 record.

5 SUPV CC #1

6 having been first duly sworn, testified as follows:

7 EXAMINATION

8 BY MR. PLETCHER:

9 Q. Could you introduce yourself to the ladies and
10 gentlemen of the jury, please?

11 A. My name is SUPV CC #1

12 Q. SUPV CC #1, you were a camp counselor on
13 July 18th, the day that my client's son drowned in the
14 family pool at the Racquet Club?

15 MR. NGUYEN: Matt, sorry to interrupt real
16 quick. Just as a housekeeping matter now that we're on
17 the record, to expedite matters, can we have a rule
18 where an objection by one party would be good for all?

19 MR. PLETCHER: Sure.

20 MR. NGUYEN: All right. Thank you. Sorry
21 to interrupt.

22 A. Yes.

23 Q. (By Mr. Pletcher) Okay. Have you ever given a
24 deposition like this before?

25 A. No.

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1 Q. Just so things will go smooth today, our court
2 reporter, Roxanne, sitting to your right is taking down
3 all my questions and all your sworn answers. And she's
4 going to type it up into a little booklet at the end of
5 this. Okay?

6 A. (Witness nodding head)

7 Q. You understand that?

8 A. Yes, I do.

9 Q. In order for her to be able to get the stuff
10 down, we can't talk over each other. So, if you'll wait
11 until I finish my question, I'll wait until you finish
12 your answer before I ask my next one. Is that okay?

13 A. Okay.

14 Q. And you have to give verbal answers like you're

15 doing rather than nods of the head, uh-huh, huh-uh.

16 They don't come out in the transcript. Okay?

17 A. Okay.

18 Q. One agreement that I'd like to get with you, if
19 at any time during the deposition you don't understand
20 one of my questions, you don't hear me, will you stop me
21 and tell me you don't understand it or you didn't hear
22 me and ask me to rephrase it so that you do understand
23 and hear me?

24 A. Yes.

25 Q. I will assume that if you don't stop me and ask
0006

1 me to rephrase it or tell me that you didn't understand
2 it, that you did understand it if you give me an answer.
3 Okay?

4 A. Okay.

5 Q. Is that fair?

6 A. Uh-huh. Yes.

7 Q. Okay. Where do you live today?

8 A. Today I live at my parent's house at 8427
9 Battle Plains Drive.

10 Q. You were living there last summer when this
11 drowning occurred, correct?

12 A. Yes.

13 Q. And you're 20 years old today?

14 A. Yes.

15 Q. You were 19 on July 18th, the day that John
16 drowned, correct?

17 A. Yes.

18 Q. During this deposition, SUPV CC #1, we're going to
19 be talking about some stuff that is difficult to talk
20 about. And I want you to know going in that if at any
21 time during the deposition you want to take a break to
22 step outside, catch your breath, go to the restroom,
23 talk to your lawyer, you just let me know. Okay?

24 A. Okay.

25 Q. It's your deposition. You're entitled to take
0007

1 breaks when you want to. Okay?

2 A. Okay.

3 Q. And this deposition is particularly different
4 in the sense that we're talking about the drowning of a
5 4-year-old. And I know you were involved with the
6 resuscitation efforts. So, I understand if you need to
7 step out. Okay?

8 A. Okay.

9 Q. Can you give us an idea of your educational
10 background?

11 A. Well, starting in elementary school, I went to
12 Reed Elementary where I was there for five years or six
13 years -- excuse me -- kindergarten through fifth. And
14 from there I went to Dean Middle School.

15 Q. Okay. Where did you go to high school?

16 A. High school I went to Jersey Village High
17 School.

18 Q. Did you graduate?

19 A. Yes, sir.

20 Q. What year?

21 A. I graduated in 2006.

22 Q. And did you go to any college?

23 A. I went to where I'm currently at, Cy-Fair
24 Community College.

25 Q. When did you start Cy-Fair Community College?

0008

1 A. August of '06.

2 Q. Are you majoring in anything?

3 A. Right now, no. I'm --

4 Q. You're undeclared?

5 A. (Witness nodding head)

6 Q. Is that true?

7 A. Yes.

8 Q. And are you employed today?

9 A. Yes, sir.

10 Q. Where do you work?

11 A. I am still at the Houston Racquet Club.

12 Q. And what's your position there?

13 A. Right now I'm working outside. There's no
14 specific title. I go around filling up coolers for the
15 tennis courts. I clean up, things of that nature.

16 Q. Who's your supervisor?

17 A. SUPV #2.

18 Q. What does SUPV #2 do?

19 A. He is the head of the pro shop.

20 Q. Is he a tennis professional?

21 A. Yes.

22 Q. He gives lessons there?

23 A. Not normally, no.

24 Q. He just runs the pro shop?

25 A. Yes, sir.

0009

1 Q. So, you're SUPV #2 assistant?

2 A. Not really. I just -- he tells me what needs

3 to be done. And so, I go do it.

4 Q. Do you primarily work out in the tennis court
5 area, or do you still do work around the pools?

6 A. A majority of it is around the tennis courts.
7 I have to put water coolers out at the pools. That's
8 the only time that I'm over there.

9 Q. Okay. When was the last time you worked around
10 the pools? Last summer?

11 A. Yes, sir.

12 Q. As a camp counselor?

13 A. As a lifeguard.

14 Q. Okay. I'd like to get an idea of all the
15 positions that you've held with the Racquet Club from
16 day one. Okay?

17 A. (Witness nodding head)

18 Q. Can you just give us an idea of what positions
19 you've held and when?

20 A. I have been a counselor for roughly five years.
21 That was the very first thing. And then from there in
22 between the summer -- I think my senior year I was
23 working in the fitness center for David.

24 Q. Okay.

25 A. And then starting in May of 2006, I started my
0010 lifeguarding. And then in January of 2007, I went into
1 the pro shop; and I was actually a -- I guess behind the
2 counter, retail.

3 Q. In the pro shop?

4 A. In the pro shop.

5 Q. When did you first work -- what year did you
6 first work as a camp counselor there at the Racquet
7 Club?

8 A. I really can't remember the exact year.

9 Q. Do you remember if you were still in high
10 school?

11 A. Yes.

12 Q. What year of high school?

13 A. Sophomore year maybe.

14 Q. Okay.

15 A. In between junior -- or freshman and sophomore
16 year.

17 Q. So, while you were in high school, you worked
18 as a camp counselor during the summers at the Houston
19 Racquet Club?

20 A. Correct.

21 Q. You had told us that you spent five years?

22

23 That would be five summers working as a camp
24 counselor --

25 A. Correct.

0011

1 Q. -- is that correct?

2 A. Correct.

3 Q. And I guess your fifth year would have been
4 last summer, 2007, when John drowned that summer?

5 A. I believe so, correct. Yes.

6 Q. Now, you said that your senior year you also
7 worked in the fitness center under David. Would that be
8 David Lamkin?

9 A. Yes.

10 Q. And did you work in the fitness center during
11 the summer or was that during school or both?

12 A. It was during the school year.

13 Q. And what did you do in the fitness center under
14 David Lamkin's supervision?

15 A. Well, I pretty much went around picking up
16 cups, picking up towels, wiping down the equipment,
17 keeping everything clean.

18 Q. Okay. And what year did you graduate from
19 Jersey Village?

20 A. 2006.

21 Q. '06. So, in 2006 or '05, '06 you would have
22 worked with David Lamkin in the fitness center, right?

23 A. Correct.

24 Q. And then in January of 2007, you said that you
25 went to the pro shop and started working behind the desk

0012

1 there?

2 A. Uh-huh. Correct.

3 Q. And that would have been under Mr. Clarkson's
4 supervision --

5 A. Yes.

6 Q. -- correct? I was trying to count up the years
7 here. It seems to me if you started your first job as a
8 camp counselor between your freshman and sophomore year
9 of high school --

10 A. Uh-huh.

11 Q. -- that you -- this would have been your third
12 summer as camp counselor in '07.

13 A. It may have -- I'm pretty sure it was before
14 that then.

15 Q. Okay. So, you think you may have worked as a
16 camp counselor before you were in high school?

17 A. Not before I was in high school.
 18 Q. It would have been -- so, it would have been
 19 your -- the summer after your freshman year, right?
 20 A. Correct.
 21 Q. And when did you start high school? In '02?
 22 A. '02.
 23 Q. '01-'02?
 24 A. Maybe -- I don't remember the exact year.
 25 Q. You graduated in four years, though, right?
 0013
 1 A. Yeah. So, yes, '02.
 2 Q. '01-'02?
 3 A. '02.
 4 Q. '02-'03 would be two. '03-'04 would be three.
 5 '04 -- I'm sorry. Sorry. I screwed up.
 6 '05-'06 would be your fourth summer --
 7 A. Correct.
 8 Q. -- right?
 9 MR. NGUYEN: Objection, form.
 10 Q. (By Mr. Pletcher) And then '07 would be your
 11 fifth summer? Okay.
 12 MR. PLETCHER: Did I count that right,
 13 Guys? Maybe I ought to start over.
 14 MR. SNYDER: I don't know. I thought it
 15 was pretty confusing.
 16 MR. PLETCHER: Yeah. Let me --
 17 Q. (By Mr. Pletcher) If you -- you started high
 18 school in 2001, correct?
 19 A. Uh-huh. Correct.
 20 Q. So, your first summer after your freshman year
 21 would have been your first year at the Racquet Club.
 22 A. Yes.
 23 Q. As a camp counselor.
 24 A. Yes.
 25 Q. And that would have been in the summer of '02.
 0014
 1 A. I believe so. It would have been '02-'03, was
 2 the first year.
 3 Q. Okay. '02.
 4 A. '02-'03
 5 Q. So, it would have been '03. Okay. That's
 6 where I messed up. I don't know -- so '03 would have
 7 been your first summer, right?
 8 A. Correct.
 9 Q. Then '04 would have been your second.
 10 A. Correct.

11 Q. '05 was your third.
12 A. Correct.
13 Q. '06 was your fourth.
14 A. Correct.
15 Q. And '07 was your fifth.
16 A. Correct.
17 Q. So, it was five summers.
18 A. (Witness nodding head)
19 Q. Correct?
20 A. Yes.
21 Q. So, you acted as a camp counselor both at the
22 old pool that was at the Racquet Club and the new resort
23 pool, correct?
24 A. Correct.
25 Q. You said that in January of '07 you started
0015
1 working in the pro shop. How long did you work in the
2 pro shop in '07?
3 A. In '07 I worked until June. Then I became a
4 camp counselor. And then once camp ended, I went back
5 into the pro shop.
6 Q. So, January to June you worked in the pro shop,
7 2007.
8 A. Correct.
9 Q. Then June to July, right?
10 A. Correct.
11 Q. You worked as a camp counselor until the camp
12 stopped in July. And of course, it ended after John's
13 drowning, correct?
14 A. Correct.
15 Q. And then after John's drowning, you went back
16 to the pro shop?
17 A. Correct.
18 Q. And were you working behind the counter last
19 summer?
20 A. Yes.
21 Q. And when did you stop doing that?
22 A. I stopped doing that in May this year when I
23 went to work outside.
24 Q. So, from July of '07 until May of '08 you
25 worked in the pro shop.
0016
1 A. Correct.
2 Q. And then the summer you started working outside
3 again, correct?
4 A. Yes.

5 Q. So, during your senior year in 2006 when you
6 worked under David Lamkin in the fitness center, did you
7 work with anybody else there or were you just on your
8 own?
9 A. Pretty much on my own.
10 MR. SNYDER: Objection, form.
11 Q. (By Mr. Pletcher) And then why did you stop
12 working in the fitness center with David Lamkin?
13 A. I believe it was because I had conflicts with
14 timing with school coming to an end.
15 Q. It didn't have anything to do with job
16 performance then?
17 A. None whatsoever.
18 Q. Okay. And then you said you started
19 lifeguarding in May of 2006, that summer?
20 A. That is correct.
21 Q. Where did you get your certification?
22 A. A lifeguard who was there at the time LG Supv B --
23 I don't remember his last name -- was a certified
24 instructor to teach lifeguard certification. And I got
25 it through him.
0017
1 Q. There at the Racquet Club?
2 A. Yes.
3 Q. Did he teach the course at the Racquet Club?
4 A. Yes.
5 Q. Would that have been LG Supv B? Does that
6 sound right?
7 A. I believe that's the last name.
8 Q. And you took that course in May of 2006?
9 A. Correct.
10 Q. Did you happen to bring your certification
11 cards with you?
12 A. They are not on me right now, no.
13 Q. Do y'all have them here, though?
14 MR. GERGER: No.
15 A. They're in my wallet.
16 Q. (By Mr. Pletcher) Do you have your wallet with
17 you today?
18 A. It's in the office.
19 Q. Okay. Good. I'll look at them later.
20 How long did you lifeguard at the Racquet
21 Club?
22 A. I guess a year and a little under a half. So,
23 like, a year or a couple months -- or one summer.
24 Q. Right.

25 A. And then towards the beginning of the summer of
0018

1 '07 before camp started.

2 Q. Okay. So, you acted as a lifeguard at the
3 Houston Racquet Club in the summer of 2006, correct?

4 A. Correct.

5 Q. And then you also lifeguarded in the summer of
6 2007 but just until the camp started.

7 A. Correct, unless they needed me extra.

8 Q. Unless what?

9 A. Unless they needed me to fill in for somebody.

10 Q. And from Plaintiff's Exhibit 18 -- why is this
11 all caddy wampus?

12 This is the summer camp registration form.
13 Can you read the top of that, sir?

14 A. Registration form week five. That's July 10th.

15 Q. (By Mr. Pletcher) Week one is June 12th
16 through the 15th?

17 A. Correct.

18 Q. So, that would have been the first week of
19 summer camp?

20 MR. GERGER: What year is this?

21 MR. PLETCHER: 2007.

22 MR. GERGER: Do you have the document?

23 A. Correct.

24 Q. (By Mr. Pletcher) So, the first week would
25 have been -- of the summer camp in 2007 was the week of
0019

1 June 11th which included June 12th, which was a Tuesday.

2 A. Correct.

3 Q. Because the camp was Tuesday, Wednesday,
4 Thursday, Friday. You remember that, don't you?

5 A. Yes.

6 Q. So, up until June -- the week of June 11th, you
7 worked as a lifeguard at the Houston Racquet Club family
8 pool; is that correct?

9 MR. GERGER: Objection, form.

10 A. I believe so.

11 Q. (By Mr. Pletcher) Okay. And why do you
12 hesitate there?

13 A. Because my family and I like to travel. So, we
14 could have been gone beforehand.

15 Q. Sure.

16 A. I don't really recall.

17 Q. Other than maybe a family vacation for a week
18 or so in May or early June, you worked as a lifeguard at

19 the family pool at the Houston Racquet Club during the
20 summer of 2007, right?

21 A. I believe so.

22 Q. Okay. And was that your first lifeguarding
23 job?

24 A. The summer of 2006, yes.

25 Q. Okay. Had never lifeguarded anywhere else,
0020

1 correct?

2 A. Correct.

3 Q. And who was your supervisor at the Houston
4 Racquet Club while you were lifeguarding in the summer
5 of 2006?

6 A. Guillermo.

7 Q. Guillermo Palmer?

8 A. Palmer.

9 Q. Did anybody else supervise you that summer
10 other than Guillermo Palmer when you were doing your
11 lifeguarding duties?

12 A. David, I believe, was out there some. And
13 there were some head guards, but I really don't recall
14 who they were.

15 Q. Okay. So, David is David Lamkin, right?

16 A. Correct.

17 Q. So, he would have been supervising you from
18 time to time in the summer of 2006 when you were a
19 guard.

20 A. Correct.

21 Q. And then also there were head lifeguards who
22 would also direct you in your lifeguarding duties,
23 correct?

24 A. Yes.

25 Q. And did you have the same supervisors in the
0021

1 summer of 2007, Guillermo Palmer, David Lamkin from time
2 to time and the head guards?

3 A. David and Guillermo were still there, but the
4 head lifeguards were not. They were new.

5 Q. And who were the head guards in the summer of
6 2007?

7 A. It was me, LG Supv, Sr LG #1 and
8 one other; but I don't really recall his name.

9 Q. You mentioned yourself. So, you were promoted
10 to head guard in the summer of 2007?

11 A. Yes.

12 Q. Or supervising guard?

13 A. (Witness nodding head)
14 Q. Was that also what it was referred to as?
15 A. I believe so.
16 Q. Okay. And who gave you that promotion?
17 A. Guillermo Palmer.
18 Q. Do you remember the circumstances under which
19 Guillermo Palmer told you that you could act as a head
20 guard?
21 A. The summer prior I had showed that I -- I was
22 focused on the rules. I made sure it was a safe
23 environment, and I was always there whenever they needed
24 me. So, that's when they decided.
25 Q. So, when you talked to Guillermo Palmer in the
0022
1 early part of the summer 2007, did he say, "Would you
2 like to be a head guard?"
3 A. Yes.
4 Q. And you, of course, accepted?
5 A. Correct.
6 Q. Can you tell the ladies and gentlemen of the
7 jury what your role is as a head lifeguard at the
8 Houston Racquet Club? In other words, what were your
9 duties and responsibilities?
10 A. My responsibilities were to roam the pools,
11 make sure that the lifeguards were paying attention to
12 the pool and no one else, picked up loose towels and
13 things of that nature. And if there was ever, like, a
14 small complaint from one of the members, usually the
15 head guard would take care of it rather than the member
16 talking to the lifeguards and taking their attention
17 away from the pool.
18 Q. Okay. To summarize what you just told us, you
19 as head guard would, number one, oversee the guards who
20 were on their stands to make certain that they were
21 paying attention to the people in the pool.
22 A. Correct.
23 Q. And that from your lifeguarding education and
24 training would be their role as a guard sitting in a
25 chair of patron surveillance.

0023

1 A. Correct.
2 Q. Surveilling the pool, correct?
3 A. Yes.
4 Q. Scanning the pool, correct?
5 A. Yes.
6 Q. Scanning their area of responsibility. You

7 know what that is, don't you?

8 A. Yes.

9 MR. NGUYEN: Objection, form.

10 Q. (By Mr. Pletcher) And you as a head guard were
11 responsible to make certain that whoever was sitting in
12 the stands were performing those responsibilities
13 adequately, correct?

14 A. Yes. I believe, yes.

15 Q. And that would be both at the family pool and
16 the lap pool, correct?

17 A. Correct.

18 Q. Who explained those duties and responsibilities
19 to you before you started working as a head guard?

20 A. I believe it was Guillermo Palmer, but I am a
21 little foggy.

22 Q. When you say, "I'm a little foggy," do you
23 think it may have been one or more of the other head
24 guards?

25 MR. SNYDER: Objection, form.

0024

1 A. No.

2 Q. (By Mr. Pletcher) So, it was probably
3 Guillermo since he was your direct supervisor, right?

4 A. Either David Guillermo or David. I don't
5 recall which one it was.

6 Q. One or the other, correct?

7 A. Correct.

8 Q. And then why did you stop guarding in the
9 summer of 2007 and start counseling again?

10 A. Because usually it might not be -- like summer
11 camp might not be -- it's only four hours a day. But at
12 the end of those four hours, you're dead tired.

13 Q. Yes.

14 A. And so, it would interfere with my guarding
15 right after I did summer camp.

16 Q. Okay. Was it a personal choice of your own not
17 to guard that summer when summer camp was in session?

18 A. Yes.

19 Q. Because you wanted to continue your position as
20 a camp counselor that summer, right?

21 A. Correct.

22 Q. And were you a head counselor or a supervising
23 counselor in the summer of 2007?

24 A. On certain days I was.

25 Q. Can you explain that to me?

0025

1 A. On Wednesdays, the -- one of the normal
2 supervisors also worked inside. So, on Wednesdays she
3 had to do payroll. And because I had been there for so
4 long and I was experienced, they would use me to sub in
5 for her.

6 Q. Just on Wednesdays?

7 A. Correct.

8 Q. And who was that supervisor who had to work
9 inside and do payroll on Wednesdays?

10 A. I believe her name was SUPV or
11 SUPV or something.

12 Q. SUPV?

13 A. SUPV.

14 Q. Did somebody approach you about being a
15 supervisor on those days that SUPV had to do her
16 payroll?

17 A. I believe that CD would ask me, and I would
18 just go ahead and do that anyway.

19 Q. And when you say "CD," is that
20 CD?

21 A. Correct.

22 Q. Well, was it a situation where you knew going
23 into your counselor job last summer in 2007, that on
24 Wednesday you were going to be working as a supervisor
25 or was it something that just developed over time?

0026

1 A. It had just developed over time.

2 Q. And what do you first remember -- let me
3 rephrase that.

4 When do you first remember being asked to
5 act as a supervisor last summer in 2007?

6 A. I believe it was the -- that first Wednesday
7 morning of camp.

8 Q. So, the first Wednesday during the week of
9 June 11th?

10 A. Yes.

11 Q. Which would have been Wednesday, June 13th.

12 A. Correct.

13 Q. And then did you act as a supervisor each
14 Wednesday thereafter?

15 A. I believe so.

16 Q. We might as well do this. I'm going to show
17 you what we have previously marked as Plaintiff's
18 Exhibit 72A.

19 MR. PLETCHER: I'm going to back out on
20 this, Guys.

21 Q. (By Mr. Pletcher) These are the weekly sign-in
22 sheets that have been typed up. And this is for week
23 one, and you'll see your name, SUPV CC #1, here. And
24 it shows on June 12th you clocked in at 8:15, and on the
25 12th you clocked out at 1:25. And then on the 13th you
0027

1 clocked in at 8:15 and clocked out at 1:35. And it goes
2 all the way down. You worked every day that week.
3 Okay? Does that sound right?

4 A. Yes.

5 MR. NGUYEN: Objection, form.

6 Q. (By Mr. Pletcher) And then if we go to
7 Plaintiff's Exhibit 72B, this is week two. If we flip
8 to Page 2, your name again appears. And on the 19th --
9 you worked the 19th. You worked the 20th. You worked
10 the 21st, and you worked the 22nd.

11 A. Yes.

12 MR. NGUYEN: Objection, form.

13 Q. (By Mr. Pletcher) Does that sound right, that
14 you worked each day during week two of the summer camp?

15 A. Yes.

16 Q. And looking at Plaintiff's Exhibit 72C, Page 2,
17 it's got your name. But it only shows that you worked
18 on that Thursday the 28th at 7:55, clocked in. At
19 1:40 you clocked out. Do you think you may have been on
20 vacation that week or took a few days off?

21 A. I don't recall.

22 MR. NGUYEN: Objection, form.

23 Q. (By Mr. Pletcher) And then week four,
24 Plaintiff's Exhibit 72D, your name appears down at the
25 bottom. This is Tuesday, July 10th. You worked on the
0028

1 10th, the 11th, the 12th and the 13th. Does that meet
2 your recollection of working each day during week four?

3 A. I believe so.

4 MR. NGUYEN: Objection, form.

5 Q. (By Mr. Pletcher) And then week five is 72E;
6 and that would be Tuesday, July -- flip to Page 2 --
7 Tuesday, July 17th there's your name again. You worked
8 on that Tuesday. Do you remember working the Tuesday
9 before John drowned?

10 A. Yes.

11 Q. And then of course you worked on Wednesday,
12 July 18th --

13 A. Yes.

14 Q. -- correct?

15 A. Correct.
16 Q. And then from that point forward the camp was
17 shut down --
18 A. Correct.
19 Q. -- is that correct?
20 A. Correct.
21 Q. So, on July 18th, you would have worked as a
22 supervisor that day, right?
23 A. Correct.
24 Q. Because it was a Wednesday. Likewise, during
25 week four, Wednesday, July 11th, you would have worked
0029
1 as a supervisor, correct?
2 A. Correct.
3 Q. Week three was the week where you did not work
4 that Wednesday, June 27th. Do you have an independent
5 recollection of working on Wednesday, June 27th?
6 A. I believe so, yes.
7 Q. You think you did?
8 A. Yes.
9 Q. During week three?
10 A. Yes.
11 Q. What makes you believe that? Why do you have a
12 recollection of that?
13 A. Because week three was always the busiest week,
14 and they usually pulled in almost all, if not all, of
15 the counselors at the time. And that -- and usually
16 that was my favorite week to work.
17 Q. What activities did they have during week
18 three?
19 A. Week three was the cheerleading and baseball
20 week where the girls would go to cheerleading and the
21 boys played baseball.
22 Q. Okay. And do you have any explanation as to
23 why we wouldn't have any clock-in and out times for you
24 during the week of June 25th?
25 MR. NGUYEN: Objection, form.
0030
1 MR. SNYDER: Objection, form.
2 A. I don't believe so.
3 Q. (By Mr. Pletcher) You don't remember sitting
4 here today forgetting to clock in that week?
5 A. Not at all.
6 Q. Okay. And of course you would have worked as a
7 supervisor on Wednesday, June 20th, during week two,
8 correct?

9 A. I believe so, yes.
10 Q. And also on Wednesday, June 13th.
11 A. I believe so.
12 Q. Is that correct?
13 A. I believe so.
14 Q. Do you remember CD sitting down
15 with you and explaining to you her expectations of what
16 you were supposed to be doing as a supervisor during
17 summer camp 2007?
18 A. I don't really recall.
19 Q. Who, if anybody, explained to you your roles --
20 your role as supervisor during summer camp 2007, in
21 other words, what your day-to-day tasks, duties and
22 responsibilities were?
23 MR. SNYDER: Objection, form.
24 A. It would have been either CD or David.
25 Q. (By Mr. Pletcher) Well, Mr. SUPV CC #1, do you
0031
1 recall either CD or David specifically instructing
2 you or telling you what your duties and responsibilities
3 as camp supervisor --
4 A. I don't --
5 Q. -- was in 2007?
6 A. I don't recall.
7 Q. And do you recall either CD or
8 David Lamkin ever providing you with any written
9 guidelines as far as what your duties and
10 responsibilities as camp supervisor was?
11 A. I don't really recall.
12 Q. Explain to us what your duties and
13 responsibilities were as camp supervisor in the summer
14 of 2007.
15 A. I would roam around the camp making sure that
16 if there were any problems with campers, to help the
17 counselors, I guess, deal with the problem. If, like, a
18 kid couldn't swim, I'd pick him up and take him to the
19 house. So, that way all counselors would be at the
20 pool. I would help provide games or game ideas for when
21 the kids weren't at the pool.
22 Q. When the kids were not at the pool?
23 A. Correct.
24 Q. Anything else?
25 A. I would -- if I noticed counselors were doing
0032
1 things they weren't supposed to, I would, you know,
2 approach them and tell them to, like, not do that

3 anymore.

4 Q. Anything else?

5 A. I don't believe so.

6 Q. So, your recollection of your duties and
7 responsibilities as camp supervisor included assisting
8 with problems with summer campers, correct?

9 A. Correct.

10 Q. It also included taking summer campers to the
11 camp house if for some reason they couldn't swim.

12 A. Correct.

13 Q. It also included coming up with games for the
14 summer campers when they were not at the pool, at other
15 places at the Club, correct?

16 A. Correct.

17 Q. And you also directly supervised other
18 counselors. And if you noticed that they were doing
19 something that they were not supposed to be doing, you
20 would make them stop.

21 A. Correct.

22 MR. NGUYEN: Objection, form.

23 Q. (By Mr. Pletcher) And did CD or
24 David Lamkin ever provide you with any written
25 documentation of the things that camp counselors were
0033

1 not supposed to be doing?

2 MR. SNYDER: Objection, form.

3 A. I believe so.

4 Q. (By Mr. Pletcher) You believe so?

5 A. It was the -- I guess the rules that they
6 provided.

7 Q. Would that be what I've marked as Plaintiff's
8 Exhibit 42?

9 A. I believe so.

10 Q. The Houston Racquet Club Camp Counselor Rules,
11 Regulations and Requirements, Summer of 2007?

12 A. Yes.

13 Q. Why don't we look at this since we're on it.
14 "All counselors must get in the water with the children
15 during their designated swim time." That was one of the
16 rules, correct?

17 A. Yes.

18 Q. So, if you saw a camp counselor who was at the
19 pool with summer campers during swim time and they were
20 not in the pool, what would you do?

21 A. I would instruct them to get into the pool with
22 their kids.

23 Q. How many times do you think you did that during
24 the summer of 2007?

25 MR. SNYDER: Objection, form.

0034

1 A. I don't believe I did that at all.

2 Q. (By Mr. Pletcher) Okay. "Keep clipboard with
3 you at all times." What would you do if a camp
4 counselor did not have the clipboard?

5 MR. NGUYEN: Objection, form.

6 MR. SNYDER: Objection, form.

7 A. I would tell them to -- I would ask them either
8 where they believe they left it or go get it myself.

9 Q. (By Mr. Pletcher) You'd make certain they went
10 and got it or they obtained it one way or another.

11 A. Correct.

12 Q. Even if you had to get it yourself, correct?

13 MR. GERGER: Objection, form.

14 Q. (By Mr. Pletcher) Correct?

15 A. I believe so.

16 Q. And how many times did you do the summer of
17 2007?

18 MR. SNYDER: Objection, form.

19 A. I don't believe any at all.

20 Q. (By Mr. Pletcher) And if we look at Page 2 of
21 Exhibit 42 -- I'm going to zoom in on this so you can
22 see it. This right here says, "Cooperate with
23 lifeguards. Safety at the pool is their responsibility
24 and yours. They have the ultimate say at the pool."
25 Did I read that correctly?

0035

1 A. I believe so.

2 Q. You were aware of that rule back in the summer
3 of 2007, correct?

4 A. Correct.

5 Q. And how many times did you witness a camp
6 counselor not cooperating with a lifeguard during the
7 summer of 2007?

8 A. I don't believe any at all.

9 Q. And then down here this says, "The absolute
10 no-nos are as follows. Absolutely no horseplay will be
11 tolerated with the children or other counselors."

12 MR. NGUYEN: Objection, form.

13 Q. (By Mr. Pletcher) Do you remember that rule?

14 A. I believe so, yes.

15 Q. Now, all of these rules, they were in effect in
16 2006 when you worked as camp counselor, right?

17 A. More or less, yes. They might have added a
18 rule or two; but those rules, I believe so.
19 Q. Okay. Well, in 2006 when you worked as camp
20 counselor at the Houston Racquet Club, y'all had a
21 similar document.
22 A. I believe so.
23 Q. Do you remember seeing one that was dated 2006?
24 A. I believe so.
25 Q. Okay. And did you have a similar type document

0036

1 of rules, regulations and requirements for the summer
2 camp in 2005 when you worked there?

3 A. I believe so.
4 Q. In 2004 did you have a similar document?
5 A. I believe so.
6 Q. In 2003 did you have a similar document?
7 A. I don't really recall.

8 Q. You know as you sit here today, though,
9 Mr. SUPV CC #1, that in '04, '05, '06 and '07, this rule
10 that the counselors must get in the water with -- when
11 the campers had their swim time, that was in effect in
12 each of those years, correct?

13 A. I believe so.
14 Q. Likewise, this rule that you had to cooperate
15 with lifeguards, that rule was in effect in those prior
16 years, too, correct?

17 A. I believe so.
18 Q. And also the no horseplay rule, that's always
19 been in effect at the Houston Racquet Club every year
20 that you've ever worked there in any capacity, correct?

21 A. I believe so.
22 Q. Now, having the experience that you've had
23 working multiple summers at the Houston Racquet Club,
24 could you explain to us what things you considered to be
25 horseplay?

0037

1 MR. SNYDER: Objection, form.
2 A. I would consider horseplay when it involves the
3 campers -- anything that put the kids in direct
4 immediate harm.

5 Q. (By Mr. Pletcher) Okay. And what would you
6 consider to be horseplay involving the counselors?

7 MR. SNYDER: Objection, form.
8 A. I really don't know.

9 Q. (By Mr. Pletcher) Did I read the rule
10 correctly, Exhibit 42? Doesn't it say that there is

11 "absolutely no horseplay will be tolerated with the
12 children or other counselors"?

13 MR. NGUYEN: Objection, form.

14 MR. SNYDER: Objection, form.

15 A. Can you repeat the question?

16 Q. (By Mr. Pletcher) Yes. Did I read that
17 correctly, "absolutely no horseplay will be tolerated
18 with the children or other counselors"?

19 MR. NGUYEN: Same objection.

20 MR. SNYDER: Objection, form.

21 Q. (By Mr. Pletcher) That was the rule that was
22 in effect, correct?

23 A. According to that document, yes.

24 Q. Well, according to your recollection.

25 A. And my recollection.

0038

1 Q. And your recollection was that the Houston
2 Racquet Club had a rule in effect in 2007 and in prior
3 years that there was to be no horseplay amongst the
4 counselors, correct?

5 A. I believe so, yes.

6 Q. And you don't know exactly what horseplay
7 amongst counselors was intended to mean?

8 MR. GERGER: Objection, form.

9 MR. SNYDER: Objection, form.

10 A. I don't recall.

11 Q. (By Mr. Pletcher) And you have no recollection
12 of David Lamkin, CD, Guillermo Palmer or
13 anybody else at the Houston Racquet Club ever explaining
14 to you what horseplay amongst counselors meant, did you?

15 MR. SNYDER: Objection, form.

16 A. Not that I can recall.

17 THE WITNESS: Can we take a break?

18 MR. PLETCHER: Sure.

19 THE VIDEOGRAPHER: The time is 10:53 a.m.

20 We're off the record.

21 (Recess from 10:53 to 11:10)

22 THE VIDEOGRAPHER: The time is 11:10 a.m.

23 We're back on the record.

24 Q. (By Mr. Pletcher) Are you ready to continue,
25 Mr. SUPV CC #1?

0039

1 A. Yes.

2 Q. I wanted to ask you a follow-up question about
3 Plaintiff's Exhibit 42 which is the Camp Counselor
4 Rules, Regulations and Requirements, Summer 2007. Do

5 you remember having to sign an agreement form --
6 A. I don't believe so.
7 Q. -- acknowledging receipt of the rules,
8 regulations and requirements?
9 A. I don't recall.
10 Q. This is Plaintiff's Exhibit 43. Do you ever
11 remember seeing this type of document during any of the
12 summers that you worked as a camp counselor for the
13 Racquet Club?
14 A. As in the entire time I worked?
15 Q. Yes.
16 A. Yes.
17 Q. When do you remember seeing one of these
18 agreement forms?
19 A. I really don't recall.
20 Q. Do you recall ever having to sign one?
21 A. Yes, I believe so.
22 Q. When?
23 A. I know for sure in 2006.
24 Q. Okay. But you were not required to sign one in
25 2007, correct?

0040

1 MR. NGUYEN: Objection, form.
2 MR. SNYDER: Objection, form.
3 A. I don't know.
4 Q. (By Mr. Pletcher) You don't have a
5 recollection of signing one, do you?
6 MR. SNYDER: Objection, form.
7 A. I don't have a recollection.
8 Q. (By Mr. Pletcher) Which might explain why I
9 don't have a copy of a signed one from you, right?
10 MR. SNYDER: Objection, form.
11 MR. GERGER: Objection.
12 MR. PLETCHER: That's okay.
13 MR. GERGER: You don't need to answer
14 that.
15 Q. (By Mr. Pletcher) Well, from having signed one
16 in 2006, you agree that you were required to acknowledge
17 that you have read the rules, regulations and
18 requirements and that you understood that there was a
19 zero tolerance rule in effect and if you violated one of
20 the rules or couldn't abide by the rules, that you would
21 be released from working for the Houston Racquet Club
22 summer camp, correct?
23 MR. NGUYEN: Objection, form.
24 MR. SNYDER: Objection, form.

25 A. According to that document, yes.

0041

1 Q. (By Mr. Pletcher) Well, you remember signing a
2 document like this in 2006, correct?

3 A. I believe so, yes.

4 Q. And you agreed at least in 2006 to abide by the
5 rules. And you knew that if you didn't, that you'd be
6 released --

7 A. Correct.

8 Q. -- correct?

9 MR. SNYDER: Objection, form.

10 Q. (By Mr. Pletcher) Is that correct?

11 A. Yes.

12 Q. Now, do you remember ever seeing a document
13 titled pool rules? This is Plaintiff's Exhibit 40. Do
14 you remember ever seeing a document like this?

15 A. I don't recall. Could you slide it up a little
16 bit further?

17 Q. Sure. This is a document that Sr LG #1
18 signed in May of 2006. And the document basically
19 outlines the general pool rules, the slide rules, the
20 diving board rules and general lifeguard rules. Now, do
21 you remember those rules?

22 A. I believe so.

23 Q. Do you remember having to sign a pool rules
24 document in May of 2006 or prior to your lifeguarding
25 that summer?

0042

1 A. I recall seeing it. I don't recall signing it.

2 Q. What do you remember about seeing it as far as
3 how did you get it, where were you, who was with you?

4 A. It was at the in-service of 2006, I believe,
5 where they handed those rules out. And I vaguely
6 remember getting one. I don't actually remember putting
7 my name down, but I remember seeing it.

8 Q. And you called it an in-service in 2006?

9 A. Correct.

10 Q. What is that?

11 A. An in-service is where they go over the pool
12 rules. They test you -- sometimes they'll test your
13 physical abilities, what you can and can't do. If you
14 need help with -- if you need help with a certain save,
15 they go over that with you until you understand it.

16 Q. Is this -- and this occurred in 2006 before you
17 performed your lifeguarding duties there at the Racquet
18 Club, that in-service?

19 A. I believe so.
20 Q. So, was it -- was it a kind of a preseason or
21 presummer meeting between the lifeguards where you went
22 through these rules?
23 A. Yes.
24 Q. So, would that have been done in May of 2006 or
25 before May 2006?

0043

1 A. I really don't recall.
2 Q. Where do you recall this meeting occurring?
3 A. In the pool pavilion.
4 Q. And who ran the meeting?
5 A. I really don't recall.
6 Q. Who attended the meeting?
7 A. Other than myself, Sr LG #1. Other than
8 that, I really don't recall.
9 Q. Okay. So, the only person you recall being at
10 that meeting specifically is Sr LG #1.
11 A. Yes. There were other people there but --
12 Q. Sure.
13 A. Yeah.
14 Q. And when you say there were other people there,
15 there were other lifeguards there, correct?
16 A. Correct.
17 Q. Do you recall whether or not any of the
18 lifeguard supervisors were there?
19 A. I believe so.
20 Q. But you can't tell me specifically who?
21 A. No.
22 Q. Likewise, Guillermo Palmer, David Lamkin, you
23 can't specifically tell me if either one of them were
24 there?
25 A. I believe Guillermo Palmer was there.

0044

1 Q. Okay.
2 A. I'm not sure if David was there.
3 Q. Are you certain Guillermo Palmer was there?
4 A. No.
5 Q. No?
6 A. No.
7 Q. Okay. And as you sit here today, you don't
8 recall being required to attend one of these what you
9 call in-service meetings in 2007 where you had to sign
10 one of these documents, correct?
11 MR. SNYDER: Objection, form.
12 MR. NGUYEN: Objection, form.

13 A. Not that I can recall.

14 Q. (By Mr. Pletcher) So, you don't recall
15 attending a similar meeting in 2007, correct?

16 A. Not that I can recall.

17 (Exhibit 13C marked)

18 Q. (By Mr. Pletcher) Let me show you what I've
19 marked as Plaintiff's Exhibit 13C which are copies of
20 your certification cards that you've brought with you
21 today, correct?

22 A. Correct.

23 Q. The first one is your CPR for the professional
24 rescuer, date completed 5/20/2006, correct?

25 A. Correct.

0045

1 Q. And then down here at the bottom is the
2 backside of that card?

3 A. Correct.

4 Q. Do you remember where you took that course?

5 A. At the Houston Racquet Club.

6 Q. Do you recall who taught that course?

7 A. LG Supv B.

8 Q. Okay. So, LG Supv B taught a CPR course and
9 a lifeguarding course at the Houston Racquet Club in the
10 summer of 2006?

11 A. Correct.

12 Q. And this CPR certification was good for one
13 year, correct?

14 A. Correct.

15 Q. Then Page 2 of Plaintiff's Exhibit 13C is your
16 lifeguarding training certificate, correct?

17 A. Yes.

18 Q. And that was also completed at the same time,
19 May 20th, 2006, right?

20 A. Correct.

21 Q. Same as your CPR certification, right?

22 A. Yes.

23 Q. And that's the backside of the card, correct?

24 A. Yes.

25 Q. And that lifeguard certification was good for

0046

1 how long?

2 A. Could you repeat that again?

3 Q. How long was your certification valid for?

4 A. For lifeguarding or CPR?

5 Q. Lifeguarding.

6 A. Three years.

7 Q. Since July of 2007, have you lifeguarded at the
8 Houston Racquet Club?

9 A. Once.

10 Q. When was that?

11 A. I believe maybe two weeks after that.

12 Q. Two weeks after John's drowning?

13 A. Yes.

14 Q. Okay. At any time between the date of your
15 lifeguard certification, May 20th, 2006 until your last
16 day as a lifeguard at the Houston Racquet Club in the
17 summer of 2007, did you ever take any sort of refresher
18 courses or any supplementary training for lifeguarding?

19 MR. SNYDER: Objection, form.

20 A. Not that I can recall.

21 Q. (By Mr. Pletcher) Did the Houston Racquet Club
22 ever offer any type of refresher courses in lifeguarding
23 while you were employed with them?

24 MR. SNYDER: Objection, form.

25 A. I don't really remember.

0047

1 Q. (By Mr. Pletcher) Other than the certification
2 course that you took with Mr. LG Supv B in May of 2006, did
3 you ever take any other lifeguarding courses there at
4 the Houston Racquet Club?

5 A. I don't recall. I don't recall.

6 Q. Okay. Well, you don't have any other
7 certification cards, correct?

8 A. Correct.

9 Q. You have no other certification for additional
10 training or courses in lifeguarding, correct?

11 A. Correct.

12 Q. Do you know what happened to Mr. LG Supv B, why he
13 left the Houston Racquet Club?

14 A. No.

15 Q. He was not there in 2007, was he?

16 A. No.

17 Q. And nobody has ever told you the circumstances
18 surrounding his leaving the Club?

19 A. I don't believe so.

20 Q. And today you have given me that answer a few
21 times, "I don't believe so." Just so I understand it
22 and the record is clear, when you say "I don't believe
23 so," are you telling us that you have no current
24 recollection of it?

25 A. Correct.

0048

1 Q. I want to talk to you a little more about your
2 employment as a camp counselor over the years at the
3 Houston Racquet Club. Okay?

4 A. Okay.

5 Q. We established that you had worked four
6 previous summers prior to 2007, correct?

7 A. Correct.

8 Q. 2007 was your fifth summer, correct?

9 A. Correct.

10 Q. You had acted as a camp counselor at both the
11 old pool and the new resort pool, correct?

12 A. Correct.

13 Q. We know that in 2007 -- well, let me ask you:
14 Who was your direct supervisor in 2007 as a camp
15 counselor?

16 A. CD.

17 Q. CD?

18 A. CD.

19 Q. Did you have any other supervisors as far as
20 your camp counseling went?

21 A. David Lamkin.

22 Q. Other than those two individuals, anybody else?

23 A. I don't believe so.

24 Q. Well, except maybe the camp counselor
25 supervisor.

0049

1 A. Correct.

2 Q. Which would have been SUPV?

3 A. Yes.

4 Q. Any other counselor supervisors in 2007 other
5 than SUPV?

6 A. I believe it was Supv CC #2.

7 Q. Did Supv CC #2's role as camp supervisor
8 coincide with your supervising? In other words, when
9 you worked as a supervisor, did Supv CC #2 work as a
10 supervisor?

11 A. He was always a supervisor.

12 Q. Okay. So, there were two camp supervisors in
13 the summer of 2007, SUPV and Supv CC #2?

14 A. Correct.

15 Q. And then you would sub in for SUPV on
16 Wednesdays, correct?

17 A. Correct.

18 Q. Other than those three individuals, there were
19 no other camp supervisors?

20 A. No, not that I can recall.

21 Q. Other -- of course except for the ones who
22 oversaw it all which were CD and Mr. Lamkin?

23 A. Correct.

24 Q. Okay. Looking back or thinking back to your
25 previous summers as camp counselor over the years prior
0050

1 to 2007, do you recall the Houston Racquet Club
2 implementing any new procedures or practices from one
3 summer to the next?

4 A. Not that I can recall.

5 Q. So, your recollection sitting here today is
6 that the camp was basically run the same way from your
7 first summer as camp counselor as compared to your fifth
8 summer as camp counselor, correct?

9 A. I really can't remember. I don't really
10 recall.

11 Q. Okay. Well, let's look at a smaller period of
12 time and see if that can't help. If you compare the
13 summer of 2006 with the summer of 2007, do you have any
14 recollection of the Houston Racquet Club implementing
15 any changes in policies, procedures or practices on how
16 you did your job?

17 A. Not that I can recall.

18 Q. Do you recall any changes in the policies,
19 procedures or practices as far as the camp activities
20 for the summer campers comparing 2006 with 2007?

21 A. Not that I can recall.

22 Q. Do you recall any changes in the rules that
23 applied to camp counselors and the summer camp when you
24 compare 2006 with 2007?

25 A. Not that I can recall.

0051

1 Q. Okay. Let's look back in time to when you were
2 camp counselor at the old pool. You remember that,
3 don't you?

4 A. Yes.

5 Q. You remember being down at the pool with the
6 summer campers when the pool was the old pool, the
7 original rectangular type shaped pool, right?

8 A. Correct.

9 Q. Do you remember any changes with how the summer
10 camper swim time was conducted in the old pool as
11 compared to the new pool?

12 A. I'm not quite understanding.

13 Q. When you oversaw the summer campers at the old
14 pool, were you required to watch them the same way that

15 you watched them when you were a counselor at the new
16 resort pool?

17 A. I believe so, yes.

18 Q. Were there any different procedures or
19 practices on who you were going to watch while they were
20 in the pool when you compare it to the old pool and the
21 new pool?

22 A. Not that I can recall.

23 Q. And what do you remember the rule being as far
24 as who is to watch who when the summer campers were in
25 either pool?

0052

1 A. Just that the counselors were supposed to watch
2 their kids.

3 Q. And what does that mean?

4 MR. SNYDER: Objection, form.

5 A. That the counselors were supposed to watch
6 their kids.

7 Q. (By Mr. Pletcher) And who are their kids?

8 A. Their specific group of children who were
9 assigned to them.

10 Q. Okay. And when you say there's a specific
11 group of children assigned to them, what you mean is
12 that the camp counselors would be assigned to a certain
13 age group --

14 A. Correct.

15 Q. -- children? For example, you as a camp
16 counselor might be assigned to the 4-year-old boys,
17 right?

18 A. Correct.

19 Q. And we know that in 2007, camp was supposed to
20 be limited to 13 4-year-old boys, right?

21 A. Not that I was aware of.

22 Q. Okay. Well, let's just assume that the camp in
23 2007 was limited to 13 4-year-old boys. Okay?

24 A. Okay.

25 Q. And let's further assume that there were six

0053

1 camp counselors for that age group. Okay?

2 A. Okay.

3 Q. Now, tell me how the rule worked. Were all six
4 counselors responsible for watching all 13 4-year-olds?

5 A. I really don't know.

6 Q. Okay. And we're talking about 2007, correct?

7 A. Correct.

8 Q. Do you recall when you were a camp counselor at

9 the old pool if there were any areas of the old pool
10 that were off limited -- off -- let me start over.

11 Back when you were a camp counselor when
12 you oversaw the children in the old pool before the
13 resort pool was built, were there any areas of the old
14 pool that were off limits to the 4-year-old campers?

15 A. The deep end where the diving boards were --

16 Q. Okay.

17 A. -- if I can remember correctly, and I believe
18 that's it.

19 Q. Okay. Could the 4-year-olds use the diving
20 boards in the old pool?

21 A. I don't believe so.

22 Q. So, the deep end around the diving boards and
23 the diving boards themselves were off limits at the old
24 pool for the 4-year-olds, correct?

25 A. I believe so.

0054

1 Q. Any other areas of the old pool that were off
2 limits?

3 A. Not that I can recall.

4 Q. And do you recall there being any different
5 rules or regulations that applied to you as a camp
6 counselor at the old pool that were not in effect in
7 2007?

8 MR. SNYDER: Objection, form.

9 A. Not that I can recall.

10 Q. (By Mr. Pletcher) So, they were basically the
11 same, correct?

12 A. I believe so.

13 Q. Okay. Now let's talk about your lifeguarding.
14 In 2006 you testified you first started as a lifeguard
15 at the Racquet Club, right?

16 A. Correct.

17 Q. And then you worked a little bit in 2007 prior
18 to the summer camp opening.

19 A. I believe so.

20 Q. Now, do you remember the Houston Racquet Club
21 implementing any changes in the policies, procedures or
22 practices that applied to lifeguards and lifeguarding at
23 the family pool when you compare 2006 with 2007?

24 A. Not that I can recall.

25 Q. So, as far as your lifeguarding duties at the

0055

1 Houston Racquet Club, there was no difference in the way
2 you did your job as a lifeguard in 2006 as compared to

3 2007, correct?

4 A. I believe so.

5 Q. To the best of your recollection?

6 A. To the best of my recollection, I believe so.

7 Q. Okay. A follow-up question about your role as

8 a supervisor on Wednesdays for the summer camp. You

9 said that you would oversee the camp counselors. And if

10 they were doing something wrong, you would stop them,

11 correct?

12 A. Yes.

13 Q. Were you required to report that misconduct to

14 anybody?

15 A. Depending on the severity.

16 Q. Tell me something that you would report a

17 counselor for that was severe enough to report it to

18 somebody.

19 A. If a counselor was harassing a child.

20 Q. Okay. What else?

21 A. I really don't know.

22 Q. Anything -- I assume from your prior testimony

23 that any counselor doing something that might create a

24 risk of harm to a summer camper, that you would report

25 that, right?

0056

1 A. Yes.

2 Q. Who would you report it to?

3 A. Either CD or David Lamkin.

4 Q. And how would you report it?

5 A. I would go verbally tell them.

6 Q. Were you required to document any of those

7 reports?

8 A. Not that I can recall.

9 Q. I want to now turn to July 18th, 2007. Okay?

10 A. (Witness nodding head) Okay.

11 Q. And what I'd like to do is I'd like to diagram

12 out certain things on Plaintiff's Exhibit 14J. And

13 before I ask you to document or diagram anything, I want

14 you to look at that diagram, okay, and orient yourself

15 to it.

16 MR. PLETCHER: David.

17 MR. GERGER: That's a copy? Thank you.

18 Q. (By Mr. Pletcher) And this Plaintiff's Exhibit

19 14J is a diagram of the family pool, correct?

20 A. Yes.

21 Q. And you see the slide area up at the top of the

22 diagram?

23 A. Yes.

24 Q. That would be the east side of the pool,
25 correct?

0057

1 A. As far as I know.

2 Q. And going all the way down to the bottom of the
3 diagram, that would be, to the best of your
4 recollection, the west end of the pool, correct?

5 A. Best of my recollection.

6 Q. And the right side of the diagram would be the
7 south side, and the left side would be the north side,
8 right?

9 A. Correct.

10 Q. Why don't you go ahead and write in north on
11 the left, south on the right.

12 A. (Witness drawing)

13 Q. East up there and west on the bottom.

14 A. (Witness drawing)

15 Q. Now, do you see the zero depth entry to the
16 family pool?

17 A. I don't see where it says "zero depth."

18 Q. Do you know where the shallow end was?

19 A. Yes.

20 Q. Could you point that out to me?

21 A. Right here (indicating).

22 Q. And do you know where the fountain deck is?

23 A. Right here (indicating).

24 Q. And do you know where the sun deck is?

25 A. I guess it's going to be this area right here

0058

1 where the chairs were (indicating).

2 Q. Would you mind writing in -- I'm going to draw
3 a line out from each of them. And if you could just
4 write in fountain deck, sun deck and shallow end.

5 A. (Witness drawing)

6 MR. GERGER: Is this a copy for me to
7 keep?

8 MR. PLETCHER: I'll give you one that
9 doesn't have a sticker on it.

10 MR. GERGER: Thanks.

11 Q. (By Mr. Pletcher) Now, Mr. SUPV CC #1, do you
12 recall where the lifeguard stands were on July 18th,
13 2007?

14 A. I believe so.

15 Q. Here. Would you mind drawing a square for each
16 of the lifeguard stands?

17 A. (Witness drawing)

18 Q. Okay. And do you remember which lifeguards
19 were on duty when John Pluchinsky drowned?

20 A. I just remember 15 y/o LG #1 being here. I
21 don't remember who was at the slide.

22 Q. Okay. Would you mind just putting "EM" in that
23 box where you remember 15 y/o LG #1 being?

24 A. (Witness drawing)

25 Q. And the evidence in the case is that 15 y/o LG #2
0059

1 was at the slide stand. Does that refresh your
2 recollection or you still don't remember specifically?

3 A. I still don't remember specifically.

4 Q. Okay. That's fine. We'll just leave that one
5 blank. Now, do you remember there being a floating line
6 down towards the deep end of the family pool?

7 A. I believe so.

8 Q. Could you highlight the floating line in yellow
9 for me?

10 A. (Witness drawing) More or less right there.

11 Q. Those are little floats there.

12 A. Okay. Well, there you go.

13 Q. So, I'll help you out. We'll just do a big --

14 A. Okay.

15 Q. Okay. Now, do you remember there being an area
16 in the family pool that was called the rock wall?

17 A. No, not to my knowledge.

18 Q. Okay. Now, I'm going to just identify on the
19 record everything that you just marked. I'll back out
20 here. This is Plaintiff's Exhibit 14J. And looking
21 down here, you have put "EM" under this umbrella as the
22 stand where 15 y/o LG #1 was.

23 A. Correct.

24 Q. General area. It may not be exact, but it was
25 under that umbrella, right?

0060

1 A. Correct.

2 Q. This is the umbrella here, that round circle.

3 A. Yes.

4 Q. Okay. And then you've marked the sun deck over
5 here, correct?

6 A. Correct.

7 Q. And the fountain deck here, this round area.

8 A. Correct.

9 Q. And then you've put north on this side, south
10 on this side, east up at the top and west down on the

11 bottom.

12 A. Correct.

13 Q. Just while I'm thinking of it, do you recall at
14 any time in 2006 when you were acting as a lifeguard at
15 the family pool there ever being more than two
16 lifeguards at the pool?

17 A. Not that I can remember.

18 Q. Do you have a recollection sitting here today
19 whether or not there was a third lifeguard chair in
20 place at the family pool at any time during 2006?

21 MR. SNYDER: Objection, form.

22 A. Not that I can remember.

23 Q. (By Mr. Pletcher) Do you have a recollection
24 in 2007, those few weeks that you worked prior to summer
25 camp starting, there being a third lifeguard chair at
0061

1 the family pool?

2 A. Not that I can remember.

3 Q. Do you ever remember there being a third
4 lifeguard chair under this umbrella either before or
5 after July 18th, 2007 when John drowned?

6 A. Maybe before.

7 Q. Okay. How about after? Maybe after, too?

8 A. I haven't been to the pool since.

9 Q. So, you think maybe before July 18th, 2007,
10 that there was a lifeguard chair under this umbrella,
11 correct?

12 A. I believe so.

13 Q. But you never sat in that chair, correct?

14 A. Not that I can recall.

15 Q. Do you have a recollection of other lifeguards
16 sitting in that chair?

17 A. Not that I can recall.

18 Q. Okay. When did you first realize something was
19 wrong at the family pool on July 18th, 2007?

20 A. When I heard 15 y/o LG #1 or 15 y/o LG #1 ask if he
21 was okay.

22 Q. And do you recall where 15 y/o LG #1 was when
23 she asked if he was okay?

24 A. I had my back turned when she said that.

25 Q. Do you remember where you were?

0062

1 A. Vaguely.

2 Q. Vaguely where do you remember being?

3 A. Walking from the fountain south towards the
4 steps --

5 Q. Okay.
6 A. -- to get out of the pool.
7 Q. So, what you've -- I think what you just told
8 me, you were somewhere in the pool walking across?
9 A. In this general area walking that way
10 (indicating).
11 Q. Can you just draw a circle with this pink
12 highlighter?
13 A. (Witness drawing)
14 Q. And then with this red pen just put an arrow in
15 the direction that you were walking.
16 A. (Witness drawing)
17 Q. And would you mind just putting your initials
18 in that circle?
19 A. (Witness drawing)
20 Q. Looking back at Plaintiff's Exhibit 14J, you
21 drew in a circle here (indicating) just south of the
22 fountain deck. You were somewhere in this general area
23 walking towards the step --
24 A. Correct.
25 Q. -- which was just east of 15 y/o LG #1, right?
0063
1 A. Correct.
2 Q. And was 15 y/o LG #1 on her stand or do you
3 recall?
4 A. I remember her being on the stand. I'm not
5 sure if she was on the stand when she --
6 Q. Right. When she made the statement?
7 A. Correct.
8 Q. And what statement do you remember her saying?
9 A. "Is" -- if I can remember correctly, "Is that
10 little boy okay?"
11 Q. You said you had your back to somebody? Who
12 was your back to?
13 A. My back -- I was helping other counselors get
14 their kids out of the pool. So, my back was facing -- I
15 was facing more or less the slide. So, I had to turn
16 around to see.
17 Q. Okay. Draw an arrow from your initials in the
18 direction that you were facing.
19 A. (Witness drawing)
20 Q. And would you just put "facing" in parenthesis
21 there just so I know that's what that blue arrow is?
22 A. (Witness drawing)
23 Q. Now I'm going to zoom in on this so we can
24 really see it. You have drawn an arrow pointing towards

25 the slide area, and you wrote "facing" there.

0064

1 A. Correct.

2 Q. So, you had your back -- your back was this way

3 (indicating). Your face was this way, and your back was

4 that way (indicating), right?

5 A. To the best that I can remember, yes.

6 Q. And that was at the moment that 15 y/o LG #1

7 made her statement, "Is that boy okay?"

8 A. Correct.

9 Q. You said you were walking in this direction

10 (indicating), right?

11 A. Yes.

12 Q. So, you were kind of walking sideways?

13 A. Well, no. I was facing that way, but my head

14 was turned. But I was, like, walking --

15 Q. Okay. Okay. So, you were walking in this

16 direction, but your head was turned in that direction

17 (indicating).

18 A. Correct.

19 Q. And who were you helping get out of the pool at

20 the time? You said you were helping some kids get out?

21 A. I don't really recall.

22 Q. Do you recall how many kids were with you?

23 A. No.

24 Q. Do you recall if they were -- do you recall

25 what age they were?

0065

1 A. Maybe the 7-year-olds, but I don't remember

2 exactly.

3 Q. Okay. You don't know exactly, but your best

4 recollection would be that they were the 7-year-olds.

5 A. Correct.

6 Q. Okay. You think it was more than one

7 7-year-old?

8 A. It was the 7-year-old group. I don't remember

9 exactly how many there were, but they were getting out

10 of the pool as well.

11 Q. Okay. I'm going to write in here "7-year-old

12 group."

13 A. Okay.

14 Q. Now, was anybody -- were there any other

15 counselors with you or around you at the time that you

16 had -- that you recall?

17 A. Not that I can recall.

18 Q. What did you do next after she made the

19 statement?

20 A. I turned around to face to see what was going
21 on.

22 Q. And what did you see?

23 A. I saw 4 y/o B-CC #3 walking over getting over there
24 as fast as he could. And then I saw him pick him up,
25 and I saw right away that something was wrong. So, I
0066

1 rushed over --

2 Q. Okay.

3 A. -- to where 4 y/o B-CC #3 was at.

4 Q. So, you saw -- you turned around. You saw 4 y/o B-CC #3
5 4 y/o B-CC #3 going to get John who was floating face down, right?

6 A. Correct.

7 Q. You remember seeing John floating face down?

8 A. When I turned around, I remember -- because I
9 saw that she said something. I noticed him right away.

10 Q. Okay. Could you draw in the general area --
11 and do it in a red circle for me big enough to put some
12 initials in it -- where John was floating face down when
13 you turned around?

14 A. (Witness drawing)

15 Q. Okay. And you want to put his initials in red?

16 A. (Witness drawing)

17 Q. And could you do another circle -- let's do it
18 in purple -- of where 4 y/o B-CC #3 was the moment you turned
19 around? I know he was moving towards John, but...

20 A. (Witness drawing)

21 Q. Okay.

22 A. That's the best of my recollection.

23 Q. Right. Going back to Plaintiff's Exhibit 14J,
24 you have -- you're up here (indicating), right?

25 A. Correct.

0067

1 Q. And then you've drawn a circle with "CZ."
2 That's 4 y/o B-CC #3?

3 A. Correct.

4 Q. And then a circle with "JP."

5 A. Correct.

6 Q. And you said that that was your best
7 recollection.

8 A. Correct.

9 Q. Just so I have a good orientation of things,
10 how far distance-wise do you think John was from the
11 side of the west end of the pool?

12 A. No more than -- or roughly maybe -- maybe

13 two feet.
14 Q. Two feet?
15 A. No, not two feet. I really don't recall.
16 Q. Okay. And do you recall the distance between
17 4 y/o B-CC #3 and John?
18 A. No.
19 Q. And if other witnesses have drawn both 4 y/o B-CC #3 and
20 John being further south over in this area (indicating),
21 is it possible that that might be just as accurate as
22 where you put --
23 MR. NGUYEN: Objection.
24 MR. SNYDER: Objection, form.
25 MR. PLETCHER: Let me ask the question

0068

1 differently since they objected.
2 Q. (By Mr. Pletcher) I've had every witness draw
3 the general area of where John was found floating face
4 down and where 4 y/o B-CC #3 was.
5 A. Uh-huh.
6 Q. And everybody to this point has put them both
7 in this area (indicating) north -- okay? -- of where
8 you've put them. And I'm just trying to get an idea of
9 how certain you are of this -- these locations.
10 A. Not --
11 MR. SNYDER: Objection, form.
12 A. Not very certain.
13 Q. (By Mr. Pletcher) Okay. Have you made a
14 drawing yourself prior to today of where John was --
15 where you saw John floating?
16 A. Maybe for CPS but I really don't recall.
17 Q. And I know you said that 4 y/o B-CC #3 -- that you
18 didn't know the exact distance between 4 y/o B-CC #3 and John.
19 But you do recall that 4 y/o B-CC #3 had to take several steps to
20 get to John, right?
21 MR. GERGER: Objection, form.
22 MR. SNYDER: Objection, form.
23 A. I wouldn't say several. I really don't --
24 Q. (By Mr. Pletcher) Well, he was more than
25 three feet from John, wasn't he?

0069

1 A. Not that I can recall.
2 Q. Was he more than 10 feet?
3 A. No.
4 Q. So, he was less than 10 feet.
5 A. As far as I --
6 MR. SNYDER: Objection, form.

7 A. As far as I can recall, he was less than
8 10 feet.

9 Q. (By Mr. Pletcher) Okay. But he had to move to
10 him. In other words, he wasn't an arm's length away.
11 He couldn't just grab him.

12 MR. SNYDER: Objection, form.

13 Q. (By Mr. Pletcher) You saw him walk as quickly
14 as he could over to him.

15 MR. SNYDER: Objection, form.

16 A. As best as I can recall.

17 Q. (By Mr. Pletcher) Okay. Now, tell us what you
18 did again after you heard 15 y/o LG #1 say, "Is that boy okay?"

19 A. I turned around and started racing over there.
20 And once I saw 4 y/o B-CC #3 pull John out of the water, I
21 immediately went as fast as I thought I could to get
22 over there. And as best as I can recall, I remember
23 getting out of the pool in front of where 4 y/o B-CC #3 was so
24 that way he could hand John to me.

25 Q. Okay. Do you remember 4 y/o B-CC #1 being
0070
1 there assisting John out of the pool?

2 A. I believe so.

3 Q. Do you remember who 4 y/o B-CC #1 is?

4 A. Yes.

5 Q. Dark-haired --

6 A. Yes.

7 Q. -- girl?

8 A. Yes.

9 Q. When you were moving from your location over
10 here to the west end of the pool to help out, do you
11 recall seeing any campers or counselors in this area
12 (indicating)?

13 A. Not that I can recall.

14 Q. Okay. Could you do me a favor and draw in on
15 Plaintiff's Exhibit 14J any other counselor that you
16 remember being in the pool when you turned around and
17 you saw John floating face down?

18 A. Does it matter what color or --

19 Q. No. Well, I'd like you to do counselors in one
20 color and campers in another color.

21 A. I remember them -- there being counselors and
22 campers, but I don't recall which counselors. And there
23 were -- all the campers that I can recall were --

24 Q. Hang on one second. This will make it easier.
25 In that orange pen draw a circle around the area where
0071

1 you saw other campers and counselors.
2 A. (Witness drawing) In this area and that way.
3 Q. Okay. Do you remember seeing any campers or
4 counselors in that area (indicating)?
5 A. Not that I can recall.
6 Q. Do you remember seeing any campers or
7 counselors in that area (indicating)?
8 A. Not that I can recall.
9 Q. Do you remember seeing any campers or
10 counselors between you and 4 y/o B-CC #3?
11 A. Not that I can recall.
12 Q. Do you recall any campers or counselors east of
13 the orange circle that you've just drawn?
14 A. Not -- not that I can recall.
15 Q. Okay. Good. Now, do you want to identify what
16 you've drawn there in orange?
17 A. (Witness drawing)
18 Q. And the arrow -- what does the arrow designate?
19 A. (Witness drawing)
20 Q. Now testify verbally as to what you just wrote
21 on there.
22 A. I wrote in the orange circle as the campers and
23 counselors that I can recall being there and the orange
24 arrow them leaving the pool.
25 Q. Okay. Just so the record's clear and the jury
0072
1 can understand your drawing, what you've just testified
2 to is that you don't recall seeing any campers or
3 counselors between you and 4 y/o B-CC #3 or John Pluchinsky,
4 correct?
5 A. Correct.
6 Q. You don't recall any campers or counselors in
7 this area (indicating)?
8 A. Correct.
9 Q. Just north of 15 y/o LG #1's stand, correct?
10 A. Correct.
11 Q. But you do recall campers and counselors down
12 here on the west side of the pool in the shallow end
13 getting out?
14 A. Correct.
15 Q. You put "leaving pool"?
16 A. Correct.
17 Q. Now, is this the moment that you turned around
18 and looked?
19 A. It's all that I can remember.
20 Q. But I'm trying to determine if this is what you

21 saw the second you turned around. Or could it have been
22 when you were walking over to 4 y/o B-CC #3? I'm trying to get
23 an idea of when, the timing of it.

24 A. When I turned around maybe and, like, when I
25 first turned around and glanced over and saw.

0073

1 Q. Okay. Do you -- you don't recall what
2 counselors were over in this area (indicating), right?

3 A. Maybe 4 y/o B-CC #1. I -- I really -- can't really
4 remember.

5 Q. But you do specifically remember people walking
6 in this direction (indicating) leaving the pool as
7 you've written?

8 A. As far as I can remember.

9 Q. And you don't know what age group campers these
10 were, correct?

11 A. Correct.

12 Q. And you're not saying that there were no people
13 in this area here (indicating). You're just saying you
14 don't have a recollection of seeing them, right?

15 MR. SNYDER: Objection, form.

16 A. Correct.

17 Q. (By Mr. Pletcher) Likewise, you haven't drawn
18 in any campers or counselors over in this area
19 (indicating). You're not saying that there were none.
20 You just don't have a recollection of seeing any when
21 you turned around, right?

22 MR. SNYDER: Objection, form.

23 A. Correct.

24 Q. (By Mr. Pletcher) Likewise, you've not drawn
25 any campers or counselors around the fountain deck. But

0074

1 you're not saying there weren't any there, correct?

2 MR. SNYDER: Objection, form.

3 A. Correct.

4 Q. (By Mr. Pletcher) When you turned around and
5 started towards John and 4 y/o B-CC #3, what did you do with your
6 7-year-old campers?

7 A. I didn't have 7-year-old campers. I remember
8 seeing them, and I was telling them to get out of the
9 pool because they were ahead of me more closer to the
10 stairs. Or they were trying to walk towards the slide,
11 and I was telling them to leave the pool. I did not
12 have any kids with me at the time.

13 Q. Oh, okay. I thought you had testified that you
14 did.

15 A. No.
16 Q. That's why I wrote this 7-year-old group right
17 here (indicating).
18 A. No.
19 Q. What you would do is move this circle right
20 here, the 7-year-old group, over towards the stair more.
21 A. If I can recall correctly, yes. I remember
22 seeing 7-year-olds; and I was telling them to, like,
23 head to the pavilion because that's where all their
24 stuff was at.

25 Q. Okay. Do you think the 7-year-olds were
0075

1 actually on the steps?
2 A. If not on the steps, then directly, like, right
3 out of the pool, so, more towards the west or I can't
4 really --

5 Q. South?

6 A. Yes, south.

7 Q. This way (indicating)?

8 A. Yeah, they were heading that direction.

9 Q. Were they out of the pool, or they were getting
10 out?

11 A. They were on the steps getting out of the pool.

12 Q. Okay. I'm going to change this to read
13 7-year-olds getting out of pool. Okay. Do you see
14 where I wrote that in here?

15 A. Yes.

16 Q. And I drew an arrow here. Now, is that
17 accurate, to the best of your recollection? The
18 7-year-olds were getting out of the pool when you made
19 your turn and looked towards John?

20 A. To the best of my memory, yes.

21 Q. Okay. Before 15 y/o LG #1 made her statement,
22 "Is that boy okay," what do you remember doing? What
23 were you involved in prior to walking over towards the
24 stairs to get out of the pool? What had you been doing
25 in the 10 or 15 minutes before she made her statement?

0076

1 A. I --

2 MR. SNYDER: Objection, form.

3 Q. (By Mr. Pletcher) Huh?

4 A. I remember -- right before she said that, like
5 I said, I was helping kids get out of the pool because
6 all the groups were leaving or the majority of them were
7 leaving. Then before that, I was interacting with the
8 kids.

9 Q. Okay. And when you say you were helping people
10 get out of the pool, what you mean is that you were in
11 this area here (indicating) watching the 7-year-olds get
12 out of the pool --

13 A. Correct.

14 Q. -- right?

15 A. Maybe at the time, like before it happened, I
16 was closer to the fountain and I was walking my way --

17 Q. Right.

18 A. -- out of the pool.

19 Q. Right. Because the 7-year-olds that you say
20 you were interacting with, y'all were interacting with
21 each other over here at the fountain deck, right?

22 A. Correct.

23 Q. What other camp counselors were with you and
24 the 7-year-olds at the fountain deck before 15 y/o LG #1
25 made her statement?

0077

1 A. I really can't -- I can remember faces but not
2 names.

3 Q. Do you remember seeing Supv CC #2 with you?

4 A. I believe so.

5 Q. Okay. Do you remember 7 y/o B-CC #2?

6 A. Not that I can recall.

7 Q. Do you remember 7 y/o B-CC #1 --
8 is it?

9 A. Not that I can recall.

10 Q. Do you remember 7 y/o B-CC #3?

11 A. Maybe.

12 Q. Do you remember any other specific counselors
13 other than Supv CC #2 and 7 y/o B-CC #3?

14 A. No, I can't recall. Like I said, I remember
15 faces and bodies, not necessarily names.

16 Q. Okay. Tell us what y'all were doing at the
17 fountain deck before 15 y/o LG #1 made her statement.

18 A. We were interacting with the 7-year-olds. They
19 were -- really -- I really can't recall.

20 Q. Okay. And when you say, "We were interacting
21 with the 7-year-olds" --

22 A. The counselors.

23 Q. Right. And those counselors would include the
24 7-year-old counselors.

25 A. Correct.

0078

1 Q. And do you remember how many 7-year-old
2 counselors there were that day at the fountain deck?

3 A. Not that I can recall.
4 Q. Did you remember 7 y/o B-CC #2, 7 y/o B-CC #1
5 and 7 y/o B-CC #3 being 7-year-old counselors?
6 A. I don't know who 7 y/o B-CC #2 is, but I remember 7 y/o B-CC #1
7 being a 7-year-old counselor.
8 Q. 7 y/o B-CC #1?
9 A. 7 y/o B-CC #1.
10 Q. And how about 7 y/o B-CC #3?
11 A. Yes.
12 Q. So, 7 y/o B-CC #3 and 7 y/o B-CC #1 you know for sure were
13 7-year-old counselors, correct?
14 A. To the best of my memory, yes.
15 Q. And what other counselors do you remember being
16 in the fountain deck interacting with the 7-year-olds?
17 A. I don't remember names. I just remember --
18 Q. Okay. Is it accurate based on your
19 recollection to say that Supv CC #2, 7 y/o B-CC #1
20 and 7 y/o B-CC #3 and yourself were in this fountain
21 deck area interacting with 7-year-olds before 15 y/o LG #1
22 made her statement?
23 MR. NGUYEN: Objection, form.
24 Q. (By Mr. Pletcher) To the best of your
25 recollection?

0079

1 A. To the best of my recollection.
2 Q. Now, do you remember any of the 4-year-old
3 campers being over near the fountain deck before 15 y/o LG #1
4 made her statement?
5 A. Not that I can recall.
6 Q. Do you remember there being any other camp
7 counselors over in the fountain deck, camp counselors
8 for the 4-year-olds?
9 A. Not that I can remember.
10 Q. Let me see if you remember who the 4-year-old
11 boy camp counselors were. Okay?
12 A. (Witness nodding head)
13 Q. Do you remember there being six?
14 A. Yes.
15 Q. Did you know 4 y/o B-CC #1?
16 A. Yes.
17 Q. Did you know that she was a 4-year-old boy
18 camper counselor that day?
19 A. Yes.
20 Q. Who else do you remember being a 4-year-old boy
21 camp counselor that day, other than 4 y/o B-CC #1 ?
22 A. 4 y/o B-CC #4.

23 Q. Okay.
 24 A. 4 y/o B-CC #3.
 25 Q. Okay.
 0080
 1 A. 4 y/o B-CC #2.
 2 Q. Okay.
 3 A. And that's -- I know there's more.
 4 Q. Yeah, there were two more. Let me see if I can
 5 refresh your recollection. Do you remember 4 y/o B-CC #5?
 6 A. I think he was new. So, I really didn't --
 7 Q. You didn't know him?
 8 A. Huh-uh.
 9 Q. How about 4 y/o B-CC #6?
 10 A. Same.
 11 Q. Okay. So, you knew four of the six for sure on
 12 that day were 4-year-old camp counselors -- 4-year-old
 13 boy camp counselors, 4 y/o B-CC #1, 4 y/o B-CC #4, 4 y/o B-CC #2
 14 and 4 y/o B-CC #3, correct?
 15 A. Correct.
 16 Q. Do you remember seeing any of those four people
 17 anywhere around in the general area of the fountain deck
 18 before 15 y/o LG #1 made her statement?
 19 A. Not that I can remember.
 20 Q. Do you recall seeing any of those 4-year-old
 21 boy camp counselors down in this area where the sun deck
 22 was while you were at the fountain deck with the
 23 7-year-olds?
 24 A. Not that I can recall.
 25 Q. How about down here at the steps down on the
 0081
 1 west end of the pool? Do you remember any of the
 2 4-year-old boy camp counselors being down there?
 3 A. Not that I can recall.
 4 MR. GERGER: When you get to a stopping
 5 point, we've gone about an hour.
 6 MR. PLETCHER: Yeah.
 7 Q. (By Mr. Pletcher) I'm going to let you do it
 8 rather than me. Could you draw in an outline of the
 9 area that you and Supv CC #2 and 7 y/o B-CC #1 were
 10 interacting with the 7-year-old boys before 15 y/o LG #1
 11 made her statement?
 12 A. (Witness drawing)
 13 Q. And would you mind drawing in the initials of
 14 everybody you remember as far as counselors being in
 15 that area before 15 y/o LG #1 made her statement, "Is
 16 that boy okay?"

17 A. (Witness drawing)
18 Q. And on Plaintiff's 14J, you've written in "KK"
19 for 7 y/o B-CC #1, "JT" for yourself, "AF" for
20 7 y/o B-CC #3 and "WS" for Supv CC #2 in this pink
21 semicircle area which is the fountain deck area,
22 correct?

23 A. Correct.

24 Q. And you had the 7-year-old campers with you,
25 right?

0082

1 A. Correct.

2 Q. Do you remember how many 7-year-old campers
3 there were?

4 A. No.

5 Q. Would they have all been with you guys?

6 MR. SNYDER: Objection, form.

7 A. Not to my -- not that I can recall.

8 Q. (By Mr. Pletcher) Well, where would they be if
9 they weren't with you?

10 MR. NGUYEN: Objection, form.

11 MR. SNYDER: Objection, form.

12 A. I don't remember.

13 MR. PLETCHER: We'll take a break in just
14 a second.

15 Q. (By Mr. Pletcher) I'm going to show you what
16 has been marked as Plaintiff's Exhibit 70. And on the
17 third page of Plaintiff's Exhibit 70 there's a list of
18 the 7-year-old boys for week five. Week five was the
19 week of John's drowning, right?

20 A. Correct.

21 Q. And this list of campers -- this is a check
22 list of who was present on Wednesday, and the ones that
23 were present are checked off. Okay?

24 MR. NGUYEN: Objection, form.

25 Q. (By Mr. Pletcher) All right.

0083

1 A. Correct.

2 Q. And this shows 7 y/o-C #2, 7 y/o-C #3,
3 7 y/o-C #7, 7 y/o-C #8, 7 y/o-C #10, 7 y/o-C #11,
4 7 y/o-C #1 and 7 y/o-C #12 or 7 y/o-C #12
5 [pronouncing]. Do you remember any of those 7-year-old
6 children sitting here today?

7 A. I maybe knew one of them, and that one's not
8 there.

9 Q. Okay. Do you know that one person's name, one
10 camper's name?

11 A. 7 y/o-C #5 was the only 7-year-old that I
12 knew by face.

13 Q. 7 y/p-C #5?

14 A. Yes, number four right there. He's the only
15 one I knew by face.

16 Q. But he wasn't there that day, right?

17 A. As far as that shows.

18 Q. And this shows that there were actually eight.

19 One, two, three, four, five, six, seven, eight

20 7-year-old campers on July 18th. Does that meet with
21 your recollection of things?

22 A. I can't really recall.

23 Q. Okay. And you had testified that you don't
24 recall any 4-year-old campers or counselors being in
25 this area (indicating). But you're not saying under
0084

1 oath to the jury that they were not. You just don't

2 have a specific recollection, correct?

3 A. Not that I can recall.

4 MR. SNYDER: Objection, form.

5 Q. (By Mr. Pletcher) What sort of activity do you
6 recall doing with the 7-year-old campers that day over
7 in the fountain deck area, do you recall? Do you
8 remember?

9 MR. GERGER: I guess our objection is
10 asked and answered.

11 A. Not -- not that I can recall.

12 Q. (By Mr. Pletcher) Do you remember playing the
13 jack ball -- jackpot game?

14 A. Vaguely.

15 Q. And explain to the jury what the jackpot game
16 was.

17 A. The jackpot game is to where there's one person
18 with the ball, and they assign a specific value as the
19 jackpot.

20 Q. Okay.

21 A. And what they do is that they would throw the
22 ball and assign that ball a certain amount of points.

23 Q. Okay.

24 A. And then from there, like I say, they can make
25 the jackpot, like, at a hundred.

0085

1 Q. A hundred dollars?

2 A. A hundred dollars.

3 Q. All right.

4 A. They can make the ball worth 50. And whoever

5 catches it gets 50 points.

6 Q. Okay. So, the person -- there's a person who's

7 in the water with the ball, and they throw the ball.

8 And whoever catches it gets pot or the money.

9 A. Correct.

10 Q. And in your example, 50 bucks.

11 A. Correct.

12 Q. And if you were -- the jackpot was a hundred,

13 if they caught two balls, then they'd win the jackpot.

14 And then would they be the one who got the ball and

15 could throw it next?

16 A. Correct.

17 Q. And it's played with a tennis ball?

18 A. Or one of those cushy water balls.

19 Q. Something like a tennis ball?

20 A. (Witness nodding head) Correct.

21 Q. Something about the size of a tennis ball?

22 A. More or less, correct.

23 Q. And if you were playing the jack ball --

24 jackpot game at the fountain deck, would the other

25 campers and counselors be on the deck waiting for the

0086

1 ball to be thrown from the pool?

2 A. If -- could you repeat the question again?

3 Q. Sure. I'll tell you what. Why don't you just

4 draw in --

5 MR. GERGER: Do you need a break?

6 THE WITNESS: No. I'm good.

7 Q. (By Mr. Pletcher) Why don't you draw in in

8 this purple where the person who would be throwing the

9 ball in the jackpot game -- where they would be located.

10 MR. GERGER: Are you asking him a specific

11 event?

12 MR. PLETCHER: No. Just generally.

13 MR. SNYDER: Objection, form.

14 A. That can be it.

15 MR. GERGER: Do you understand the

16 question?

17 THE WITNESS: I do.

18 MR. GERGER: He's asking you any time, any

19 day.

20 THE WITNESS: Yeah.

21 MR. PLETCHER: He understood it.

22 A. That could be this -- all the way around the

23 pool (indicating).

24 Q. (By Mr. Pletcher) Okay.

25 A. It just -- it varied.

0087

1 Q. And you just drew in this general area here
2 (indicating) -- you're just saying anywhere in the pool
3 the person throwing the ball could be in the water in
4 this area (indicating).

5 MR. GERGER: Objection, form.

6 Q. (By Mr. Pletcher) Is that right?

7 A. Anywhere --

8 MR. SNYDER: Objection, form.

9 A. Anywhere inside the pool.

10 Q. (By Mr. Pletcher) Right.

11 A. Not just in that specific area.

12 Q. They could be down here (indicating), right?

13 MR. GERGER: Objection, form.

14 MR. SNYDER: Objection, form.

15 MR. GERGER: Would you wait just two
16 minutes while I go to the restroom and come back?

17 MR. PLETCHER: Absolutely. Let's take a
18 break. Sorry. I thought I was going to get through
19 quicker than I did. Sorry.

20 THE VIDEOGRAPHER: The time is 12:22.

21 We're off the record.

22 (Lunch Recess from 12:22 to 1:13)

23 THE VIDEOGRAPHER: The time is 1:13 p.m.

24 We're back on the record.

25 Q. (By Mr. Pletcher) Are you ready to continue,

0088

1 Mr. SUPV CC #1?

2 A. Yes.

3 Q. When we broke for lunch, we were talking about
4 the jackpot game. Do you remember?

5 A. Correct. Yes.

6 Q. And you had drawn in just kind of a general
7 area of where a person who was in the pool throwing the
8 ball up to the other people playing the game might
9 stand. Do you remember drawing that area?

10 A. Yes.

11 Q. And I think you explained that this wasn't a
12 limited area. You could be anywhere in the pool as the
13 thrower of the ball, correct?

14 A. Correct.

15 Q. And could you explain a little more or describe
16 in better terms how this game was played? I understand
17 the money part of it and the jackpot part of it, but I'm
18 uncertain as to how the participants played the game.

19 A. Pretty much it's just the person throwing the
20 ball called the jacker, throws the ball and your object
21 is to catch it.

22 Q. Okay. Is the object to catch the ball before
23 it hits the water?

24 A. Yes.

25 Q. And what if it hit the water? Would that not
0089

1 count if you grabbed it after it hit the water?

2 A. Correct.

3 Q. And so, the participants who were the catchers,
4 the jacker as you described would throw the ball. And
5 the catchers would jump and try to catch it before it
6 hit water, right?

7 A. Correct.

8 Q. So, you would have campers and counselors up on
9 the fountain deck jumping out into the pool in whatever
10 direction the jacker threw the ball, right?

11 MR. NGUYEN: Objection, form.

12 MR. SNYDER: Objection, form.

13 Q. (By Mr. Pletcher) Is that how it was done?

14 A. More or less.

15 Q. Okay. And was there something called scramble
16 jackpot?

17 A. Scramble was to where if it hits the water, it
18 could still be picked up and points were still there.
19 You get the points from the ball.

20 Q. Okay. So, is -- was that something that the
21 jacker or thrower would determine?

22 A. Yes.

23 Q. And how would that work?

24 A. As he or she threw it, they would call it in
25 the air. Because they would call the limit in the air.
0090

1 And so, they'd say, like, "500 scramble."

2 Q. Okay. And explain to the jury what would
3 happen after a jacker said "500 scramble."

4 A. Everybody would go for the ball just as if they
5 didn't call scramble. It's just that with scramble, if
6 it hits the water, you can pick it up.

7 Q. Okay. Then let's say, for example, the jacker
8 is standing here where I have my pen. Could he throw
9 the ball out here (indicating)?

10 A. He could, but normally that didn't happen.

11 Q. Okay. All right. He could throw it out here.
12 But normally where would he throw it, towards the

13 fountain deck?

14 A. Yes.

15 Q. Or straight up?

16 A. Usually towards the fountain.

17 Q. But the catchers would jump from the fountain
18 deck to wherever the ball was thrown, correct?

19 A. As best I can recall, yes.

20 Q. Okay. And this game jackpot was played by both
21 campers and counselors, correct?

22 A. Yes.

23 Q. At any time during your employment as a camp
24 counselor, do you recall any of the lifeguards stopping
25 the game?

0091

1 A. Not that I can recall.

2 Q. So, your best recollection is that the
3 lifeguards, whoever they were on the day that the
4 campers and counselors were playing the jackpot game,
5 would not stop it. They would allow the game to be
6 played --

7 MR. SNYDER: Objection, form.

8 Q. (By Mr. Pletcher) -- is that right?

9 A. To the best of my recollection.

10 Q. Okay. Do you ever recall while the jackpot
11 game was being played the jacker throwing the ball up on
12 the fountain deck and calling scramble and a certain
13 number?

14 A. Not that I can recall, no.

15 Q. So, your best recollection was that when the
16 jacker would call "scramble 200" the ball would be
17 thrown out in the water where people could jump and swim
18 to the ball, correct?

19 A. To the best of my memory, yes.

20 Q. Okay. Now, I'm uncertain as to whether or not
21 you have testified that it was -- this jackpot game was
22 actually being played on July 18th.

23 A. I really don't recall if it was played or not
24 on that day.

25 Q. Okay. You don't know one way or another?

0092

1 A. Correct.

2 Q. So, if other witnesses have testified that the
3 jackpot game was being played by campers and counselors
4 on July 18th, you would have no reason to dispute that
5 testimony, correct?

6 MR. NGUYEN: Objection, form.

7 MR. SNYDER: Objection, form.
8 A. To the -- as far as I know, I --
9 Q. (By Mr. Pletcher) Okay. You wouldn't have a
10 reason to dispute it, correct?
11 MR. SNYDER: Objection, form. Please
12 allow him to finish his answer.
13 Q. (By Mr. Pletcher) Were you finished?
14 A. No.
15 Q. Okay.
16 A. I -- to the best of my recollection, I do not
17 remember a game being played -- that game being played
18 that day.
19 Q. I understand. But you just testified -- and
20 correct me if I'm wrong -- that you didn't know one way
21 or another whether or not it was being played that day.
22 A. I don't understand the difference between --
23 Q. You don't know if it was being played or you
24 don't know if it was not being played, do you?
25 A. I don't know --

0093

1 MR. SNYDER: Objection, form.
2 A. -- if it was being played.
3 Q. (By Mr. Pletcher) And you don't know if it was
4 not being played, correct?
5 A. Correct.
6 Q. Okay. I'm going to draw in here or write in
7 here "jacker." Explain again to the jury what the
8 jack -- who the jacker was.
9 A. Whoever acquired the amount of points needed
10 for a jackpot.
11 Q. Was he or she the person who was throwing the
12 tennis ball?
13 A. Yes. Yes.
14 Q. Now, earlier I had you draw in other campers
15 and counselors that you remember seeing after you turned
16 around when 15 y/o LG #1 made her statement. Do you
17 remember that?
18 A. Yes.
19 Q. And we know from your earlier testimony that
20 the 7-year-old boys were getting -- were in the process
21 of getting out of the pool at that moment, right?
22 A. As best as I can recall.
23 Q. Okay. Now, do you remember when you turned
24 around seeing other people in the pool who were not
25 connected with the camp, either members, guests who were

0094

1 actually in the pool but they were not part of the
2 summer camp?
3 A. Not that I can recall.
4 Q. How about that day while you were at the family
5 pool? Do you remember seeing members and guests in the
6 family pool who were not connected with the summer camp?
7 A. I don't remember seeing them in the pool, but I
8 remember seeing people sitting along the side like in
9 the chairs.
10 Q. Right. And when you say "people," what do you
11 mean?
12 A. Members, guests.
13 Q. Okay. Do you have a recollection of -- before
14 15 y/o LG #1 made her statement, "is that boy okay,"
15 when you were facing this (indicating) direction towards
16 the slide, do you remember seeing the lifeguard in his
17 stand?
18 A. Not that I can recall.
19 Q. Do you recall seeing any people in the deep
20 area or up on the slide when you were facing that
21 direction?
22 A. Not that I can recall.
23 Q. You're not saying they weren't there. You just
24 have no recollection, correct?
25 A. Correct. No recollection.
0095
1 Q. Do you remember on July 18th when you were at
2 the family pool supervising whether there were any
3 children who were in the pool who were not part of the
4 camp?
5 MR. SNYDER: Objection, form.
6 A. Not that I can remember.
7 Q. (By Mr. Pletcher) Okay. When you drew in John
8 Pluchinsky, the general location that you recall seeing
9 him floating face down when you turned around, you don't
10 recall seeing anybody in the general vicinity of John,
11 do you?
12 A. Not that I can remember -- recall.
13 Q. So, you don't remember -- you don't remember
14 seeing any campers, counselors or anybody in the area
15 where John was floating, correct?
16 MR. NGUYEN: Objection, form.
17 MR. SNYDER: Objection, form.
18 A. There could have been, but I just --
19 Q. (By Mr. Pletcher) Right.
20 A. -- don't remember.

21 Q. I just want to make certain that if we get down
22 to the courthouse, you're not going to come in and say,
23 oh, yeah, you know, there were three campers within an
24 arm's length of John when I turned around and saw him
25 floating face down.

0096

1 A. I don't remember.

2 Q. And you're not going to say there were
3 counselors within an arm's length of John when I turned
4 around and saw him floating?

5 A. I don't remember.

6 Q. Okay. Good. Do you have a recollection of
7 John's orientation when you first saw him floating face
8 down? In other words, do you know which direction his
9 head was pointing?

10 A. I really don't remember.

11 Q. Okay. So, you don't -- you don't have a
12 recollection of which way -- which direction his head
13 was pointing?

14 A. Not that I can recall.

15 Q. Okay. And do you recall which direction 4 y/o B-CC #3
16 4 y/o B-CC #3 was facing when you turned around?

17 A. When I -- by the time I turned around, 15 y/o LG #1
18 already said it. So, 4 y/o B-CC #3 was already heading
19 that direction.

20 Q. Okay. So, he had already turned to go get
21 John. Or he was -- when you turned around, his back was
22 to you and he was moving towards John. Is that
23 accurate?

24 A. Yes.

25 Q. You have no recollection of where he was or

0097

1 what he was looking at before you turned around?

2 A. Correct.

3 Q. Do you recall playing any other games with the
4 4-year-old boys that day when they were in the family
5 pool?

6 MR. GERGER: You say --

7 MR. SNYDER: Objection, form.

8 MR. GERGER: You say with the 4-year-old
9 boys?

10 MR. PLETCHER: (Nodding head)

11 A. Not that I can recall.

12 Q. (By Mr. Pletcher) Okay. Let me ask a
13 different question. Do you remember playing any games
14 with the 4-year-old boys on July 18th?

15 A. Not that I can remember.

16 Q. So, your recollection was that you played games
17 with the 7-year-old campers only, correct?

18 A. I just remember playing with campers. I don't
19 necessarily remember if it was with the 7-year-olds or
20 with the 4-year-olds.

21 Q. Okay. Okay. So, you could have played with
22 both of them, right?

23 A. Correct.

24 Q. What other games were typically played in the
25 family pool by the campers and the counselors besides
0098

1 this jackpot game?

2 MR. SNYDER: Objection, form.

3 A. I can't really recall.

4 Q. (By Mr. Pletcher) You can't recall any other
5 games that were played with the summer campers and the
6 counselors in the family pool other than the jackpot
7 game?

8 A. There was where usually the specific, like,
9 campers for that particular group, usually the boy
10 groups would usually, like, jump -- like, attach
11 themselves to usually the male counselors of that group
12 and, you know, want to get dragged along or whatnot.
13 But that was usually about it.

14 Q. So --

15 A. But that was usually with the older kids.

16 Q. Okay. When you say the "older kids," you
17 mean --

18 A. Like the --

19 Q. -- campers older than 4?

20 A. Yes.

21 Q. And when you say they'd be dragged around,
22 would they be pulled around with some sort of floaty or
23 what?

24 A. No. The kids would, like, jump on the back or
25 on the arm of their counselor.

0099

1 Q. Okay. So, they either get on the counselor's
2 back or grab the counselor's arm; and the counselor
3 would drag them around the pool?

4 A. Uh-huh. Correct.

5 Q. Do you ever remember that game being played
6 with the younger campers, the 4-year-olds?

7 A. Not that I can recall.

8 Q. Okay. Do you remember ever seeing camp

9 counselors throwing the counselors [sic] in and around
10 the pool?

11 MR. SNYDER: Objection, form.

12 A. Could you repeat that again?

13 Q. (By Mr. Pletcher) Sure. Do you ever remember
14 seeing a counselor throw a summer camper into the water?

15 MR. SNYDER: Objection, form.

16 Q. (By Mr. Pletcher) Either from outside of the
17 pool or in the pool where they threw them from their
18 arms?

19 MR. SNYDER: Objection, form.

20 A. I wouldn't say throw.

21 Q. (By Mr. Pletcher) Okay. What would you say?

22 A. Maybe more of a toss, if anything.

23 Q. Okay. You had done that before yourself --

24 A. (Witness nodding head)

25 Q. -- tossed campers while they were in the pool.

0100

1 A. Yes.

2 Q. Okay. And can you just describe how you do it?

3 A. Well, I'd usually pick them up from right
4 underneath the arms, and I would just go arm's length.

5 Q. Right.

6 A. Maybe sometimes a little bit further and pretty
7 much let go.

8 Q. Or you would grab them and you would toss
9 them --

10 A. If --

11 MR. SNYDER: Objection, form.

12 MR. NGUYEN: Objection, form.

13 Q. (By Mr. Pletcher) -- right? Isn't that what
14 you're really talking about?

15 A. Well --

16 MR. SNYDER: Objection, form.

17 A. I don't -- I don't think so.

18 Q. (By Mr. Pletcher) Okay. Well, you used the
19 word "toss."

20 A. Uh-huh.

21 Q. Okay. Didn't you?

22 A. Yes.

23 Q. Okay. And when I hear the word "toss," what I
24 hear is you actually throwing the child from your hands
25 into the pool or into the water. Is that what -- how it

0101

1 was done?

2 MR. SNYDER: Objection, form.

3 Q. (By Mr. Pletcher) I mean, nothing's real magic
4 about this. We've all seen people grab a child in a
5 pool and toss them from their arms. Is that what you're
6 talking about --

7 MR. NGUYEN: Objection.

8 Q. (By Mr. Pletcher) -- be it two feet or three
9 feet or four feet?

10 MR. NGUYEN: Objection, form.

11 MR. SNYDER: Form.

12 A. Yes.

13 Q. (By Mr. Pletcher) Okay. I mean, you had done
14 that with some of the summer campers in 2007, right?

15 A. Yes.

16 Q. You had done that with some of the summer
17 campers in 2006 and 2005 and 2004, right?

18 A. I believe so.

19 Q. Okay. At any time do you recall any of the
20 lifeguards who were on duty when you were doing this
21 telling you to stop?

22 A. Not that I can recall.

23 Q. Do you remember tossing any of the 4-year-old
24 boys on July 18th, 2007?

25 A. I don't believe so.

0102

1 Q. Huh?

2 A. I don't believe so.

3 Q. Are you absolutely certain --

4 MR. SNYDER: Objection, form.

5 Q. (By Mr. Pletcher) -- that you did not do that
6 on July 18th?

7 A. No.

8 Q. You are not?

9 A. I am not certain.

10 Q. Okay. Had you as a supervisor at the family
11 pool ever instructed a camp counselor not to toss or
12 throw the summer campers?

13 A. Not that I can recall.

14 Q. Do you on July 18th have a recollection of
15 seeing other counselors tossing or throwing summer
16 campers while in the family pool?

17 A. I really don't remember.

18 Q. Do you remember at any time when you did throw
19 summer campers ever having one of the campers say,
20 "Don't do that. I don't like it"?

21 A. Not that I can recall.

22 Q. But do you know of any summer campers who did

23 not like to be thrown or tossed in the family pool?

24 MR. NGUYEN: Objection, form.

25 A. Not that I can recall.

0103

1 Q. (By Mr. Pletcher) You recall a summer camper
2 named Charlie?

3 A. No.

4 Q. I'm going to hand you back Exhibit 14J, and I
5 want you to look at it one more time. And I just want
6 to make certain that you have marked either specific
7 individuals that you remember seeing when you turned and
8 looked back towards John Pluchinsky floating face down
9 or the general areas where people were. I want to make
10 certain that those are marked there on that exhibit. In
11 other words, if you know of anybody else being in the
12 pool at the time when you turned around, I want you to
13 mark them on there. Okay?

14 A. I really don't remember anything else.

15 Q. Okay. And just for clarification purposes, the
16 initials that you've put on the fountain deck of the
17 camp counselors and my parenthetical of the 7-year-old
18 campers, they were not there when you turned around,
19 right?

20 A. Correct.

21 Q. The only people you specifically remember being
22 in the family pool when you turned around is 4 y/o B-CC #3,
23 John Pluchinsky and some campers and counselors down
24 here at the bottom, right?

25 A. Correct.

0104

1 Q. And you don't know where 15 y/o LG #1 was when
2 she made the statement, right?

3 A. Right. Because by the time I turned around,
4 she was already walking.

5 Q. Do you remember where she was walking when you
6 turned around?

7 A. I remember her walking that direction
8 (indicating). I don't remember exactly where she was
9 at.

10 Q. Okay. But she was off her stand when you --

11 A. Yes.

12 Q. -- turned around?

13 A. Yes.

14 Q. Do you think she was outside the pool or in the
15 pool?

16 A. She was outside the pool.

17 Q. Okay. So, somewhere in this area here
18 (indicating)?

19 A. Maybe a little bit closer to the other end,
20 but --

21 Q. When you say maybe a little closer to the other
22 end, maybe over here (indicating)?

23 A. Yes, maybe.

24 Q. Somewhere between this stand, between that
25 stand and where John was, somewhere between here and
0105

1 here (indicating), right?

2 A. If I can recall correctly, yes.

3 Q. Okay. You had testified earlier that you went
4 over to where John was, and 4 y/o B-CC #3 was getting John
5 out of the pool, correct?

6 A. Yes.

7 Q. What do you remember doing, if anything, after
8 that point?

9 A. If I remember correctly, I was -- I picked him
10 up from 4 y/o B-CC #3 and laid him down -- laid John down on the
11 pool deck.

12 Q. Okay. So, you remember laying him on that
13 deck; or is that a --

14 A. I remembered him being laid on the deck.

15 Q. Right.

16 A. I don't remember exactly if it was me.

17 Q. Right.

18 A. My memory is him being laid down.

19 Q. Okay. Okay. I just wanted to be sure.

20 Because I've deposed 4 y/o B-CC #1 and I've also deposed
21 4 y/o B-CC #3, and they didn't say that you helped get John
22 out of the pool.

23 MR. NGUYEN: Objection, form.

24 Q. (By Mr. Pletcher) Okay?

25 MR. SNYDER: Objection, form.

0106

1 Q. (By Mr. Pletcher) So, you don't have a
2 specific recollection one way or the other as to whether
3 or not you actually assisted with lifting John out of
4 the pool onto the pool deck, right?

5 MR. SNYDER: Objection, form.

6 A. Not a hundred percent.

7 Q. (By Mr. Pletcher) Okay. 50 percent?

8 MR. SNYDER: Objection, form.

9 MR. NGUYEN: Objection, form.

10 A. I just remember seeing -- looking down and

11 seeing --
12 Q. (By Mr. Pletcher) Okay. Seeing him on the
13 pool deck.
14 A. Yes.
15 Q. And what did you do next?
16 A. The first thing I did was check for a pulse and
17 to see if he was breathing. Then once I noticed that
18 neither were present, I began to clean out his mouth to
19 try to, I guess, open up his airway.
20 Q. Right. Because he had vomit coming out of his
21 mouth, right?
22 A. Correct.
23 Q. So, you cleared his mouth. And then did you
24 start CPR?
25 A. Not yet. I noticed that his -- there was --
0107

1 like, the more I moved, the more would come out. I
2 noticed his stomach was really bloated.
3 Q. Okay.
4 A. So, I pushed onto his stomach; and more just
5 kept coming.
6 Q. Okay. I'm going to ask you some more detailed
7 questions about that CPR and what you did. But before I
8 do, I need to know who you remember being in the area
9 when you first got to John for...
10 A. I remember 4 y/o B-CC #3 and 4 y/o B-CC #1.
11 Q. Okay. And setting aside the CPR for a moment,
12 do you remember anybody else coming up to the scene?
13 A. You mean setting aside --
14 MR. SNYDER: Objection, form.
15 A. -- doing the actual CPR?
16 Q. (By Mr. Pletcher) Right.
17 A. No one in particular.
18 Q. Do you recall either of the lifeguards who were
19 on duty that day saying anything to you while you were
20 performing CPR?
21 A. No, not that I can recall.
22 Q. Do you recall either lifeguard who was on duty
23 that day ever asking you if you needed help with the
24 CPR?
25 A. Not that I can recall.
0108

1 Q. So, do you recall either lifeguard coming up to
2 where John was first laid down on the pool deck?
3 A. 15 y/o LG #1 was already nearby. I just remember
4 hearing her. And I don't remember where 15 y/o LG #2 was.

5 Q. Okay. But you don't remember 15 y/o LG #1 ever saying
6 anything to you?

7 A. Not that I can recall.

8 Q. And do you remember at any time hearing a
9 whistle blast?

10 A. Not that I can recall.

11 Q. Neither before or after the CPR that -- I'm
12 sorry.

13 Neither before or after John was placed on
14 the pool deck, correct?

15 A. Not that I can recall.

16 Q. What was the whistle blast procedure in place
17 at the Houston Racquet Club in the summer of 2007?

18 A. One short blast was to get, like, a kid's
19 attention if he was running or if they weren't
20 listening. Two short blasts was to get either the head
21 lifeguard or, say, Guillermo or David's attention. And
22 then either three short blasts or one long blast if
23 there was someone -- if someone was getting pulled out
24 of the water if there was an emergency.

25 Q. Okay. So, one short blast to get a person's
0109

1 attention. Two short blasts to get the head guard or
2 Guillermo Palmer or David Lamkin's attention. And three
3 short blasts or one long blast for an emergency; is that
4 correct?

5 A. Yes.

6 Q. And who told you -- who taught you that
7 procedure?

8 A. I remember being taught, but I don't remember
9 by who.

10 Q. Somebody at the Racquet Club?

11 A. I believe so.

12 Q. Okay. And was that procedure in effect in
13 2006?

14 A. I believe so.

15 Q. Was it in effect in 2005?

16 A. I don't know.

17 Q. Do you ever recall that procedure being changed
18 or any different?

19 A. Not that I can recall.

20 Q. Okay. Back to the CPR scene. Okay? I think
21 you just described in your own words that the first
22 thing you did was you checked his pulse and you checked
23 his breathing, right?

24 A. To see if he was breathing.

25 Q. How did you check his pulse?

0110

1 A. If I remember correctly, I put my finger -- my
2 two fingers directly to his artery where you check your
3 pulse on the throat.

4 Q. Okay.

5 A. That's the carotid artery.

6 Q. Okay. So, you checked his carotid with two
7 fingers?

8 A. If I remember correctly. I don't recall.

9 Q. And you felt no pulse?

10 A. Correct.

11 Q. Did you check it any other place on John's body
12 other than the carotid?

13 A. Not that I can recall.

14 Q. And how did you check his breathing?

15 A. I put my ear right above his mouth. And then I
16 looked down towards his chest to where if he's breathing
17 just a little bit, I can either feel it on my ear or I
18 can see his chest slowly rise.

19 Q. Okay.

20 A. And that was it.

21 Q. And was he breathing?

22 A. No.

23 Q. Okay. And those are the things that you
24 learned in your CPR course that Mr. LG Supv B taught you at
25 the Houston Racquet Club in 2006?

0111

1 A. I believe so.

2 Q. Well, did Mr. LG Supv B give you a CPR book?

3 A. It was a lifeguard -- complete lifeguard, I
4 guess, training book; and CPR was inside of it.

5 Q. Now, when you checked his pulse and breathing
6 and you found neither present, what did you do next?

7 A. That's when I started to clear out his
8 passageway.

9 Q. So, you cleared it with your fingers?

10 A. With -- yes. You're supposed to clean the
11 mouth out with your pinky.

12 Q. Can you show us with your hands how you did it
13 on John?

14 A. Get your pinky like so, and then you kind of
15 hook in (indicating).

16 Q. Could you do it on your mouth, please?

17 A. (Indicating)

18 Q. Okay.

19 A. Like that.
20 Q. And sweep it?
21 A. And sweep it.
22 Q. And you said that you did that first, and then
23 you noticed that his stomach was bloated?
24 A. Uh-huh.
25 Q. And what did you do next?
0112
1 A. I began to press on it, and then immediately
2 water and more vomit came out.
3 Q. And did you do another finger sweep of his
4 mouth?
5 A. I believe so.
6 Q. And so, what did you do next?
7 A. I still noticed there was more in there. And
8 so, I pressed it again; and more continued to come up.
9 Q. Okay. So, you pressed on his stomach at least
10 twice.
11 A. I believe so.
12 Q. And then what happened next?
13 A. After that, I believed that I had it adequate
14 enough to where I could breath because no more was
15 coming out. And so, then I believe by that time LG Supv
16 had come over.
17 Q. Okay. And when you say "LG Supv," is that
18 LG Supv?
19 A. Yes.
20 Q. And he was the head lifeguard that day, right?
21 A. Yes.
22 Q. And then what happened?
23 A. Once he arrived, he started doing the
24 breathing. And then I started doing the compressions.
25 Q. Okay. At any time before LG Supv came
0113
1 over, did you give any compressions or breaths to John?
2 A. Not that I can recall.
3 Q. Okay. So, your best recollection of things is
4 that before LG Supv got on the scene, you were
5 busy clearing John's mouth of vomit. And you noticed
6 his stomach was bloated. So, you pushed on it at least
7 twice.
8 A. I believe so.
9 Q. And then you had to clear his mouth again,
10 correct?
11 A. Correct.
12 Q. Now, the vomit that was coming out of his

13 mouth, is your -- do you have a recollection of the
14 consistency of it? You mentioned water and vomit. Was
15 there -- what do you recall about it?

16 A. Just that it was vomit and water.

17 Q. Okay. Liquid.

18 A. Yes.

19 Q. And at no time did you see some solid object
20 come out of his mouth, did you?

21 A. I might have.

22 Q. Okay. It's important. Do you remember ever
23 seeing a solid object?

24 A. Not that I can recall.

25 Q. Okay. And once LG Supv got on the scene,

0114

1 do you remember communicating with him?

2 A. I think -- I don't remember communicating. I
3 just remember him getting there. And if I remember
4 correctly, he had the breathing mask with him.

5 Q. Okay.

6 A. And so, when I saw that, I assumed that he was
7 going to do breaths, which he did.

8 Q. And did he do breaths first, or did you do
9 compressions first?

10 A. He did the breaths first, if I remember
11 correctly.

12 Q. And do you recall how many breaths he gave?

13 A. I believe it was two.

14 Q. And do you remember John's chest rising when he
15 gave those breaths?

16 A. I don't remember.

17 Q. Okay. Can't say one way or the other, right?

18 A. No.

19 Q. That was "no"?

20 A. That was "no."

21 Q. Okay. After LG Supv gave breaths, did you give
22 compressions?

23 A. Yes.

24 Q. How many?

25 A. Thirty.

0115

1 Q. And then did you say LG Supv gave two breaths?

2 A. I believe so.

3 Q. So, two breaths to every 30 compressions?

4 A. Yes.

5 Q. And what do you recall happening after that
6 first cycle of two breaths and 30 compressions?

7 A. I really don't remember. I just remember doing
8 that, and I just -- doing it again.

9 Q. Okay. Do you -- do you recall ever checking
10 his pulse again and his breathing after the first cycle
11 or seeing LG Supv check those things?

12 A. I don't remember doing it myself. LG Supv might
13 have. I don't recall.

14 Q. Okay. Is that what you were supposed to be
15 doing, though? Is that how you were trained --

16 A. I --

17 Q. -- to do 30 and two or two and 30 and then
18 check the pulse and the breathing?

19 A. I believe so.

20 Q. But you don't remember doing that, and you
21 can't say for certain whether or not LG Supv did it?

22 A. Correct.

23 Q. And do you remember at any time during your
24 compressions more vomit coming out?

25 A. Not that I can recall, no.

0116

1 Q. And how many cycles do you think you and LG Supv
2 did together?

3 A. I believe it was two.

4 Q. And when I said "cycle," you understood two
5 breaths for 30 compressions?

6 A. Correct.

7 Q. At any time during those two cycles, do you
8 remember John regaining a pulse or breathing?

9 A. Not that I can recall.

10 Q. And what do you remember happening next?

11 A. David came over, David Lamkin, and he took over
12 for me and that was it.

13 Q. When he took over, did you leave the scene?

14 A. I was three feet behind -- four feet behind
15 him.

16 Q. Do you remember what, if anything, David Lamkin
17 did?

18 A. No.

19 Q. What happened next after David Lamkin got on
20 the scene?

21 A. He took over for me, and then I just stepped
22 back and stood there.

23 Q. Okay. Do you remember the EMS arriving?

24 A. Yes.

25 Q. How soon after David got to the scene did the

0117

1 EMS arrive?
2 A. I don't remember.
3 Q. Do you remember -- what else do you remember,
4 if anything, about the CPR process that we haven't
5 discussed?
6 MR. SNYDER: Objection, form.
7 A. I can't recall anything.
8 Q. (By Mr. Pletcher) When you were doing your
9 compressions, can you tell the jury where you had your
10 hands on John's body?
11 A. I had my hands just below -- like, two fingers
12 below the nipple line, two fingers below and directly in
13 the center.
14 Q. And did you use one hand or two hands for the
15 compressions?
16 A. I really don't remember.
17 Q. Do you recall any discussions with LG Supv
18 or David Lamkin during the CPR process?
19 A. Not that I can recall.
20 Q. Do you remember any comments made by either of
21 them during the CPR process?
22 A. Not that I can recall.
23 Q. Let me show you what has been marked as
24 Plaintiff's Exhibit 5C which is, I believe, a copy of
25 your handwritten statement. I'm going to hand it to
0118
1 you, and I want you to identify that document.
2 A. What do you mean by "identify"?
3 Q. What is that?
4 A. That is my, I guess, written account of what
5 happened.
6 Q. Is that statement made in your handwriting?
7 A. Yes.
8 Q. And it's, to the best of your knowledge, a true
9 and correct copy of your statement?
10 A. Yes.
11 Q. And that statement was written by you on
12 July 18th, 2007, correct?
13 A. Correct.
14 Q. Do you remember where you were when you wrote
15 it?
16 A. Yes.
17 Q. Where?
18 A. Back at the camp house.
19 Q. Did you try to be accurate when you wrote that
20 statement?

21 A. To the best of my abilities at the time, yes.

22 Q. Right. Is there anything written in that
23 statement that you think needs to be changed?

24 MR. SNYDER: Objection, form.

25 A. I don't believe so.

0119

1 Q. (By Mr. Pletcher) Sir?

2 A. I don't believe so.

3 Q. Now, let me show you 13C again. Those are your
4 certification cards?

5 A. (Witness nodding head)

6 Q. To the best of your knowledge, are those two
7 true and correct copies of your certification cards?

8 A. Yes.

9 Q. There's a second page. Yes?

10 A. Yes.

11 Q. Okay. We're almost done with the tough part,
12 but I need to go back to the CPR a little more. Okay?

13 A. Okay.

14 Q. When you first saw John in the family pool when
15 4 y/o B-CC #3 picked him up, do you have a recollection of
16 what he looked like?

17 A. He was blue in the face, and his eyes and his
18 mouth were open.

19 Q. Do you remember the colors of his lips -- the
20 color of his lips?

21 A. Not off the top of my head, no, I don't recall.

22 Q. Do you remember ever looking into his eyes at
23 any time either in the pool or out when you were up on
24 the pool deck performing CPR?

25 A. Yes.

0120

1 Q. And describe his eyes for me.

2 A. Just --

3 Q. Blank?

4 A. (Witness nodding head) Yeah.

5 Q. At any time did you think that John was
6 conscious?

7 A. I don't remember.

8 Q. Okay. Do you recall ever checking his pulse
9 more than that initial assessment?

10 A. I can't recall.

11 Q. Do you have a specific recollection, SUPV CC #1, of
12 the surrounding scene around you and LG Supv while
13 you were performing CPR?

14 A. Not that I can recall, no.

15 Q. As far as you know, do you remember seeing
16 other people, either counselors or mothers or children
17 in the vicinity of where the CPR was conducted?

18 A. There were people around. I don't remember
19 who, where, how many.

20 Q. Okay. Do you ever recall anybody questioning
21 your CPR technique?

22 A. Yes.

23 Q. What do you remember about that?

24 A. I remember a woman. Her name is SC -- I
25 don't remember her last name -- screaming I'm doing it
0121

1 wrong.

2 Q. Okay.

3 A. Or, "You're doing it wrong."

4 Q. And SC, is that the swim coach?

5 A. She teaches swimming.

6 Q. Okay. SC?

7 A. Yeah. I don't know her last name.

8 Q. Did you respond to her comment?

9 A. Not at all.

10 Q. Other than remembering her saying you were
11 doing it wrong, do you specifically remember any other
12 statements made by SC?

13 A. Not that I can recall.

14 Q. Did she ever make comment of the number of
15 breaths or compressions you should be getting or
16 question you whether or not you even knew it?

17 A. Not that I can remember.

18 Q. And would you describe SC as being frantic
19 when she was -- when she made that statement to you?

20 MR. GERGER: Objection, form.

21 MR. SNYDER: Objection, form.

22 A. Possibly.

23 Q. (By Mr. Pletcher) I mean, was she screaming?

24 A. Yeah.

25 Q. Do you recall anybody else screaming or raising
0122

1 their voice to you, LG Supv or anybody else
2 involved in that CPR process?

3 A. Not that I can recall.

4 Q. Do you recall ever hearing anybody scream,
5 "Call 9-1-1. Call 9-1-1," or, "Have you called 9-1-1?"

6 A. Not that I can recall.

7 Q. Do you recall anybody screaming, "Where's the
8 AED?"

9 A. Not that I could recall.
 10 Q. Do you know what an AED is?
 11 A. Defibrillator.
 12 Q. And at no time did anybody go get the AED,
 13 correct?
 14 A. Not that I can recall.
 15 Q. At no time did anybody bring the AED to the
 16 CPR scene, correct?
 17 A. Not that I can recall.
 18 Q. Did you ever ask anybody to get the AED?
 19 A. No.
 20 Q. Did LG Supv ever ask anybody to get the
 21 AED?
 22 A. Not that I can recall.
 23 Q. Do you remember ever seeing the AED on the
 24 scene of the CPR conducted on John that day?
 25 A. Not that I can recall.
 0123
 1 Q. Well, do you remember the EMS bringing a
 2 defibrillator with them?
 3 A. I just remember seeing the EMS get there and
 4 taking him.
 5 Q. So, you don't remember the EMS having a
 6 defibrillator?
 7 A. Not --
 8 MR. SNYDER: Objection, form.
 9 A. Not that I can recall.
 10 Q. (By Mr. Pletcher) So, the answer is, "No, I
 11 don't remember"?
 12 MR. NGUYEN: Objection, form.
 13 MR. SNYDER: Objection, form.
 14 A. I don't recall.
 15 Q. (By Mr. Pletcher) What do you remember
 16 Mr. LG Supv B teaching you during your CPR course about the
 17 defibrillator, if anything?
 18 A. I really can't remember.
 19 Q. Do you know whether or not he even brought up
 20 the subject of the defibrillator during your course that
 21 he taught at the Houston Racquet Club in 2006?
 22 A. I believe so. Yes, he did.
 23 Q. But you have no specific recollection of what
 24 he may have taught you in that regard?
 25 A. No.
 0124
 1 Q. Do you know when a rescuer should use an AED or
 2 a defibrillator?

3 A. No.
4 Q. Do you recall Mr. LG Supv B teaching you the ratio
5 of breaths to compressions in CPR?
6 A. I believe so.
7 Q. Do you remember him teaching you about the
8 number of breaths and compressions to use on an adult as
9 compared to a child?
10 A. I don't recall.
11 Q. Do you know if the ratio is the same?
12 A. I can't recall.
13 Q. Okay. Do you know if there is any difference
14 in the ratio of breaths to compressions when there are
15 more than one rescuer conducting the CPR?
16 A. Not that I can recall.
17 MR. SNYDER: Are we at a convenient spot
18 to take a restroom break?
19 MR. PLETCHER: Absolutely.
20 MR. SNYDER: I apologize.
21 MR. PLETCHER: No. That's fine.
22 THE VIDEOGRAPHER: The time is 2:08 p.m.
23 We're off the record.
24 (Recess from 2:08 to 2:21)
25 THE VIDEOGRAPHER: The time is 2:21 p.m.
0125
1 We're back on the record.
2 Q. (By Mr. Pletcher) Are you ready to continue,
3 Mr. SUPV CC #1?
4 A. Yes.
5 Q. Okay.
6 MR. SNYDER: Thanks for the break,
7 everyone. I appreciate that.
8 MR. PLETCHER: You're welcome.
9 Q. (By Mr. Pletcher) I just handed you 14J, the
10 diagram that you've drawn. And I would ask you to just
11 mark a circle where John was placed on the pool deck and
12 where you and LG Supv worked on him. Was it under
13 the umbrella?
14 A. (Witness drawing) More or less, like,
15 somewhere in that area (indicating), I believe.
16 Q. And would you mind just writing in that circle
17 "CPR"?
18 A. (Witness drawing)
19 Q. Do you remember how John was positioned during
20 CPR, where his head was, where his feet were?
21 A. His feet were close to the pool.
22 Q. Do you remember --

23 A. And like, I guess say the tip are his feet, I
24 believe he was laying like that (indicating).

25 Q. Okay.

0126

1 A. Away from the pool.

2 Q. Do you remember his legs and feet being in the
3 water and 4 y/o B-CC #3 holding them?

4 A. Not that I can remember.

5 Q. Okay. Your best recollection, though, was that
6 his head was -- went on the west end of the pool ledge,
7 right?

8 A. I believe so.

9 Q. Okay. Both 4 y/o B-CC #3 and 4 y/o B-CC #1 had
10 testified that John's legs were hanging in the water and
11 that 4 y/o B-CC #3 was holding his legs during the CPR. You
12 just -- and I'm just trying to figure out what you
13 remember. You just don't remember that having --

14 A. I don't remember --

15 MR. SNYDER: Objection, form.

16 A. I don't remember seeing his feet. I was
17 focused on --

18 Q. (By Mr. Pletcher) Okay.

19 A. -- his stomach on up.

20 Q. Right. You're not saying that didn't happen.
21 You just don't have a recollection.

22 A. Correct.

23 Q. Okay. Good. Now, do you ever remember 4 y/o B-CC #3
24 4 y/o B-CC #3 conducting CPR at all, any breaths or compressions
25 or pushing on his stomach or anything?

0127

1 A. Not that I can recall.

2 Q. And how would you describe 15 y/o LG #1 when
3 she came up to the scene of where the CPR was being
4 conducted?

5 MR. NGUYEN: Objection, form.

6 MR. SNYDER: Objection, form.

7 A. I really don't remember.

8 Q. (By Mr. Pletcher) Do you remember seeing
9 15 y/o LG #1?

10 A. I can't recall.

11 Q. So, you couldn't describe 15 y/o LG #1's
12 reaction to this event while it was occurring one way or
13 the other, right?

14 MR. NGUYEN: Objection, form.

15 A. Not that I can recall.

16 Q. (By Mr. Pletcher) I'm just trying to figure

17 out whether or not you ever saw her yelling, screaming
18 or acting panicked or frantic.

19 MR. SNYDER: Objection, form.

20 A. Not that I can -- not that I can recall.

21 Q. (By Mr. Pletcher) Other than seeing 15 y/o LG #1
22 somewhere in the area between her stand and where
23 John was found floating, you don't remember ever seeing
24 her at any other time. Is that what you're telling us?

25 A. I just don't recall.

0128

1 Q. SC or the SC that you know who
2 was screaming there at the CPR scene, did you know her
3 before this day?

4 A. Being a lifeguard and working there before, I
5 had known who she was and might have had a conversation
6 or two the entire time I worked there.

7 Q. Okay. So, it was just -- your connection with
8 her was very limited.

9 A. Correct, as far as I -- as far as I can
10 remember.

11 Q. Now, what about SUPV? Since you
12 have probably more experience having worked at the Club
13 as a camp counselor for five different summers, I get a
14 sense that you may know more about SUPV
15 than anybody else. I mean, what can you tell us about
16 her?

17 A. Well, that was her first summer as -- working
18 outside. But through working with the pro shop and
19 whatnot, she would -- I would always go to her because
20 she did payroll. So, I would always have conversations
21 with her and, you know, with the new punching in and out
22 system and whatnot.

23 Q. Okay.

24 A. So, I probably knew her more than I knew SC.

25 Q. Okay. Because she did payroll and she was in

0129

1 charge of getting you your check, right?

2 A. Yeah.

3 Q. Okay. And if you ever had a problem with the
4 number of hours or whatever, you'd talk to SUPV.

5 A. Correct.

6 Q. SUPV.

7 A. Correct.

8 Q. And you said that this was her first summer to
9 work outside. What did you mean by that?

10 A. This was her first year outside working at the

11 summer camp. Every other summer she had been inside, as
12 far as I can recall, or for however long she was there.

13 Q. Okay. And did you ever have any meetings with
14 SUPV where you and her discussed the
15 operations of the summer camp?

16 A. Not that I can recall.

17 Q. So, you can't ever remember receiving any sort
18 of instruction from SUPV in regards to your
19 position as a camp counselor or a camp supervisor,
20 correct?

21 A. Not that I can recall.

22 Q. And can you describe her? I mean, how old of a
23 lady was she? What did she look like?

24 A. 30s, short, reddish-brown hair.

25 Q. Okay. And do you recall -- or do you have any
0130

1 knowledge of what her work background was or experience
2 was?

3 A. Not that I can -- no.

4 Q. Okay. And to your knowledge, did she have any
5 experience working at a summer camp like this prior to
6 her first summer in 2007? Do you know one way or the
7 other?

8 A. Not that I can recall.

9 Q. Once the EMS arrived at the poolside, what do
10 you remember happening next?

11 A. Just sitting on one of the chairs -- the edge
12 of the chairs until the police arrived to take our
13 statements.

14 Q. Did you see anything that the EMS did or -- did
15 on the scene?

16 A. Not that I can recall.

17 Q. Okay. So, you don't -- you won't testify at
18 the time of trial that you saw the EMS do this or not do
19 that, right?

20 A. Correct.

21 Q. And do you have a recollection of anything the
22 EMS may have said or asked of any person at the scene
23 that day?

24 A. Not that I can recall.

25 Q. Do you remember the EMS taking John away?
0131

1 A. Yes.

2 Q. What do you remember about that, if anything?

3 A. Just them taking him away.

4 Q. Did they put him on a stretcher, a board? Or

5 what do you remember, if anything?

6 A. I know they put him on a stretcher. I don't
7 remember how.

8 Q. Okay. And then they took him out of the pool
9 area.

10 A. Correct.

11 Q. And you said that there was a police officer
12 that arrived on the scene?

13 A. One or two, I believe so.

14 Q. And they took your statements or talked to you,
15 interviewed you?

16 A. Yes.

17 Q. And did you sign anything with the police
18 officers?

19 A. Not that I can recall.

20 Q. Do you remember anything specifically that the
21 police officers may have asked you?

22 A. They asked name, address, phone number; and I
23 can't remember what else. Maybe how involved I was, I
24 don't remember.

25 Q. On July 18th, 2007 when you were at the family
0132

1 pool, you were acting as a supervisor -- a camp
2 supervisor, right?

3 A. Yes.

4 Q. Both you and Supv CC #2?

5 A. Correct.

6 Q. And what does that mean? I'm trying to figure
7 out why y'all were at the family pool when the
8 4-year-olds and 7-year-olds were in the pool.

9 A. Supv CC #2 and I were there because most of the
10 groups at the time were at the pool -- either at the
11 resort pool or the lap pool or eating lunch on the
12 pavilion.

13 Q. Okay.

14 A. So, there was no -- there was no need for us to
15 be really anywhere else other than at the pool.

16 Q. So, there were no other activities going on at
17 any other location at the Club at this point in time,
18 correct?

19 A. Not that I can recall.

20 Q. And in your position as camp supervisor, I
21 think you have explained to us that you would do your
22 supervising at various locations where activities were
23 occurring at the Club, right?

24 A. Correct.

25 Q. So, if somebody said that you were the pool
0133

1 supervisor, would that be accurate or not?

2 MR. SNYDER: Objection, form.

3 A. I don't believe so.

4 Q. (By Mr. Pletcher) It would not be accurate,
5 right?

6 A. Correct.

7 Q. Because you supervised in areas other than --
8 in areas including areas other than the pool, right?

9 A. Correct.

10 Q. Okay. At any time during your employment with
11 the Houston Racquet Club, did you ever receive any
12 special instruction from David Lamkin, CD,
13 SUPV or anybody else at the Houston Racquet
14 Club on what you should do as a camp counselor when the
15 4-year-olds were in the family pool?

16 A. Not that I can recall.

17 Q. Were you given any special instruction by any
18 of those individuals on where the 4-year-olds could go
19 in the family pool?

20 A. Not that I can recall.

21 Q. Do you recall any special instruction from any
22 of those individuals of areas being off limits for the
23 4-year-old campers when they were in the family pool?

24 A. Not that I can recall.

25 Q. Do you recall any special instructions from any
0134

1 of those individuals of how you were to watch the
2 4-year-olds while they were in the family pool?

3 A. Not that I can recall.

4 Q. You don't ever recall David Lamkin, CD,
5 SUPV or anybody else at the
6 Houston Racquet Club telling you that you needed to be
7 within a certain distance of the 4-year-olds while they
8 were in the family pool, correct?

9 A. Not that I can recall.

10 Q. Do you ever recall David Lamkin ever telling
11 you that the 4-year-olds could not use the slide at the
12 family pool?

13 A. Not that I can recall.

14 Q. Do you ever recall anybody at the Racquet Club
15 telling you that the 4-year-olds needed to be within
16 grabbing distance or an arm's length of the counselor
17 when they were in the family pool?

18 MR. SNYDER: Objection, form.

19 A. Not that I can recall.

20 Q. (By Mr. Pletcher) Okay. Did you in your role
21 as camp supervisor ever referee any disputes between
22 lifeguards and camp counselors?

23 A. Not that I can recall.

24 Q. Do you recall in your position as camp
25 supervisor ever refereeing any disputes amongst the camp
0135

1 counselors?

2 A. Not that I can recall.

3 Q. Do you recall at any time while you were camp
4 supervisor ever counseling any of the camp counselors on
5 their supervision of the 4-year-olds while they were in
6 the family pool?

7 A. Not that I can recall.

8 Q. Do you ever recall in your position as camp
9 supervisor ever counseling any of the camp counselors in
10 regard to horseplay amongst themselves or with the
11 4-year-old campers?

12 A. Not that I can recall.

13 Q. Do you know who the adult supervisors were at
14 the family pool on July 18th, 2007?

15 MR. SNYDER: Objection, form.

16 A. I don't know.

17 Q. (By Mr. Pletcher) To your knowledge, did you
18 have any adult supervisors while you were at the family
19 pool on July 18th, 2007?

20 A. I don't know.

21 Q. Do you recall whether or not there were any
22 adult supervisors for the summer campers on July 18th,
23 2007?

24 MR. SNYDER: Objection, form.

25 A. I don't know.

0136

1 Q. (By Mr. Pletcher) And you don't know if there
2 were any adult supervisors for the 4-year-old campers on
3 July 18th, 2007, do you?

4 MR. SNYDER: Objection, form.

5 A. Not that I can -- I don't know.

6 Q. (By Mr. Pletcher) You don't have a
7 recollection?

8 A. No.

9 MR. SNYDER: Objection, form.

10 Q. (By Mr. Pletcher) And do you know or have you
11 ever heard of the dead man float game?

12 A. I've heard the term. I've never heard of the

13 game.
14 Q. Okay. What is dead man float?
15 A. To where an individual lays down on top of the
16 water as if they are, I guess, dead.
17 Q. Or as if they had drowned?
18 A. Or they had drowned.
19 Q. How often did you see that occurring at the
20 family pool at the Houston Racquet Club?
21 MR. SNYDER: Objection, form.
22 A. I can't really recall.
23 Q. (By Mr. Pletcher) More than once?
24 MR. SNYDER: Objection, form.
25 A. I can't really recall.

0137

1 Q. (By Mr. Pletcher) You have no idea of any
2 specific counselor who was watching John Pluchinsky
3 while he was in the family pool on July 18th, correct?
4 MR. SNYDER: Objection, form.
5 A. I don't know.
6 Q. (By Mr. Pletcher) Huh?
7 A. I don't know.
8 Q. At any time, correct?
9 A. I don't know.
10 MR. SNYDER: Objection, form.
11 Q. (By Mr. Pletcher) You don't know who was
12 watching him?
13 A. Not that I can recall.
14 Q. Did you ever spend any time outside of work
15 with Guillermo Palmer or David Lamkin?
16 A. Yes.
17 Q. What would y'all do outside of work? Or I
18 guess I should ask you which one first.
19 A. I hung out with both.
20 Q. What would y'all do outside of work?
21 A. Well, it was when I wasn't on the clock. We
22 were just --
23 Q. Yeah, I understand. After work. After hours.
24 A. Hang around and talk.
25 Q. Would y'all go to ball games together, stuff

0138

1 outside of the Racquet Club?
2 A. No.
3 Q. Would y'all hang out together outside of the
4 Racquet Club?
5 A. No.
6 Q. Okay. That's what I meant.

7 A. Okay.
8 Q. Other than your contact with them there at the
9 Club, did you ever socialize with either one of them?
10 A. I had seen David at a movie. That was it.
11 Q. Just ran into him.
12 A. Yeah.
13 Q. Other than just hanging out with them there at
14 the Club after hours when you were clocked out, you had
15 no other contact with either of them, correct, except
16 maybe occasionally running into them?
17 A. Yeah.
18 Q. Okay. On July 18th, 2007 when you were acting
19 as camp supervisor at the family pool, did you think
20 that the 4-year-old campers had all been swim tested?
21 A. I don't know.
22 Q. You didn't know one way or the other?
23 A. I just -- I don't recall. I can't recall.
24 Q. Did you have an assumption as to whether or not
25 they had been swim tested on that day?
0139
1 A. I can't recall.
2 Q. Okay. And do you -- do you remember David
3 Lamkin or anybody else at the Houston Racquet Club
4 telling you that the 4-year-old campers needed to be
5 treated as non-swimmers when they were in the family
6 pool?
7 A. Not that I can recall.
8 Q. Based upon your experiences in working as a
9 camp counselor for five different summers and your
10 experience being a camp supervisor, how would you treat
11 a non-swimmer at the family pool?
12 MR. SNYDER: Objection, form.
13 A. If there was a non-swimmer, then I would leave
14 them at the house -- the camp house in the back.
15 Q. (By Mr. Pletcher) Right. I think you
16 testified that -- to that earlier. What you would do
17 with a non-swimmer, somebody you felt could not swim, is
18 you'd take them out of the pool or away from the pool
19 and take them back to the camp house, right?
20 A. Correct.
21 Q. And the camp house is located on the back of
22 the property, right?
23 A. Correct.
24 Q. And that's that old house that they converted
25 into kind of a camp area?
0140

1 A. Correct.
2 Q. The Howell House; is that right?
3 A. Correct.
4 Q. And you would take any camper whether they were
5 4-year-old -- 4-years-old or 10-years-old if you felt
6 like they were unsafe in the pool, you'd take them to
7 the camp house, right?
8 A. Yes.
9 Q. How many times had you done that over your
10 career as a camp counselor at the Houston Racquet Club?
11 A. I can't recall.
12 Q. Several times though, right?
13 MR. NGUYEN: Objection, form.
14 Q. (By Mr. Pletcher) Or more than once.
15 A. Yes.
16 Q. Okay. Were you at the family pool the entire
17 time the 7-year-old campers were there?
18 A. I can't recall.
19 Q. Do you know if David Lamkin or Guillermo Palmer
20 were aware of the jackpot game being played in the
21 family pool?
22 MR. NGUYEN: Objection, form.
23 MR. SNYDER: Objection, form.
24 Q. (By Mr. Pletcher) Either on July 18th or at
25 any time prior to that day?
0141
1 MR. NGUYEN: Same objection.
2 MR. SNYDER: Objection, form.
3 A. I don't know.
4 Q. (By Mr. Pletcher) Okay. Okay. I want to ask
5 you about some of the documents contained in your
6 employment file at least what's been produced to us.
7 I've marked this as Plaintiff's Exhibit 85. And the
8 second, third, fourth and fifth pages of this -- six
9 pages of this exhibit are, I believe, your application
10 for employment. Could you look at that document and
11 identify it for us?
12 A. Yes.
13 Q. Is that your employment application?
14 A. Yes.
15 Q. And is that your handwriting on that document?
16 A. Yes.
17 Q. And would you turn and see if your signature is
18 on that application?
19 A. Yes.
20 Q. Is that your signature on the last page?

21 A. Yes.
22 Q. And what's the date of your signature?
23 A. Looks like 1/20 or 1/10/07.
24 Q. Okay. Either January 10th or January 20th,
25 2007?

0142

1 A. Yes.
2 Q. And this application indicates that you were
3 available to work on January 22nd. Is that what you
4 wrote there?
5 A. Yes.
6 Q. 2007. Now, this is when you applied to work in
7 what position? I'm trying to remember.
8 A. In the pro shop.
9 Q. In the pro shop. Okay. And on the fourth page
10 of this application, you indicate that your prior
11 experience included being a counselor the previous
12 summer.
13 A. Uh-huh.
14 Q. Actually in 2005 -- June and August of 2005,
15 right?
16 A. Uh-huh.
17 Q. Had you also worked as a camp counselor in '06?
18 A. Yes.
19 Q. And it indicated that your hourly rate at that
20 time in '05 was **Priv** right?
21 A. As far as that says, yes.
22 Q. And down here on this page you say that you
23 wanted to learn to string rackets, right?
24 A. Yes.
25 Q. And you list David Lamkin as your reference,

0143

1 correct?
2 A. Correct.
3 Q. Did he tell you that you could use him as a
4 reference?
5 A. I believe I had used him in the past before.
6 And so, I thought I could use him again.
7 Q. And of course when you signed this, you
8 certified that the answers that you gave were true and
9 complete, right?
10 A. Yes.
11 Q. And in your employment documents, there are
12 some status payroll change reports that I just want to
13 kind of ask you a few questions about to see what I can
14 learn from your positions. This is dated February 1st,

15 2007, indicates that you were working in the pro shop
16 making **Priv** an hour. And then if we look over here on
17 July 11th, 2007, it indicates that you were transferred
18 from the pro shop to the -- to be a lifeguard supervisor
19 and you got a raise of **Priv** an hour from **Privilege** ; is
20 that right?

21 A. According to that, yes.

22 Q. Well, do you remember that occurring?

23 A. I never filled out that paperwork.

24 Q. Okay. I know from your earlier testimony that
25 you worked in the pro shop in the early part of 2007,

0144

1 right?

2 A. Yes.

3 Q. Then you did some lifeguarding before the
4 summer camp opened in 2007, correct?

5 A. Correct.

6 Q. And then once the summer camp opened, you
7 became a camp counselor and worked as a camp counselor,
8 right?

9 A. Yes.

10 Q. And after the summer camp was shut down, you
11 went back to working in the pro shop, right?

12 A. Correct.

13 Q. There is another document in your employment
14 records indicating that on May 30th, 2007, that's when
15 the transfer from the pro shop to the lifeguarding
16 position occurred. Does that sound right?

17 A. Yes.

18 Q. That was just prior to the summer camp, though,
19 wasn't it?

20 A. Yes.

21 Q. Did you work more than two weeks as a lifeguard
22 in 2007?

23 A. It's possible. I can't really recall.

24 Q. And do you have any idea about this document
25 August 1st, 2007 indicating that you were transferring

0145

1 from 5225 to 3121? Do you have any idea what those
2 numbers are?

3 A. That was -- I believe that's coming from the
4 pool back to the pro shop.

5 Q. Okay. And then later on in August you went
6 from full time to part time? Does that sound right?
7 Because you would have gone back to school in the fall
8 of '07?

9 A. I believe, yes.

10 Q. Were you paid the same amount of money that you

11 were paid as a lifeguard supervisor when you changed

12 from being a lifeguard supervisor to being a camp

13 counselor in the summer of 2007?

14 A. I don't recall. I don't know.

15 Q. They never reduced your pay, though.

16 A. I don't think so.

17 Q. Okay. Now, this is another document contained

18 in your employment records. It's Bates stamped

19 HRC-02445, and it's an employee information sheet. Let

20 me just hand it to you. Okay? Is that your signature

21 on the bottom of that document?

22 A. Yes.

23 Q. And you obviously filled that document out.

24 It's in your handwriting, correct?

25 A. Correct.

0146

1 Q. Is it a true and correct copy of the employee

2 information sheet that you filled out on that date?

3 A. Yes.

4 Q. Can I see it back? In here you list your

5 primary e-mail address as **Privilege** Did

6 I read that right?

7 A. Yes.

8 Q. Is that still your e-mail address?

9 A. Yes.

10 Q. Now, **Priv**, is that some sort of drinking

11 game?

12 A. No.

13 Q. What is **Priv**?

14 A. It is a family name that I got from my cousins

15 because I have a big head. So, therefore, that's where

16 comes from and ther**Priv** for SUPV CC #1.

17 Q. Oh, okay.

18 A. And then**Priv** And then '06 for the

19 graduation.

20 Q. Is the **Priv** part because you're a big burly

21 guy?

22 A. I couldn't tell you.

23 Q. Okay. I'm just going to show you HRC-2448 and

24 2449 and ask you if those are true and correct copies of

25 your social security and driver's license cards.

0147

1 A. Yes.

2 Q. Now, in -- are you SUPV CC #1, Junior?

3 A. No. My dad is **Privilege** or
4 Johnny.
5 Q. Okay. Is he senior?
6 A. I believe so.
7 Q. Okay. I think I just realized that your -- one
8 of your dad's records or documents is in here.
9 A. Yes. This is my dad's.
10 Q. And what you've identified is that this
11 document which is labeled at the top Roman numeral VI,
12 acknowledgment of receipt of employee handbook, that's
13 your dad's signature down on the bottom?
14 A. Correct.
15 Q. It's dated September 7th, 2007?
16 A. Correct.
17 Q. Now, you've -- were you ever required to sign
18 one of these?
19 A. I don't remember.
20 Q. Not to your knowledge, anyway?
21 A. No.
22 Q. Correct?
23 A. Correct.
24 Q. And I guess the follow-up on that would be: At
25 no time did anybody at the Houston Racquet Club provide
0148
1 you with any sort of employee handbook, correct?
2 A. I believe there might have been a handbook that
3 I was given.
4 Q. In regards to your pro shop work?
5 A. I believe so.
6 Q. Do you recall ever receiving any sort of
7 employee handbook policies and procedure manual or any
8 similar type document related to your employment as a
9 camp counselor, camp supervisor or lifeguard at the
10 Houston Racquet Club?
11 A. As far as counselor or just that paper that we
12 looked at earlier?
13 Q. The counselor agreement --
14 A. And the rules --
15 Q. -- and the rules, regulations and requirements.
16 A. And for lifeguard -- that lifeguard policy
17 rules or pool rules.
18 Q. Yes.
19 A. If I -- and other than that, that's it.
20 Q. Okay. So, you were never provided any other
21 type of policies and procedure manual or handbook in
22 regard to those three positions, correct?

23 A. Not that I can recall.
24 THE WITNESS: I'm going to get some water.
25 MR. PLETCHER: Sure. Good time to take a
0149

1 break, actually.
2 THE VIDEOGRAPHER: The time is 2:58 p.m.
3 We're off the record.

4 (Recess from 2:58 to 3:13)
5 THE VIDEOGRAPHER: The time is 3:13 p.m.
6 We're back on the record.

7 Q. (By Mr. Pletcher) Are you ready to finish
8 this, SUPV CC #1?

9 A. Yes, sir.

10 Q. Your father is still employed with the Racquet
11 Club?

12 A. Yes.

13 Q. And what is his position there?

14 A. He is the courts and grounds supervisor.

15 Q. And are y'all members of the Club?

16 A. No.

17 Q. But as employees, you get full use of the Club?

18 A. I wouldn't say full use.

19 Q. Well, pretty close to it. I mean, if you
20 wanted to go out there and play tennis, you could do
21 that. If you wanted to go take a steam in the steam
22 room, you could do that?

23 A. I wouldn't know about the steam room, but more
24 or less.

25 Q. You could use the facilities on a informal
0150

1 basis.

2 MR. NGUYEN: Objection, form.

3 Q. (By Mr. Pletcher) Is that accurate?

4 A. I believe so.

5 Q. Okay. Now, I apologize if I've already asked
6 you this; but I need to make certain I have. In 2007,
7 were you required to go to the camp counselor
8 orientation meeting that year?

9 A. Yes.

10 Q. You did?

11 A. Yes.

12 Q. Had you been to prior orientation meetings?

13 A. Yes.

14 Q. But, again, you don't remember signing one of
15 the camp counselor agreement forms?

16 A. Not that I can recall.

17 Q. Other than your certification on May 20th, 2006
18 as a lifeguard and your CPR certification that same day,
19 have you ever held any other certifications in either
20 lifeguarding or CPR?

21 A. For CPR, I've had CPR or done CPR certification
22 two previous times in the past.

23 Q. Was that in connection with your camp counselor
24 work --

25 A. Yes.

0151

1 Q. -- at the Club?

2 A. Yes.

3 Q. And did you on both prior occasions take the
4 course at the Racquet Club?

5 A. Yes.

6 Q. And did LG Supv B -- I don't know if it's
7 LG Supv B.

8 A. LG Supv B.

9 Q. LG Supv B. Sorry. LG Supv B, did he
10 teach both of those prior classes?

11 A. No.

12 Q. Who taught them?

13 A. David Lamkin.

14 Q. That must have been in '05 and '04?

15 A. No. Those two CPR classes were for two years.

16 Q. Okay. So --

17 A. So, '03.

18 Q. Three?

19 A. -- three and '05.

20 Q. Okay.

21 A. Maybe my math could be wrong.

22 Q. Do you happen to have those cards?

23 A. No.

24 Q. Were those just basic CPR courses? Or were
25 they CPR courses for the professional rescuer that

0152

1 included AED certification?

2 A. I can't recall.

3 Q. At any time in 2007, the summer camp, did you
4 have any personal contact with John Pluchinsky that you
5 know of?

6 A. Not that I can recall.

7 Q. And did you have any personal contact or
8 communications with John Pluchinsky's parents at any
9 time?

10 A. No.

11 Q. Never had a conversation with Kathleen
12 Pluchinsky or David Pluchinsky, correct?

13 A. Not that I can recall.

14 Q. Never told them or asked them anything,
15 correct?

16 A. No.

17 Q. During the attempted CPR on John at the
18 poolside, do you recall anybody positioning his body or
19 head during that process at all?

20 A. Not that I can recall.

21 Q. You did describe earlier the fact that you
22 cleared his airway with your finger sweep a couple of
23 times, right?

24 A. Correct.

25 Q. Do you ever recall yourself or anybody else
0153

1 rolling John's body either one side or the other after

2 doing that --

3 A. I do.

4 Q. -- or doing it --

5 A. I did.

6 Q. -- during it? You did?

7 A. I did.

8 Q. When?

9 A. After every time -- like, I would push his
10 stomach and more would come up, I would dump or pull his
11 body towards me so that way it could empty out better.

12 Q. And how did you do that?

13 A. I can't recall.

14 Q. Did you roll him towards you?

15 A. Yes.

16 Q. Do you remember 4 y/o B-CC #1 ever rolling John
17 towards her during the process?

18 A. I can't recall.

19 Q. Okay. Do you know how many AEDs or
20 defibrillators the Houston Racquet Club had in 2007?

21 A. Not that I can recall.

22 Q. They did have defibrillators, right?

23 A. Yes.

24 Q. You just don't know how many?

25 A. I don't know the exact number.

0154

1 Q. And do you know where they were located on July
2 18th, 2007?

3 A. I believe there's one in the fitness center --

4 Q. Okay.

5 A. -- one in the pool office and then one in the
6 pro shop. Anywhere else, I do not know.

7 Q. Okay. So, to your knowledge, on July 18th,
8 2007, there was an AED at the fitness center. Do you
9 know where?

10 A. No.

11 Q. There was also an AED at the pool office. Is
12 that the lifeguard office?

13 A. Yes, I believe so.

14 Q. Do you know where it was located in the
15 lifeguard office?

16 A. Not that I can recall.

17 Q. And there was one located at the pro shop. Do
18 you remember the specific location of the pro shop where
19 the AED was located in -- on July 18th, 2007?

20 A. Not that I can recall.

21 Q. So, you don't know the specific location of any
22 of the three that you knew were on location at the
23 Houston Racquet Club on July 18th, correct?

24 A. Correct.

25 Q. Do you remember as a camp counselor having to
0155

1 attend meetings either in the morning or after your
2 shift as camp counselor?

3 A. Yes.

4 Q. I'd like to just discuss those meetings with
5 you generally. What do you remember occurring at those
6 meetings? What was discussed? Who was present, et
7 cetera?

8 A. Everybody was present or at least the
9 counselors -- or all the counselors who were there that
10 week.

11 Q. Or that day?

12 A. Or that day. And then CD was there.
13 Sometimes David was there. He was usually there in the
14 afternoon. In the mornings it was usually -- if there's
15 something special going on that day like a moon walk or
16 mad science or anything like that, that would be
17 discussed. And then in the afternoon it would be -- it
18 would go over just the day's event, how everything went,
19 if everything went smoothly.

20 Q. Okay. So, in these meetings, typically in the
21 morning, that meeting would be run by CD?

22 A. Correct.

23 Q. And then in the afternoon, it would also be run
24 by CD. But David Lamkin would usually be at

25 those afternoon meetings?

0156

1 A. Correct.

2 Q. Do you recall him, him being David Lamkin,

3 attending the morning meetings?

4 A. A few.

5 Q. Maybe on occasion?

6 A. On occasion.

7 Q. Is that how you would describe it?

8 A. Maybe once a week.

9 Q. And the morning meetings, typically you would
10 discuss activities of the day?

11 A. Correct.

12 Q. And in the afternoons you would typically
13 discuss the day's events?

14 A. How everything worked.

15 Q. Do you recall at any of these meetings, either
16 in the morning or the afternoon, receiving any special
17 instruction as a camp counselor on supervising or
18 watching the 4-year-old campers?

19 A. Not that I can recall.

20 Q. Do you ever recall any special instruction on
21 how to treat the 4-year-olds when it is swim time at the
22 family pool in either the morning or the afternoon
23 meetings?

24 A. Not that I can recall.

25 Q. And do you recall any discussion during the

0157

1 morning or afternoon meetings related to safety issues?

2 A. Not that I can recall.

3 Q. Do you recall at any time during the morning or
4 afternoon meetings there being any discussion of camp
5 counselors being involved in horseplay?

6 A. Not that I can recall.

7 Q. Do you recall any instruction or comment by
8 CD, David Lamkin or anybody else at the
9 Houston Racquet Club during these meetings related to
10 pool or water safety?

11 A. Not that I can recall.

12 Q. Do you recall David Lamkin, CD or
13 anybody else at the Houston Racquet Club during these
14 meetings giving you any special instruction or guidance
15 related to the summer campers' swimming abilities and
16 their use of either the family pool or the lap pool?

17 A. Not that I can recall.

18 Q. Do you ever recall during any of these morning

19 or afternoon meetings ever being told that you had done
20 something incorrectly or wrong?

21 A. Myself?

22 Q. Yes.

23 A. Not that I can recall.

24 Q. Do you recall any comment or discussion about
25 other camp counselors who had done something incorrectly
0158

1 or wrong during the summer camp in 2007?

2 A. If there was, it wasn't -- it was like a
3 vague -- like saying if your camper did this, then you
4 should do that. No one was usually singled out.

5 Q. Right. And can you give me an example of what
6 that counseling may involve -- may have involved?

7 A. If -- let's say a group of kids like the
8 6-year-old boys were walking to the pool and their line
9 which had ten kids was, like, 40 feet long, then they
10 would say, if your kids are getting too far apart, make
11 sure you bring them all back together and travel
12 together.

13 Q. Right.

14 A. That was usually about it.

15 Q. Okay. During the camp counselor orientation
16 meeting that occurred in 2007, can you give us an idea
17 of what that orientation involved?

18 A. Consists of walking around the different areas
19 of the Club, telling them, you know, what they can --
20 what they can and cannot do there.

21 Q. Uh-huh.

22 A. Different ideas they can -- different things,
23 ideas or games they can do while they're in that area.

24 Q. Right.

25 A. Mostly like the basketball goal or the tennis
0159

1 courts and just the going over the rules.

2 Q. Right. The rules which we looked at,
3 Plaintiff's Exhibit 42, correct?

4 A. Correct.

5 Q. And you specifically remember attending that
6 orientation in 2007?

7 A. Yes.

8 Q. And that would have been in June of 2007,
9 correct? Does that sound right?

10 A. I believe so.

11 Q. Do you remember who conducted that orientation?

12 A. I believe it was David and CD.

13 Q. Okay. And do you remember -- when they took
14 you around the facility, do you remember going to the
15 family pool?

16 A. Yes.

17 Q. What do you remember David Lamkin, CD
18 or anybody else who was in charge of that
19 orientation instructing you and your fellow camp
20 counselors in regard to the family pool?

21 A. I can't really recall.

22 Q. Do you remember any instruction or guidance
23 related to games that could be played or could not be
24 played at the family pool?

25 A. Not that I can recall.

0160

1 Q. Do you remember anybody pointing out any of the
2 safety equipment in and around the family pool?

3 A. Not that I can recall.

4 Q. Do you remember whether or not there was an
5 emergency phone at the family pool?

6 A. I believe so.

7 Q. Do you have any idea where it might be located?

8 A. Yes.

9 Q. Where?

10 A. Along -- if we're looking right here
11 (indicating).

12 Q. Okay. You just pointed --

13 A. I was saying if we're looking at that area -- I
14 hadn't quite pointed it out yet. I believe it's
15 somewhere in this area (indicating).

16 Q. Okay.

17 A. No. Wait. Excuse me. No. No. I have that
18 wrong. I believe it's somewhere in this area
19 (indicating). It's in between these two gates.

20 Q. Okay.

21 A. I believe that's where it's at.

22 Q. Would you just draw in where the emergency
23 phone is -- the general area where you believe it was on
24 July 18th, 2007 and just put "emergency phone" on there?

25 A. (Witness drawing) I believe it's right there.

0161

1 I know there's one out there. I'm not quite sure of the
2 exact location.

3 Q. Okay. You just wrote emergency --

4 A. Phone.

5 Q. -- phone, e-m-e-r-g --

6 A. Phone.

7 Q. -- "phone" in purple at the bottom of Exhibit
8 14J, correct?

9 A. Yes.

10 Q. Now, that's on the west end of the pool
11 complex, family pool complex, right?

12 A. Yes.

13 Q. Was it a free-standing phone? What do you
14 remember about it?

15 A. It's sitting on the fence or the --

16 Q. Okay. It's hanging on the fence?

17 A. Yeah. It's in a box.

18 Q. Okay. And this may not be the exact location
19 but somewhere on this end (indicating).

20 A. Yes.

21 Q. Okay. During the orientation of the camp
22 counselors that you attended on -- in June of 2007, do
23 you remember pool or water safety issues being
24 discussed?

25 A. Not that I can recall.

0162

1 Q. Do you recall during the June 2007 orientation
2 of camp counselors any safety issues being discussed?

3 A. Not that I can recall.

4 Q. At any time during your employment as a
5 lifeguard and camp counselor at the Houston Racquet
6 Club, do you ever remember attending any joint meetings
7 between both lifeguards and camp counselors?

8 A. Not that I can recall.

9 Q. Do you remember dating any of the camp
10 counselors at any time?

11 A. Yes.

12 Q. Who did you date and when?

13 A. CC-C.

14 Q. Yes?

15 A. From the summer of '06 -- I don't remember the
16 exact date -- through, I think, July 15th.

17 Q. Okay. Of '07?

18 A. Yes.

19 Q. Did y'all go to school together?

20 A. No.

21 Q. So, y'all dated for about a year?

22 A. Yes.

23 Q. Okay. I've got to do one other thing, and then
24 we're done.

25 (Exhibit 14J-1 marked)

0163

1 Q. (By Mr. Pletcher) I'm going to hand you what
2 I've marked as 14J-1, okay, which is another copy,
3 albeit smaller of the family pool. Okay? And I marked
4 the two lifeguard chairs on the south side of the pool.
5 Okay? What I'd like you to do in pink, will you draw in
6 the area -- you know what an area of responsibility is
7 for a lifeguard?

8 A. Yes, I'm familiar with it.

9 Q. And that's for scanning purposes, correct?

10 A. Uh-huh.

11 Q. And patron surveillance?

12 A. Uh-huh.

13 Q. Right?

14 A. Correct.

15 Q. For the lifeguard chair nearest the slide,
16 could you hash mark the area of responsibility for that
17 lifeguard chair?

18 A. For the slide?

19 Q. Yes, for the lifeguard chair near the slide.

20 Well, before you do that, let me just ask
21 you a question. Do you agree that if you were manning
22 the lifeguard chair nearest the slide, that your primary
23 responsibility would be to watch that slide and the kids
24 going up and down it?

25 A. Yes.

0164

1 Q. And your primary responsibility would be east
2 of that floating line, correct?

3 A. I'm trying to get -- this is east, right?

4 Q. Yes.

5 A. Yes.

6 Q. Now, go ahead and hash mark the area of
7 responsibility for the lifeguard who's standing -- or
8 manning the chair nearest the lifeguard stand.

9 A. (Witness drawing) It's hard to mark because it
10 was -- there was no specific area where they had to
11 exactly focus on. Because if, say, somebody was running
12 by the sun deck --

13 Q. Yes.

14 A. -- but the other lifeguard didn't catch it --

15 Q. Yes.

16 A. -- then they could -- then the other lifeguard
17 could blow it.

18 Q. I understand.

19 A. So --

20 Q. So, are you telling us that if you're a

21 lifeguard sitting in the lifeguard chair nearest the
22 slide, that your area of responsibility included the
23 entire pool and pool deck?

24 MR. SNYDER: Objection, form.

25 A. No.

0165

1 Q. (By Mr. Pletcher) Okay.

2 A. Yeah. I guess that would be the closest thing,
3 that line right there (indicating).

4 Q. Okay.

5 A. Including the, I guess --

6 Q. The fountain deck?

7 A. -- the fountain deck.

8 Q. Okay. So, if you were going to shade it in,
9 you'd shade in this entire area?

10 A. Uh-huh.

11 Q. Can I do that?

12 A. Yes. Sorry.

13 Q. Is that accurate?

14 A. Yes.

15 Q. So, on 14J-1, this is the lifeguard stand
16 nearest the slide; and I've shaded it in green. And
17 these hash marks across here all the way out to this
18 line here (indicating), including the pool -- I'm
19 sorry -- the fountain deck would be the area of
20 responsibility for the lifeguard manning this chair.

21 A. Correct.

22 Q. Now, in pink could you shade in the area of
23 responsibility for the other lifeguard chair?

24 A. (Witness drawing) I guess that line goes all
25 the way through the shallow end through the -- yeah.

0166

1 Q. So, for this chair, the area of responsibility
2 would be west of this green line here (indicating); but
3 it would also include the fountain deck?

4 A. Correct.

5 Q. And everything west, right?

6 A. Correct.

7 Q. And you had mentioned a moment ago that if
8 somebody was over in this area (indicating) and if this
9 lifeguard missed it, then this guard on the slide chair
10 could --

11 A. Could blow it.

12 Q. -- blow the whistle.

13 A. Uh-huh.

14 Q. So, the area of responsibility for patron

15 surveillance as you know it for July 18th, 2007 would
16 include the entire deck area for either chair?

17 MR. SNYDER: Objection, form.

18 A. I wouldn't say the entire deck area.

19 Q. (By Mr. Pletcher) Okay.

20 A. But more along the lines of where that split up
21 just like -- because, say, for the chair.

22 Q. Yes.

23 A. -- for the -- or the pink.

24 Q. Okay.

25 A. If there's people running back towards the

0167

1 slide --

2 Q. Okay. Which --

3 A. -- then -- like -- okay. Let's --

4 Q. Might as well do it on the diagram. Do you
5 want to do it in pen? Or just point it out first before
6 you draw it.

7 A. Okay. Say this chair (indicating).

8 Q. Yes.

9 A. See someone running back this way.

10 Q. Yes.

11 A. This guard can't necessarily see them because
12 they're facing this direction.

13 Q. Right.

14 A. So, they would -- they have a better chance of
15 seeing it. So, they would blow the whistle on that.

16 Q. Okay.

17 A. And so, it's more along, like, wherever each
18 other's blind spots are, the other one --

19 Q. Okay.

20 A. -- helps pick up for it.

21 Q. So, as far as patron surveillance in the water
22 itself, the green hashed areas would be for the slide
23 chair and the pink hashed areas would be for the other
24 guard chair down on this end (indicating), right?

25 A. Correct.

0168

1 Q. But as far as the pool deck was concerned, it
2 was more of line of sight? In other words, if this
3 guard is looking here but this guard happens to see
4 somebody doing something dangerous in this area
5 (indicating), that guard could blow the whistle?

6 A. Correct.

7 Q. Likewise, if this guard saw somebody over on
8 this area (indicating) of the pool deck, he could blow

9 the whistle.
10 A. Correct.
11 Q. Or if, for example, this guard saw somebody
12 back here (indicating) --
13 A. Correct.
14 Q. -- he could blow the whistle for somebody over
15 here (indicating), right?
16 A. Correct.
17 Q. Okay. Now, your understanding of these areas
18 of responsibility for the two stands at the family pool
19 came from your instruction by Guillermo Palmer on what
20 you were to do when you were on the stand?
21 A. That right there is how I -- how I took it
22 whenever I was on the stand.
23 Q. Right.
24 A. Or -- it's --
25 Q. That's SUPV CC #1's area of responsibility.
0169
1 A. That, and talking through -- with other
2 lifeguards and possibly with Guillermo, that's what
3 we...
4 Q. Okay. SUPV CC #1, do you specifically remember
5 Guillermo Palmer or any other aquatics director or
6 lifeguard manager ever specifically instructing you on
7 what your area of patron surveillance responsibility was
8 at that family pool?
9 A. Not that I can recall.
10 Q. And who was the aquatics director before
11 Guillermo Palmer?
12 A. I don't know.
13 Q. That's right, because you only guarded in '06
14 and '07. Both years Guillermo Palmer was the aquatics
15 director, right?
16 A. Right.
17 Q. So, at no time do you recall Guillermo Palmer
18 ever telling you what your area of responsibility was
19 from either lifeguard chair at the family pool, correct?
20 A. Not that I can recall.
21 Q. And your understanding of your area of
22 responsibility from those two chairs having guarded in
23 '06 and '07 came from yourself and maybe from another
24 guard or two?
25 A. Correct.
0170
1 Q. Do you specifically remember any specific
2 lifeguard who may have told you, hey, if you're sitting

3 in the slide chair, you need to watch this or that?

4 A. Not that I can recall.

5 Q. So, you can't specifically name any guard who
6 ever instructed you on areas of responsibility from
7 either stand, correct?

8 A. Correct.

9 MR. PLETCHER: Okay. I thank you, and
10 that's all I have for today. Thanks.

11 MR. SNYDER: Let me just ask a couple
12 questions, if I may.

13 EXAMINATION

14 BY MR. SNYDER:

15 Q. May I call you "SUPV CC #1"?

16 A. That's fine.

17 Q. Because I don't want to -- intend any
18 disrespect or anything. So --

19 A. That's fine.

20 Q. -- if you have a preference about how you want
21 me to address you, you just let me know.

22 As you know, I represent the Racquet Club,
23 Mr. Griffin, Mr. Palmer, Mr. Lamkin and LG Supv in
24 this lawsuit.

25 A. Yes.

0171

1 Q. I have just a few questions I want to ask you.

2 You're now 20 years of age?

3 A. Yes.

4 Q. Last year when John Pluchinsky drowned, you
5 would have been 19?

6 A. Correct.

7 Q. You were one of two counselor supervisors that
8 were at the pool when the drowning occurred?

9 A. Correct.

10 Q. Supv CC #2 being the other counselor
11 supervisor?

12 A. Yes.

13 Q. Do you know how old Supv CC #2 was?

14 A. He's a year younger than me, so, 18 I'm
15 guessing.

16 Q. All right. Do you know what Supv CC #2's
17 background was in terms of his participation in the
18 summer camp program at the Houston Racquet Club?

19 A. He had been there for a few years. I was -- he
20 knew the ropes. He understood how things went, so.

21 Q. All right. In listening to your testimony
22 about the duties and responsibilities that you and

23 Supv CC #2 had as counselor supervisors, I assume that one
24 of the things that you were there to do would be to
25 assist the counselors that were assigned to this
0172

1 specific age and gender groups. Would that be true?

2 MR. PLETCHER: Object to form.

3 A. Yes.

4 Q. (By Mr. Snyder) And were you also there to
5 supervise them as well?

6 A. Yes.

7 MR. PLETCHER: Object to form.

8 Q. (By Mr. Snyder) And if you saw any counselor
9 doing something that either you or Supv CC #2 believed was
10 inappropriate or unsafe, did you have the authority to
11 bring that to their attention?

12 MR. PLETCHER: Object to form.

13 A. Yes.

14 Q. (By Mr. Snyder) And if after bringing it to
15 their attention you felt it necessary to inform CD
16 or David Lamkin, did you have the authority to
17 do that?

18 A. Yes.

19 MR. PLETCHER: Object to form.

20 Q. (By Mr. Snyder) Now, directing your attention
21 to the day that John Pluchinsky drowned, do you remember
22 what time you and Supv CC #2 first got to the family pool
23 that morning?

24 A. Not that I can recall.

25 Q. All right. Had you and Supv CC #2 been there for
0173

1 some time before John Pluchinsky was found floating?

2 A. We had been there for a while. I can't
3 remember exactly how long. No longer than I would say
4 an hour.

5 Q. Okay. Assuming that it was roughly an hour
6 that you and Supv CC #2 had been there before the drowning
7 occurred, were you and Supv CC #2 watching the counselors as
8 they came through with the various age and gender groups
9 that were assigned to them that morning?

10 MR. PLETCHER: Object to form.

11 A. Yes. We would make sure that they were paying
12 attention.

13 Q. (By Mr. Snyder) All right. That's what I want
14 to ask you.

15 At any time before John Pluchinsky's
16 accident, did you notice any of the counselors that were

17 doing anything that you considered inappropriate?

18 MR. PLETCHER: Object to form.

19 A. No.

20 Q. (By Mr. Snyder) Did you notice or observe that
21 morning any of the counselors doing anything that you
22 considered was unsafe?

23 MR. PLETCHER: Object to form.

24 A. No.

25 Q. (By Mr. Snyder) That morning, did you notice

0174

1 any of the counselors engaging in any horseplay?

2 A. No.

3 MR. PLETCHER: Object to form.

4 Q. (By Mr. Snyder) That morning did you notice
5 any of the counselors talking among themselves instead
6 of being attentive to their campers?

7 A. No.

8 MR. PLETCHER: Object to form.

9 Q. (By Mr. Snyder) That morning did you notice or
10 observe any of the counselors who were not in the water
11 with the campers that were assigned to them?

12 MR. PLETCHER: Object to form.

13 A. No.

14 Q. (By Mr. Snyder) At any time that morning, did
15 you notice anything that you felt was unusual, unsafe or
16 untoward?

17 MR. PLETCHER: Object to form.

18 A. No.

19 Q. (By Mr. Snyder) You mentioned that there were
20 either some members or guests who were not directly
21 involved in the camp but were poolside or in the
22 immediate area of the pool. Do you recall that?

23 A. Yes.

24 Q. Were some of them older, adult women?

25 A. I believe so.

0175

1 Q. All right. At any time that morning, did any
2 of those older, adult women who happened to be poolside,
3 did they ever complain to you or Supv CC #2 about the
4 conduct of any of the counselors that morning?

5 MR. PLETCHER: Object to form.

6 A. Not that I can recall.

7 Q. (By Mr. Snyder) Did those women ever complain
8 that morning to you or Supv CC #2 about the conduct of
9 any of the lifeguards that were on duty at the pool that
10 morning?

11 MR. PLETCHER: Object to form.
12 A. Not that I can recall.
13 Q. (By Mr. Snyder) Did anybody that morning
14 before John Pluchinsky drowned complain to you or Supv CC #2
15 about conduct or the behavior of any of the
16 counselors or the lifeguards?
17 MR. PLETCHER: Object to form.
18 A. Not that I can recall.
19 Q. (By Mr. Snyder) When John Pluchinsky's
20 drowning was brought to your attention -- and I think it
21 was by 15 y/o LG #1's comments, is that camper okay, or
22 words to that effect -- did your focus from that point
23 forward become John Pluchinsky instead of other things
24 that may have been going on?
25 MR. PLETCHER: Object to form.
0176
1 A. Yes.
2 Q. (By Mr. Snyder) As you focused on John
3 Pluchinsky, were you consciously aware of what else
4 might be going on around you?
5 A. No.
6 MR. PLETCHER: Object to form.
7 Q. (By Mr. Snyder) Is that why your memory may be
8 somewhat vague with regard to other things that may have
9 been going on or other things that may have been said by
10 other people who were there?
11 MR. PLETCHER: Object to form.
12 A. I believe so.
13 MR. SNYDER: SUPV CC #1, those are all the
14 questions that I have for you at the moment. I'll
15 reserve any other questions until later.
16 MR. PLETCHER: I just have a few
17 follow-ups. Okay, SUPV CC #1?
18 THE WITNESS: Okay.
19 FURTHER EXAMINATION
20 BY MR. PLETCHER:
21 Q. Remember when we talked about the throwing of
22 campers in the family pool earlier?
23 A. Yes.
24 Q. Were you ever instructed by anybody, David
25 Lamkin, CD or anybody else at the Club that
0177
1 throwing of children in the family pool was prohibited?
2 MR. SNYDER: Objection, form.
3 A. Not that I can recall.
4 Q. (By Mr. Pletcher) Do you agree that throwing a

5 4-year-old boy camper for whatever distance in the
6 family pool is inappropriate?

7 MR. NGUYEN: Objection, form.

8 MR. SNYDER: Objection, form.

9 A. I don't know.

10 Q. (By Mr. Pletcher) Do you think that throwing a
11 4-year-old boy in the family pool for any distance is
12 unsafe?

13 MR. NGUYEN: Objection, form.

14 MR. SNYDER: Objection, form.

15 A. I don't know.

16 Q. (By Mr. Pletcher) Could be, couldn't it?

17 MR. SNYDER: Objection, form.

18 MR. NGUYEN: Objection, form.

19 A. I don't know.

20 Q. (By Mr. Pletcher) I think earlier you said
21 that you believe that horseplay meant any activity that
22 might place a camper at a risk of harm. Remember that?

23 A. Yes.

24 Q. Do you think that a camp counselor jumping on
25 top of a camper, whatever age that camper might be,
0178

1 would place that camper at risk for harm?

2 MR. NGUYEN: Objection, form.

3 MR. SNYDER: Objection, form.

4 A. Do you mean like if I was to jump onto a child?

5 Q. (By Mr. Pletcher) Yes.

6 A. It's possible.

7 Q. And if Supv CC #2 jumped on a child, that
8 would place a camper at risk, too, for harm, right?

9 MR. SNYDER: Objection, form.

10 A. It's possible.

11 Q. (By Mr. Pletcher) It's possible that any camp
12 counselor, if they were to jump on a child who was in
13 that family pool, that that would place the camper at
14 risk for harm, right?

15 MR. SNYDER: Objection, form.

16 A. It's possible.

17 Q. (By Mr. Pletcher) How much do you weight? Or
18 how much did you weigh back in the summer of 2007?

19 A. Roughly 220, 230.

20 Q. Do you think that if you landed on a 4-year-old
21 who weighed 50 pounds, that that would place that
22 4-year-old camper at risk for harm?

23 MR. NGUYEN: Object to the form.

24 MR. SNYDER: Objection, form.

25 A. It's possible.

0179

1 Q. (By Mr. Pletcher) Do you think that if you
2 were throwing or tossing a 4-year-old camper into the
3 family pool and that camper for whatever reason lost his
4 breath before he hit the water, that that might place
5 the 4-year-old boy in harm?

6 MR. NGUYEN: Objection, form.

7 MR. SNYDER: Objection, form.

8 Q. (By Mr. Pletcher) Or risk for harm?

9 MR. GERGER: Objection, form.

10 A. I don't know.

11 Q. (By Mr. Pletcher) Were you ever told by
12 anybody at the Houston Racquet Club that tennis balls
13 were prohibited in the family pool?

14 A. Not that I can recall.

15 Q. Did anybody ever share with you the Club rules
16 that specifically prohibit the use of tennis balls at
17 the pool?

18 A. Not that I can recall.

19 Q. The jackpot game that we talked about where
20 people would throw tennis balls, that happened a lot,
21 didn't it?

22 MR. SNYDER: Objection, form.

23 MR. NGUYEN: Objection, form.

24 A. Not that I can recall.

25 Q. (By Mr. Pletcher) You can't recall that

0180

1 happening a lot?

2 MR. SNYDER: Objection, form.

3 A. No.

4 Q. (By Mr. Pletcher) Okay. Do you know who was
5 watching John Pluchinsky on July 18th when he was in the
6 family pool?

7 A. I can't recall.

8 Q. Do you know who was responsible for John
9 Pluchinsky while he was in the family pool on July 18th,
10 2007?

11 A. His counselors.

12 Q. Do you know where 4 y/o B-CC #4 was when John was
13 found floating face down?

14 A. I can't recall.

15 Q. Do you know where 4 y/o B-CC #2 was when John
16 Pluchinsky was found floating face down in the pool?

17 A. I can't recall.

18 Q. Do you know where 4 y/o B-CC #6 was when John

19 Pluchinsky was found floating face down?

20 A. I can't recall.

21 Q. Do you know where 4 y/o B-CC #5 was when John
22 Pluchinsky was found floating face down in the family
23 pool?

24 A. I can't recall.

25 Q. Do you know where 4 y/o B-CC #1 was when John
0181

1 Pluchinsky was found floating face down in the family
2 pool?

3 A. I can't recall.

4 MR. PLETCHER: That's all I have. Thank
5 you.

6 FURTHER EXAMINATION

7 BY MR. SNYDER:

8 Q. Again, I want to direct your attention, SUPV CC #1,
9 to the morning that John Pluchinsky's drowning occurred.
10 Did you jump on John Pluchinsky while he was in the pool
11 that morning?

12 A. No.

13 Q. Did Supv CC #2?

14 MR. PLETCHER: Object to form.

15 A. I don't believe so.

16 Q. (By Mr. Snyder) Did you notice any counselors
17 that might have jumped on John Pluchinsky?

18 A. I don't believe so.

19 MR. PLETCHER: Object to form.

20 Q. (By Mr. Snyder) Did you notice anyone, whether
21 it was you or Supv CC #2, a counselor or any campers,
22 jumping on another camper while they were in the pool
23 that morning?

24 MR. PLETCHER: Object to form.

25 A. Not that I can recall.

0182

1 Q. (By Mr. Snyder) Did you toss John Pluchinsky
2 in the pool that morning?

3 MR. PLETCHER: Object to form.

4 A. Not that I can recall.

5 Q. (By Mr. Snyder) Did Supv CC #2?

6 MR. PLETCHER: Object to form.

7 A. Not that I can recall.

8 Q. (By Mr. Snyder) Did you notice any counselors
9 for the 4-year-old boy group that tossed John Pluchinsky
10 in the pool that morning?

11 MR. PLETCHER: Object to form.

12 A. Not that I can recall.

13 Q. (By Mr. Snyder) Did you notice anybody tossing
14 campers in the pool that morning?

15 MR. PLETCHER: Object to form.

16 A. Not that I can recall.

17 Q. (By Mr. Snyder) As far as you know, did you
18 ever see John Pluchinsky over in the area of the
19 fountains where you had been earlier that morning before
20 John was found?

21 A. Not that I can recall.

22 Q. To your knowledge, had he ever been in any of
23 the area of the pool earlier that morning?

24 A. Not that I can recall.

25 MR. SNYDER: Okay. I think those are all

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1 the questions I have.

2 MR. PLETCHER: Just one last question.

3 FURTHER EXAMINATION

4 BY MR. PLETCHER:

5 Q. If 15 y/o LG #1 and 4 y/o B-CC #1 have both
6 testified under oath that camp counselors were throwing
7 campers on July 18th, 2007 and you were there
8 supervising these counselors, how did you miss it?

9 MR. SNYDER: Objection, form.

10 MR. NGUYEN: Object to the form of the
11 question.

12 A. I don't know if it's that I missed it. I just
13 don't recall seeing counselors throwing kids.

14 MR. PLETCHER: That's all I have. Thanks.

15 MR. SNYDER: Nothing further.

16 THE VIDEOGRAPHER: The time is 4:01 p.m.
17 We're off the record.

18 (Deposition concluded at 4:01 p.m.)

19 MR. PLETCHER: Plaintiff's Exhibit 52I is
20 the deposition notice for SUPV CC #1's deposition
21 along with a subpoena duces tecum. I've also attached a
22 copy of our Rule 11 agreement acknowledging your
23 agreement to accept this notice as an official subpoena,
24 although we didn't do the formality of an official
25 subpoena.

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1 MR. NGUYEN: That's right.

2 MR. PLETCHER: Did you -- you reviewed
3 this with SUPV CC #1?

4 MR. NGUYEN: I did.

5 MR. PLETCHER: And he produced today all
6 of the documents responsive to our subpoena, number one

7 through eight?
8 MR. NGUYEN: That's correct.
9 MR. PLETCHER: And the documents that he
10 brought responsive to the request are the two
11 certification cards that we marked as Exhibit 13C?
12 MR. NGUYEN: That's correct.
13 MR. PLETCHER: He has no other docs?
14 MR. NGUYEN: That is correct.
15 MR. PLETCHER: Thank you.
16 MR. NGUYEN: Thank you.

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1 CHANGES AND SIGNATURE
2 WITNESS NAME: SUPV CC #1 DATE: JULY 7, 2008
3 PAGE LINE CHANGE REASON

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1 I, SUPV CC #1, have read the foregoing deposition
2 and hereby affix my signature that same is true and
3 correct, except as noted above.

4
5
6 SUPV CC #1
7

8 THE STATE OF _____)
9 COUNTY OF _____)
10

11 Before me, _____, on this day
12 personally appeared SUPV CC #1, known to me or proved
13 to me on the oath of _____ or through
14 _____ (description of identity card
15 or other document) to be the person whose name is
16 subscribed to the foregoing instrument and acknowledged
17 to me that he/she executed the same for the purpose and
18 consideration therein expressed.

19 Given under my hand and seal of office on this _____
20 day of _____, _____.
21

22
23 NOTARY PUBLIC IN AND FOR
24 THE STATE OF _____

25 My Commission Expires: _____
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1 CAUSE NO. 2007-54438
2 DAVID AND KATHLEEN PLUCHINSKY,) IN THE DISTRICT COURT OF
3 INDIVIDUALLY AND AS _____)
4 REPRESENTATIVES OF THE JOHN _____)
ALBERT PLUCHINSKY ESTATE, _____)
5 PLAINTIFFS, _____)
6

7 VS. _____) HARRIS COUNTY, T E X A S
8

9 HOUSTON RACQUET CLUB, STEPHEN)
10 GRIFFIN, DAVID LAMKIN, _____)
11 GUILLERMO PALMER, AND _____)
12 LG Supv, _____)

13 DEFENDANTS. _____) 281ST JUDICIAL DISTRICT
14 REPORTER'S CERTIFICATE
15 ORAL VIDEOTAPED DEPOSITION OF SUPV CC #1
16 July 7, 2008

17 I, Roxanne K. Smith, Certified Shorthand Reporter in
18 and for the State of Texas, hereby certify to the
19 following:

15 That the witness, SUPV CC #1, was duly sworn and
16 that the transcript of the deposition is a true record
17 of the testimony given by the witness;
18 That the deposition transcript was duly submitted on
19 _____ to the witness or to the attorney for
20 the witness for examination, signature, and return to me
21 by _____.

22 That pursuant to information given to the deposition
23 officer at the time said testimony was taken, the
24 following includes all parties of record and the amount
25 of time used by each party at the time of the

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1 deposition:

2 Mr. Matthew Pletcher (4 hours 9 minutes)

Mr. Norman Snyder (10 minutes)

3 Mr. Ba Nguyen (No Time Used)

4 That a copy of this certificate was served on all
5 parties shown herein on _____ and filed
6 with the Clerk.

7 I further certify that I am neither counsel for,
8 related to, nor employed by any of the parties in the
9 action in which this proceeding was taken, and further
10 that I am not financially or otherwise interested in the
11 outcome of this action.

12 Further certification requirements pursuant to
13 Rule 203 of the Texas Code of Civil Procedure will be
14 complied with after they have occurred.

15 Certified to by me on this _____ day of

16 _____, _____.

17

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19

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ROXANNE K. SMITH, CSR
No. 6290 - Expiration 12-31-08
Firm Registration No. 510
4545 Post Oak Place, Suite 350
Houston, Texas 77027
(713) 626-2629

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1 FURTHER CERTIFICATION UNDER TRCP RULE 203

2

3 The original deposition was/was not returned to the
4 deposition officer on _____.

5 If returned, the attached Changes and Signature
6 page(s) contain(s) any changes and the reasons therefor.

7 If returned, the original deposition was delivered
8 to Mr. Matthew Pletcher, Custodial Attorney.

9 \$_____ is the deposition officer's charges to the
10 Plaintiffs for preparing the original deposition and any
11 copies of exhibits;

12 The deposition was delivered in accordance with Rule
13 203.3, and a copy of this certificate, served on all
14 parties shown herein, was filed with the Clerk.

15 Certified to by me on this _____ day of

16 _____, _____.

17
18
19
20
21 _____
ROXANNE K. SMITH, CSR
No. 6290 - Expiration 12-31-08
Firm Registration No. 510
22 4545 Post Oak Place, Suite 350
Houston, Texas 77027
23 (713) 626-2629
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25