

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

IN THE CIRCUIT COURT OF THE 16TH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA

CRIMINAL DIVISION

CASE NO.: 2011-CT-1375-K

STATE OF FLORIDA,

-vs-

LINDSAY J. ELLIS,

Defendant.

-----/

Hearing before the HONORABLE WAYNE M.
MILLER, County Court Judge, pursuant to Notice.

- - - -

DATE: December 7, 2012

TIME: 8:30 a.m. - 1:51 p.m.

PLACE: MONROE COUNTY COURTHOUSE
302 Fleming Street
Key West, Florida 33040

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

APPEARANCES:

APPEARING ON BEHALF OF THE STATE OF FL:

OFFICE OF THE STATE ATTORNEY
16TH JUDICIAL CIRCUIT
530 Whitehead Street, Suite 201
Key West, Florida 33040
BY: MARISA ROSE FARALDO, ASSISTANT
STATE ATTORNEY

APPEARING ON BEHALF OF THE DEFENDANT:

GABRIEL & GABRIEL, LLC
4601 Military Trail
Suite 206
Jupiter, Florida 33458
BY: BRIAN GABRIEL, ESQUIRE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

WITNESS:

MATTHEW MALHIOT

PAGE

| | |
|-------------------------------------|----|
| Direct Examination by Mr. Gabriel | 7 |
| Cross Examination by Ms. Faraldo | 76 |
| Redirect Examination by Mr. Gabriel | 85 |

LAURA BARFIELD

| | |
|-----------------------------------|-----|
| Direct Examination by Ms. Faraldo | 87 |
| Cross Examination by Mr. Gabriel | 122 |

- - - -

1 THEREUPON:

2 (The following proceedings were had:)

3 THE COURT: For the record.

4 MR. GABRIEL: Brian Gabriel on behalf of Ms.
5 Ellis.

6 THE COURT: Mr. Gabriel.

7 MS. FARALDO: Marisa Faraldo for the State.

8 THE COURT: All right. Are we ready to
9 proceed?

10 MS. FARALDO: Yes, Your Honor.

11 THE COURT: Mr. Gabriel?

12 MR. GABRIEL: Yes, Judge.

13 THE COURT: All right. Mr. Gabriel.

14 MS. FARALDO: I'm sorry, Your Honor. I just
15 wanted to bring one thing to the Court's attention.

16 The State had originally subpoenaed the
17 agency inspector, Paul Dean, to be here today. We
18 didn't know -- He would have been a possible
19 rebuttal witness, however, his aunt passed away
20 yesterday. We were notified yesterday that he would
21 not be here. We don't know if we are going to call
22 him, however, if that issue arises, the State may ask
23 to call him at another time as part of rebuttal,
24 possibly.

25 THE COURT: We'll take that up if it is

1 necessary.

2 Mr. Gabriel, do you feel the need to make a
3 statement, an opening statement?

4 MR. GABRIEL: No, Judge, I will just let the
5 evidence speak.

6 THE COURT: Okay. Call your first
7 witness.

8 MR. GABRIEL: Matthew Malhiot.

9 THE COURT: Sir, do you want to raise your
10 right hand to be sworn to tell the truth?

11 THE CLERK: Do you solemnly swear the
12 testimony you give in this cause now and herein shall
13 be the truth, the whole truth, and nothing but the
14 truth, so help you God?

15 MR. MALHIOT: I do.

16 THE COURT: All right. Sir, you want to
17 have a seat. When you are comfortable, if you would
18 state your name and spell your last name.

19 Mr. Gabriel, before we start, I just want to
20 talk to you about one thing.

21 I have been told by many -- You never
22 appeared -- I don't remember you ever appearing in
23 front of me.

24 MR. GABRIEL: I'm not positive if I have,
25 Judge.

1 THE COURT: I've been told by people who
2 appear in front of me regularly that I have a face
3 you can read a thousand miles away.

4 MR. GABRIEL: Okay.

5 THE COURT: The problem is that sometimes
6 when I am making faces it has nothing to do with what
7 is going on in court, so if I am doing that, I just
8 don't want you to think that it has anything to do
9 with what you or your witnesses or what is going on
10 in the courtroom. I have Crohn's Disease, I get
11 cramps sometimes. I am also trying to fight off a
12 cold. So I just don't want you to think if I'm up
13 here, if I am making any faces, that it has anything
14 to do with what is going on in court, okay --

15 MR. GABRIEL: Thank you, sir.

16 THE COURT: -- cause it's just not true.

17 MR. GABRIEL: No problem.

18 THE COURT: All right, thanks.

19 I'm sorry, would you spell your last name
20 again?

21 THE WITNESS: Matthew Malhiot,
22 M-a-l-h-i-o-t, and it's pronounced M-y-i-t, Malhiot.

23 THE COURT: Thank you.

24 THE WITNESS: Thank you, Your Honor.

25 THEREUPON:

1 MATTHEW MALHIOT

2 was called as a witness by the Defendant, and
3 after having been previously duly sworn was
4 examined and testified as follows:

5 DIRECT EXAMINATION

6 BY MR. GABRIEL:

7 Q. Matt, where are you employed?

8 A. I am the proprietor of Forensic Alcohol
9 Consulting and Training which is a limited liability
10 corporation based out of Canton, Georgia.

11 Q. How did you get involved in the area of
12 breath testing?

13 A. I started when I was in law enforcement in
14 the United States Air Force. I was a breath test
15 operator, an inspector in the State of Montana, and
16 at the time they used the CMI Intoxilyzer 5000. I
17 took a job in Florida with the Florida Department of
18 Law Enforcement, Alcohol Testing Program, in 2002,
19 January of 2002, and worked as a Department Inspector
20 for the Florida Department of Law Enforcement,
21 Alcohol Testing Program, from 2002 through 2010 when
22 I left for this - to start my own business.

23 Q. From my understanding, between the time
24 period of 2002 and 2010, there were approximately, I
25 believe, five other department inspectors working

1 along with you?

2 A. Depending on staffing, there was a total of
3 six, down to four, so depending on staffing, it
4 varied during that time, yes.

5 Q. Department inspectors were working under the
6 program director, Ms. Barfield?

7 A. That is correct. She was my direct
8 supervisor during that time.

9 Q. While employed with the Florida Department
10 of Law Enforcement, did you hold certifications?

11 A. Yes, I hold a breath test operator permit,
12 an agency inspector permit and as a certified
13 department inspector. I was also an instructor for
14 the Criminal Justice Standards and Training
15 Commission and a breath test instructor.

16 Q. You also received training through the
17 manufacturer, CMI, Incorporated?

18 A. Yes. Specifically, three different courses
19 on the Intoxilyzer 8000 operation, maintenance,
20 calibration, advanced maintenance and calibration,
21 operation, instructor, every certification available
22 at the time through the manufacturer, CMI, on the
23 Intoxilyzer 8000.

24 Q. When you were a department inspector for the
25 Florida Department of Law Enforcement, were part of

1 your duties to oversee agency inspectors in your
2 region?

3 A. Yes. We had --

4 Q. Did you have generally one region?

5 A. Generally, depending on staffing. Generally
6 I had the northeast Florida, the Jacksonville area.
7 During some time I had Monroe County and Dade County
8 and other times I had the entire Panhandle as my
9 responsibility. So depending on staffing was
10 dependent on what regions we were responsible for.

11 Q. Approximate, what would you give as an
12 average of agency inspectors you were supervisor of?

13 A. Seventy-five to a hundred.

14 Q. If an issue came up regarding an Intoxilyzer
15 8000 when you were a department inspector, were your
16 agency inspectors directed to go to the department
17 inspector, yourself?

18 A. Correct. There were specific rule
19 requirements where the department must be notified.
20 Those agencies responded to me as the department.
21 There were other subjective areas when they had
22 problems or troubleshooting that they would contact
23 me, so yes.

24 Q. You've also been trained by the Laboratory,
25 Guth Laboratories?

1 A. Yes.

2 Q. Tell me about that.

3 A. Different model simulators, simulators are
4 used in the calibration and the checking of the
5 calibration of breath test instruments and I am
6 certified by the manufacturer to repair, calibrate,
7 and operate simulators, which was Guth Laboratories,
8 various different models of the simulators.

9 Q. You were also trained by the Federal agency,
10 the National Highway Traffic and Safety
11 Administration?

12 A. Yes. During my law enforcement time I was
13 a standardized field sobriety practitioner, also an
14 instructor. I also completed the U.S. Department of
15 Transportation Instructor Facilitator course.

16 Q. You were also trained by different law
17 enforcement agencies?

18 A. Yes.

19 Q. As your role when you were working with the
20 Florida Department of Law Enforcement would it be a
21 fair statement that at that point in time you - in
22 law we call them CLE hours, that we are doing
23 continuing legal education - were you doing
24 continuing Intoxilyzer education?

25 A. Yes. In law enforcement they are

1 considered POST, which is Police Officer Standards
2 and Training. Florida uses the Standards and
3 Training Commission, so, yes, I completed refresher
4 courses, update courses, in various different areas
5 of forensic alcohol, forensic breath testing. As a
6 permit holder for breath test operator and agency
7 inspector there was a requirement for refresher
8 training and renewal training. So, yes, I completed
9 those in accordance with the requirements.

10 Q. As part of your role as a department
11 inspector with the Florida Department of Law
12 Enforcement, would it be a fair statement that you
13 were attending different symposiums and conferences
14 including symposiums of alcohol and drug enforcement,
15 the Florida Breath Test Conference, Intoxilyzer user
16 groups and the International Association of Chemical
17 Testing?

18 A. Yes, numerous times.

19 Q. Through the years basically of 2002, I
20 think, through 2010?

21 A. That is correct. And I was also invited to
22 teach at the Florida Breath Test Conference which was
23 hosted by the Institute of Police Technology and
24 Management.

25 Q. Was that on more than one occasion?

1 A. Yes.

2 Q. Your CV also has you receiving training from
3 other legal institutes; is that correct?

4 A. Other educational institutes. I mean, not
5 like a law school or something, but --

6 Q. University of Wisconsin Law School?

7 A. They did course work on --

8 THE COURT: That's really a bad thing to
9 point out to a graduate from Illinois. Sorry, Mr.
10 Gabriel.

11 BY MR. GABRIEL:

12 Q. How about New Hampshire?

13 A. Yes, the New Hampshire Breath Testing
14 Program, state police programs, yes.

15 Q. How about Colorado?

16 A. Yes.

17 Q. How about Ohio?

18 A. Yes.

19 THE COURT: Have you ever been to the
20 University of Wisconsin, Mr. Gabriel?

21 MR. GABRIEL: No, sir.

22 THE COURT: It's probably one of the most
23 beautiful campuses on earth. It's really, really
24 beautiful.

25 MR. GABRIEL: For some reason I've always

1 been stuck here in Florida, so I can't complain,
2 really.

3 THE COURT: Is there a copy of Mr.
4 Malhiot's CV?

5 MR. GABRIEL: I'd have to see -- I don't
6 think the State has any objection to it being moved
7 into evidence.

8 MS. FARALDO: No.

9 MR. GABRIEL: May I approach, Judge?

10 THE COURT: Sure. Is that a copy
11 (inaudible)?

12 MR. GABRIEL: Actually, no. I've got a
13 copy of everything else, but not that, Judge. I
14 apologize.

15 THE COURT: No, that's all right. I will
16 just make it part of the original exhibit if that's
17 all right with everybody.

18 MS. FARALDO: No objection.

19 MR. GABRIEL: That's fine.

20 Judge, I would like to tender him as an
21 expert regarding the Intoxilyzer 8000 workings,
22 principles behind it.

23 THE COURT: Well, I'm not going to declare
24 him an expert, but I would be glad to consider him as
25 an expert.

1 MR. GABRIEL: Thank you, sir.

2 BY MR. GABRIEL:

3 Q. Matt, eventually you left the Florida
4 Department of Law Enforcement and started your own
5 consulting firm?

6 A. I did.

7 Q. And primarily what type of work are you
8 doing?

9 A. Consulting and any legal issues that may
10 arise where alcohol is a factor. I work in obviously
11 criminal defense, I work for civil litigators. I've
12 done work for prosecutors, defense attorneys,
13 plaintiffs, defendants, the gauntlet of the legal
14 community, not specifically just criminal defense.

15 Q. And you work in other states than Florida?

16 A. Yes.

17 Q. In Florida predominately there's only one
18 breath testing instrument that's utilized nowadays,
19 the Intoxilyzer 8000?

20 A. Correct, it's a single instrument state.

21 Q. So when you are retained to do what you do,
22 so to say, it's going to be dealing with the
23 Intoxilyzer 8000 instrument?

24 A. If it is a breath test case. I've been
25 retained for other things that have nothing to do

1 with breath testing but are alcohol involved, but
2 yes.

3 Q. The Intoxilyzer 8000 instrument - would you
4 agree with me that CMI developed that, and what they
5 were attempting to do was to come up with the first
6 dual wave ban infrared instrument?

7 A. No, I don't think it's the first dual wave.
8 It's the first instrument that had separate detectors
9 at different wavelengths, but the 5000 used different
10 wavelengths. I think it was the generational
11 evolution of the infrared breath testing for that
12 corporation, but it's not the first instrument to use
13 different wavelengths to measure alcohol.

14 Q. Do you know about approximately when CMI
15 started the work on that instrument to start getting
16 it approved in different states including Florida?

17 A. Florida started looking at it in early 2001,
18 so probably '99, '98, somewhere in there they started
19 their engineering, research, and development, maybe
20 farther back than that, but the first instrument
21 prototypes were available in 2000, 2001.

22 Q. Was one of the first steps that CMI took was
23 making an attempt to get this instrument onto the
24 conforming products list?

25 A. That was one of the early things that was

1 done, yes.

2 Q. For the Court's understanding can you --

3 THE COURT: I know what it is.

4 BY MR. GABRIEL:

5 Q. There's requirements under the Federal
6 Register to have breath testing instruments on the
7 conforming products list; correct?

8 A. Yes, there's standards that the instrument
9 must meet to be what is known as an EBT or an
10 evidential breath test instrument, yes.

11 Q. When they send that away, when they try to
12 get an instrument approved to be on that list there's
13 testing done by a lab. Do you know what lab?

14 A. Volke, Volke's Lab, I believe it is.

15 Q. Volpe Lab?

16 A. Yes.

17 Q. In 2001 do you know whether or not the
18 Intoxilyzer 8000 was attempting to be tested by DOT?

19 A. I believe that's approximately the timeframe
20 that DOT was looking at the instrument, yes.

21 MR. GABRIEL: Judge, I have a mound of
22 exhibits, as you know. I don't know, for the sake
23 of the Court, do you wish me to attempt to pull each
24 one of those out and have them introduced separately
25 or to attempt to introduce that package as one

1 exhibit.

2 THE COURT: It's for purposes of the
3 hearing, I don't see why the State would have any
4 objection to just introducing the whole package so we
5 can just get through this.

6 MR. GABRIEL: Judge, if I may, I think they
7 may have some objections possibly to transcripts.
8 There are some transcripts in there and I have no
9 problem, with the Court's permission, of having the
10 ability to remove --

11 THE COURT: Who is the transcripts -- Who
12 are the transcripts of?

13 MR. GABRIEL: Exhibits 1 and 2 are
14 transcripts of Mr. Flores from CMI and - Arthur
15 Flores and --

16 THE COURT: Well, I'm not going to read the
17 transcripts for purposes of the hearing. The only
18 thing I'm going to consider is what is presented in
19 testimony and what's agreed to be introduced into
20 evidence. So if you can come to some agreement I'll
21 admit whatever you want to admit.

22 MS. FARALDO: As long as the transcripts are
23 (inaudible) I don't believe there was anything else.
24 Also, Exhibit 34.

25 THE COURT: What is Exhibit 34?

1 MS. FARALDO: It looks like it's a
2 transcript -- It's also a transcript

3 MR. GABRIEL: It's also a transcript from
4 Sarasota. So I have no problem removing that.

5 THE COURT: Okay. So other than the
6 transcripts of testimony of people who are not going
7 to testify, we'll admit all the exhibits that have
8 been presented in the packet that's numbered one
9 through fifty, other than the transcripts.

10 MR. GABRIEL: Thank you, Judge.

11 THE COURT: All right. Mr. Gabriel, I
12 don't know if it will make things easier or shorter
13 for you, but I'm pretty familiar with the
14 procedures -- I would like to hear about the
15 approval from the DOT that you are going into right
16 now, but other than that I'm pretty familiar with the
17 FDLE functions and the hearings and all of that
18 stuff, so I don't know if that shortens things for
19 you or not.

20 MR. GABRIEL: It probably will speed things
21 up a bit, Judge.

22 May I approach the witness?

23 THE COURT: Of course.

24 BY MR. GABRIEL:

25 Q. Matt, I'm going to show you what's marked on

1 the exhibit as Exhibit Number 3 and ask you to take a
2 look at that and see if you recognize that.

3 A. Yes, I do.

4 Q. Is that the DOT study that was done January
5 through June 2001 on the Intoxilyzer 8000?

6 A. This is the results of that evaluation
7 conducted by the U.S. Department of Transportation,
8 yes.

9 MR. GABRIEL: Judge, may I use the board?

10 THE COURT: Sure. As long as you use a dry
11 eraser and not a real -- Just make sure it says dry
12 eraser on it. Sometimes -- That one might be dead
13 so just hold on a second. Let me find you one.
14 There you go.

15 MR. GABRIEL: Thank you.

16 THE COURT: Mr. Gabriel, the other thing I
17 point out to you, although I can probably read it,
18 the copy that you submitted is kind of hard to read
19 on this Exhibit 3.

20 MR. GABRIEL: I can supply the Court with
21 another copy, hopefully it's better, or an electronic
22 copy, which I know will be much better.

23 THE COURT: It's kind of blurry so --
24 It's just kind of distracting is all I'm saying.

25 Go ahead sir.

1 BY MR. GABRIEL:

2 Q. Matt, can you take a look at that report,
3 which is Exhibit Number 3, and see if you can
4 calculate up, verify - Volpe Labs did testing, they
5 did over 200 tests on Instrument Number 8000 100, the
6 Intoxilyzer 8000?

7 A. Yes, there are spreadsheets attached with
8 numerous different tests at numerous different
9 concentrations and different testing done.

10 Q. Following DOT's testing you reviewed that
11 report hundreds of times; correct?

12 A. I couldn't tell you if it was hundreds or
13 dozens, but I've seen it numerous times, yes.

14 Q. In your review of that report would you
15 agree with me that not one indication - there's not
16 one indication in that report of a problem with air
17 leaks in the Intoxilyzer 8000 instrument?

18 A. No, they did not identify any air leak
19 problems with the instrument.

20 Q. Would you agree with me that there is no
21 notation whatsoever in the DOT report that there was
22 a need for compensation for leaks in the
23 recirculation path?

24 A. There's no mention of any problems with
25 recirculation or compensation requirements.

1 Q. Now, the - after the study, the Department
2 of Transportation placed, eventually, in November of
3 2001, the instrument, the Intoxilyzer 8000, onto the
4 conforming products list; correct?

5 A. I don't believe it was 2001, I think it was
6 2002 it appeared on that list, not in 2001.

7 Q. 10-3 of '02?

8 A. That is correct.

9 Q. For the Court's information it's Exhibit
10 Number 5.

11 In 2002 were you working with FDLE when they
12 started the testing for the Intoxilyzer 8000 with the
13 Florida Department of Law Enforcement?

14 A. Yes, in fact, Mr. Roger Skipper was the
15 project manager for the Intoxilyzer 8000 evaluations
16 and development and Mr. Skipper, when I first was
17 employed, was my training officer. Just a brief
18 history, Mr. Skipper and I also worked together in
19 the Air Force, so he and I go back a long way and he
20 and I worked on the later portions of the Intoxilyzer
21 8000 research and evaluation.

22 Q. And in 2002 FDLE did a field study in
23 September of 2001 until January of 2002; is that
24 correct?

25 A. Yes. Yes, I've seen the documents. Yes,

1 there were numerous studies done.

2 MR. GABRIEL: May I approach?

3 THE COURT: Sure.

4 BY MR. GABRIEL:

5 Q. Take a look at that and see if you are
6 familiar with that report from the Florida Department
7 of Law Enforcement.

8 A. Yes.

9 Q. Is that the field study report?

10 A. Yes. In fact, I was at the meeting where
11 this was presented to the IPTM Technical Advisory
12 Committee.

13 Q. Do you know -- Have you reviewed that
14 report many times?

15 A. Yes.

16 Q. You probably assisted in the writing of it
17 to a certain degree; correct?

18 A. Roger Skipper wrote this and did it, but he
19 was my training officer and we were working together,
20 and yes.

21 Q. Is it also a fair statement that in that
22 report there is not one notation, whatsoever,
23 regarding having a problem with air leaks on the
24 Intoxilyzer 8000 instrument?

25 A. No, there's --

1 Q. Is there any notation, whatsoever, of a need
2 for compensation of air leaks and a recirculation
3 path?

4 A. There is not.

5 Q. Approximately how many tests that you can
6 see were done on the Intoxilyzer 8000, since I know
7 there were several being tested?

8 A. For this evaluation it took place over
9 months and months probably.

10 Q. Estimate?

11 A. Hundreds, if not thousands, but for this
12 particular study in the hundreds.

13 Q. How many hundreds, approximate? You say a
14 hundred?

15 A. I would have to look at the spreadsheet to
16 give you an exact number, but in the hundreds.

17 Q. In April of 2002 there were studies being
18 done and FDLE was getting ready to do an approval
19 study for the Intoxilyzer 8000.

20 A. It was either April or March, but spring of
21 2002, correct.

22 MR. GABRIEL: May I approach?

23 THE COURT: Yes.

24 BY MR. GABRIEL:

25 Q. I would ask you to take a look at that.

1 A. Okay.

2 Q. This appears to be a report from a CMI
3 study, the manufacturer; correct?

4 A. Yes. Yes. CMI information sheets or test
5 strips.

6 Q. Done on 4-11-2002?

7 A. Correct.

8 Q. Where they are testing the Intoxilyzer 8000
9 instrument?

10 A. They are.

11 Q. At levels of .02, .05, .08, 1.5 - excuse me,
12 .15, .20, .30, .40, interference in the normal tests?

13 A. Correct, all different concentrations, that
14 is correct, and interference -- Yes.

15 Q. Reviewing those test trips that you just
16 did, do you see any problem whatsoever with air leaks
17 on the Intoxilyzer 8000 instrument?

18 A. No, there's no documentation of air leaks or
19 recirculation problems of any kind.

20 Q. And if my math is correct, there appears to
21 be over 800 tests. Does that seem fair?

22 A. I would not dispute that. There's numerous
23 test strips attached.

24 MR. GABRIEL: Judge, I would like to move
25 that into evidence as an additional exhibit that was

1 not included into the first package.

2 THE COURT: State?

3 MS. FARALDO: No objection, Your Honor.

4 BY MR. GABRIEL:

5 Q. Now, the Florida Department of Law
6 Enforcement conducted two approval studies on the
7 Intoxilyzer 8000; correct?

8 A. In March and April, I believe, 2002, that is
9 correct.

10 Q. Or April and May?

11 A. Yes, spring of 2002.

12 Q. And I would believe the Court may be aware
13 of this, but when I say approval study what I'm going
14 to be referring to is the approval under the
15 Administrative Procedures Act.

16 A. That is correct, under Rule 11D-8, Approval
17 of Instruments.

18 Q. That is something (inaudible) in the
19 evaluation; correct?

20 A. The procedure is the same, but the purpose
21 is different, but yes.

22 Q. The steps that need to be followed,
23 according to the Administrative Procedures Act, the
24 publication in the Federal Register, notice to the
25 public, that does not have to happen with an

1 evaluation done by FDLE; correct?

2 A. Correct.

3 Q. In 2002 there was an FDLE study, there was
4 two instruments brought to - or sent to the Florida
5 Department of Law Enforcement and there was a failure
6 of both instruments due to a software problem?

7 A. Correct.

8 Q. Were you involved in this study?

9 A. I was.

10 Q. And the testing -- May I approach?

11 THE COURT: Sure.

12 MR. GABRIEL: For the sake of the record
13 it's Exhibit Number 7.

14 BY MR. GABRIEL:

15 Q. Testing at various levels, interference, was
16 done by the Florida Department of Law Enforcement;
17 correct?

18 A. Correct.

19 Q. And as you mentioned, there was a software
20 failure issue and nothing was approved as a result of
21 this study; correct?

22 A. The instruments did not complete the
23 evaluation process because of those failures,
24 correct.

25 Q. If you look at those two instruments,

1 though, there were runs for different solutions of
2 fifty per solution; correct?

3 A. Correct, that was the requirement at the
4 time, to conduct simulator tests, fifty repetitive at
5 different concentrations.

6 Q. Hundreds and hundreds of tests?

7 A. Correct.

8 Q. Would you dispute the fact that, according
9 to my math, it appears to be 400 on one instrument
10 and 333 on another instrument for a total of 733?

11 A. I have no reason to dispute those numbers.

12 THE COURT: Mr. Gabriel, can I ask a
13 question while we are here?

14 MR. GABRIEL: Yes, sir.

15 THE COURT: The Exhibit 7 that I have is
16 dated February 10th, 2005.

17 MR. GABRIEL: Yes.

18 THE COURT: It relates to the 8000
19 instrument evaluation in April 2002?

20 MR. GABRIEL: Yes.

21 THE COURT: There's a distinction between
22 evaluation and approval.

23 MR. GABRIEL: Yes.

24 THE COURT: So I just want to make sure that
25 this was some sort of a -- You just told me this was

1 the approval test, but it says evaluation on the
2 memo.

3 MR. GABRIEL: The purpose of it was going to
4 be for approval, but it did not.

5 THE COURT: Well, this wasn't the actual
6 approval test that was run, then, this was an
7 evaluation test?

8 MR. GABRIEL: It was intended to be an
9 approval study.

10 THE COURT: Where does it say that?

11 THE WITNESS: Page three, Your Honor, the
12 subject line, I believe that's a letter or a memo.

13 THE COURT: All right. Well, the front
14 page is a memo from Laura Barfield to Alcohol Testing
15 Program, Department Inspectors dated February 10th,
16 2005. The next page is evaluation conducted on April
17 30th. That's what it says, right, it's like a title
18 page.

19 MR. GABRIEL: Right, Your Honor.

20 THE COURT: The third page, okay, it says
21 approval evaluation.

22 THE WITNESS: Approval evaluation.

23 THE COURT: All right. But how do I know
24 that this is --

25 MR. GABRIEL: Judge, I feel pretty safe to

1 be able to say that I'm just about as positive as I
2 can that I don't think Ms. Barfield, head of FDLE,
3 would be disputing that fact. We've talked about
4 it --

5 THE COURT: What's the State -- Is the
6 State agreeing that that's what was going on here on
7 April 30th? Ms. Barfield, you can just tell me
8 whether it was or it wasn't?

9 FEMALE VOICE: Your Honor --

10 THE COURT: April 30th, 2002 there's some
11 documentation here. It says you conducted an
12 evaluation of the Intoxilyzer as part of the approval
13 process. All right, I've got it. I'm sorry, go
14 ahead.

15 MR. GABRIEL: Turning now to Exhibit 8, Your
16 Honor.

17 THE COURT: Okay.

18 BY MR. GABRIEL:

19 Q. In May, the end of May there was another
20 approval study done; correct?

21 A. Correct.

22 Q. And, again, for the purpose of approval,
23 8000 instrument by the Florida Department of Law
24 Enforcement?

25 A. Correct.

1 Q. Now, one of the requirements before you even
2 begin an evaluation is to have the instrument that is
3 on the CPL?

4 A. That is correct.

5 Q. And the 8000 by May of 2002 was on the CPL?

6 A. Was?

7 Q. Was it?

8 A. No.

9 Q. When did it go on the CPL?

10 A. In October of 2002, when the CPL was
11 published, it first appeared.

12 Q. Now, I would like to turn your attention to
13 Exhibit 8.

14 May I approach?

15 THE COURT: Yes, sir.

16 Are we still on Exhibit 8?

17 MR. GABRIEL: Yes, Your Honor.

18 THE COURT: Thank you.

19 BY MR. GABRIEL:

20 Q. Again, the same two instruments were
21 utilized that were utilized a month ago, 8208 and the
22 8209; correct?

23 A. Correct.

24 Q. And as noted in Ms. Barfield's report, 8209
25 had been a problem, there was an electrical short?

1 MS. FARALDO: Objection to the question,
2 leading.

3 THE COURT: Pardon me? Overruled.

4 BY MR. GABRIEL:

5 Q. Was there a problem with 8209?

6 A. Yes, there was.

7 Q. Did that instrument complete the proper
8 procedures to be able to be an approved instrument?

9 A. It did not complete the evaluation process
10 due to a short in what's known as a - one of the
11 wires shorted out.

12 Q. And this, again --

13 THE COURT: Can you direct me where it says
14 that in this document, please? In Exhibit 8.
15 I've got it.

16 The other question I have, Mr. Gabriel, is
17 Mr. Malhiot just testified that this was not on the
18 approved products list until October of 2002, but in
19 this evaluation that you submitted it has conflicting
20 information. It says the Intoxilyzer Model 8000 is
21 already listed on the DOT conforming products list.
22 Just so you know.

23 MR. GABRIEL: I understand, Judge, and for
24 the sake of the record, Exhibit Numbers 4 and 5, I
25 think, clarify that to a certain degree.

1 Exhibit Number 5 is DOT's - the appearance
2 of the 8000 on the CPL for the first time on 10-3-02.
3 However, there was a letter from the Department of
4 Transportation to the manufacturer telling them that
5 they intend to put it onto the list. That occurred
6 on 11-26 of '01.

7 THE COURT: Okay. Thank you.

8 BY MR. GABRIEL:

9 Q. Matt, again, when we were talking about
10 FDLE's approval study in May of 2002 there was
11 testing done at numerous different levels, again, the
12 0-2, the 0-5, 0-8, 1-5, 2-0, 3-0, 4-0, interference
13 (inaudible) alcohol; correct?

14 A. That is correct.

15 Q. 50 done per?

16 A. Per instrument per concentration, that is
17 correct.

18 Q. And, again, there was not a full battery of
19 tests done on the instrument that shorted, Number
20 209?

21 A. Correct, was unable to complete the
22 evaluation process.

23 Q. Again, there was hundreds of tests done?

24 A. Yes, there were.

25 Q. Do you dispute my math of 460?

1 A. I have no reason to dispute that.

2 Q. In either of these two approval studies,
3 intended to be, Exhibit Number 7 and Number 8, was
4 there ever any mention, whatsoever, any notation,
5 whatsoever, of an air leak in the Intoxilyzer 8000
6 instrument?

7 A. There was not.

8 Q. Was there ever any type of disclosure,
9 whatsoever, any notation, whatsoever, of the need to
10 compensate for leaks in the recirculation path?

11 A. There was no mention of any type of
12 recirculation leaks whatsoever.

13 Q. When I speak of recirculation paths, can you
14 explain that to the Court, what a recirculation path
15 is all about?

16 A. Certainly. When a simulator is hooked up
17 to the breath test instrument it is a circular flow
18 of air. There is a pump in the instrument that pumps
19 air through the simulator into the instrument and
20 then it is in a circular motion, so that air flow
21 from the instrument back to the simulator is
22 recirculating the vapor, the alcohol concentration
23 vapor, thus recirculation.

24 THE COURT: And that's how you get the 1.1
25 liters eventually?

1 THE WITNESS: No, Your Honor, 1.1 liters for
2 human testing and volume of a human subject --

3 THE COURT: Are you talking about the --

4 THE WITNESS: Simulator only, yes, Your
5 Honor.

6 THE COURT: I apologize.

7 So the air leak that we're going to
8 eventually be talking about only dealt with the
9 simulator process?

10 THE WITNESS: That is correct, Your Honor.

11 THE COURT: Thank you.

12 BY MR. GABRIEL:

13 Q. Now, I'm going to show you that exhibit. Do
14 you recognize it?

15 A. I do.

16 Q. What is it?

17 A. It is an engineering change request produced
18 by CMI or the parent company, MPD, in which they
19 repaired or altered the check valve, the
20 recirculation valve, and they drilled a hole in that
21 valve and it compensated for leaks and recirculation
22 path, is the reason --

23 Q. That is the reason for it?

24 A. That is the reason, in Section 21 of the
25 form, reason for change and/or comments.

1 Q. Now --

2 THE COURT: Is that an exhibit?

3 MR. GABRIEL: Yes, Judge, it should be moved
4 into evidence. I believe it was supplemented after
5 the packet itself. I would like to move that in as a
6 supplement exhibit.

7 I don't think the State has any objection.

8 MS. FARALDO: No objection.

9 THE COURT: Mr. Gabriel, what did it change
10 again? What is it a request to change?

11 MR. GABRIEL: This is the request to be able
12 to drill a hole in the exhaust purge valve and
13 therefore they said it was for the reason that it is
14 to compensate for air leaks in a recirculation path,
15 is what they wrote down as the reason for it.

16 THE COURT: Go ahead.

17 BY MR. GABRIEL:

18 Q. Now, this happened in 2004; correct?

19 A. August of 2004, correct.

20 Q. And it happened in Kentucky?

21 A. It did.

22 Q. At CMI's lab - facility?

23 A. Yes.

24 THE COURT: You are talking about the
25 request or the actual changes? You said this

1 happened in 2004.

2 MR. GABRIEL: Both, Your Honor.

3 Correct?

4 THE WITNESS: Correct.

5 BY MR. GABRIEL:

6 Q. You were present then; correct?

7 A. Correct.

8 Q. And you were present with another department
9 inspector, a former department inspector, Roger
10 Skipper?

11 A. Yes.

12 Q. Was there any other FDLE employees with you?

13 A. No.

14 Q. And you went up to CMI for what purpose?

15 A. Two purposes, the 20th anniversary of the
16 Intoxilyzer Users Group was the preceding week in
17 August 2004 and we were directed to stay an
18 additional week to do finally - finalizing the
19 details on the Intoxilyzer 8000 to be used in
20 Florida. Mr. Skipper and I spent an additional week
21 in the engineering division troubleshooting and
22 debugging instrumentation software along with
23 hardware for an additional week up there, so we were
24 there for two purposes.

25 Q. When you were up there you would - it would

1 be normal for you, at the lab, to be running what I'm
2 going to call maintenance tests, tests required under
3 the rules, on a monthly basis?

4 A. Very similar. We weren't using specific
5 checklists, we were using simulators and running
6 simulator tests, back to back numerous simulator
7 tests, numerous "what if" testing. So there was
8 numerous testing done during that week.

9 Q. At some point in time there became a
10 problem; correct?

11 A. Immediately, as soon as we started Monday
12 morning there was a problem.

13 Q. In essence, some of the first testing that
14 was being done on that instrument?

15 A. Correct. What we did is we set up 0-8
16 simulators, 2-0, 0-5 different concentration
17 simulators and we immediately started running alcohol
18 vapors through the instruments to check accuracy,
19 reliability, to check target ranges, and immediately
20 the instruments that we were using were two
21 thousandths - two hundredths low, every test was
22 running low.

23 Q. If you were running 0-8 solutions, what were
24 the results coming out?

25 A. Like 0-6-2, 0-6-0, 0-6-1, in that range.

1 Q. But according to FDLE rules and the
2 scientific community, they allow a variance for a
3 simulator test, it doesn't have to be dead on, 0-8,
4 it doesn't have to be 0-8; correct?

5 A. Correct.

6 Q. Were the results that you got when you first
7 started to hook that up on a Monday outside allowable
8 range?

9 A. Yes.

10 Q. Significantly outside?

11 A. Yes.

12 Q. If you had been doing maintenance pursuant
13 to the rules, would you agree with me that that
14 machine would be taken off line if what you were
15 seeing happening in 2004 was happening during a
16 maintenance --

17 MS. FARALDO: Your Honor, objection,
18 leading.

19 THE COURT: Overruled.

20 A. Correct, it would have been removed from
21 service, trouble shot, determined the cause, and
22 either sent for repair or the cause would have been
23 fixed and then retesting but --

24 BY MR. GABRIEL:

25 Q. The rules allow you to try to troubleshoot

1 and if you can fix it you can run it one more time;
2 right?

3 A. Correct, under an agency or department
4 inspector, that's correct.

5 Q. Did you, as two department inspectors, did
6 you all start troubleshooting to try to find out
7 what's the problem?

8 A. We were literally pulling our hair out,
9 troubleshooting every possible aspect and spending
10 the entire day troubleshooting, checking the
11 simulators, hoses, connectors. We were there in the
12 engineering division and they even changed the
13 connectors to different variations of connectors to
14 connect the hoses to the simulator. We were trying
15 everything we could think of. We even checked the
16 air conditioning vents to make sure cool air wasn't
17 blowing down that could cool the concentration and
18 reduce the results. We were checking everything.

19 Q. Now, at that time do you have an approximate
20 how long Roger Skipper had been with the department?

21 A. As a department inspector?

22 Q. At that time, in 2004.

23 A. Probably five, six years.

24 Q. Between you two, you worked together; right?

25 A. Correct.

1 Q. Would it be a fair statement that you two
2 could not figure out why this machine was failing so
3 badly?

4 A. Correct. We couldn't figure it out.

5 Q. Do you think that there was anything you
6 forgot to check?

7 A. No, we checked everything.

8 Q. This was not a ten minute check or a one
9 hour check; was it?

10 A. No, we were there for hours. The problem
11 was immediately apparent at 9:00 in the morning and
12 we worked well into the afternoon trying to determine
13 a cause.

14 Q. Did it seem alarming that here's an
15 Intoxilyzer 8000 instrument that has run over 2,300
16 exams and never a problem, and all of a sudden
17 there's a problem?

18 A. Well, there were problems, but never
19 problems like that.

20 Q. So significant you couldn't fix it?

21 A. Correct, and when I say we were literally
22 pulling our hair out and even part of the engineering
23 staff was working with us and they couldn't figure it
24 out until Mr. Schofield was brought in, who was the
25 chief of engineering at the time.

1 Q. Mr. Schofield came in and eventually there
2 was a determination of how to fix the problem; right?

3 A. Correct. He broke out a large poster size
4 diagram of the air circulation flow and discussed
5 possible solutions to the problem.

6 Q. To the head of engineering, Mr. Schofield,
7 with the manufacturer, CMI, this was an air flow
8 problem?

9 A. Correct.

10 Q. Would you agree with that assessment, that
11 it was, initially, when you were looking at it, an
12 air flow problem?

13 A. Or alcohol vapor flow, yes.

14 Q. Eventually there was a determination of a
15 fix made; correct?

16 A. There was.

17 Q. What was that fix?

18 A. To drill a small hole in the purge valve,
19 There's a valve after the analytical block, before
20 the instrument's vapors go back into the
21 recirculation there's a valve and it's what's called
22 as a path of least resistance, it's not like an
23 electronic valve or gate, it's just path of least
24 resistance, positive and negative pressures within
25 the circulation open and close that valve and there

1 was a determination to drill a hole in that valve
2 would solve the problem.

3 MR. GABRIEL: Judge, Exhibit Number 10 is
4 photographs of that valve I'm talking about.

5 BY MR. GABRIEL:

6 Q. When we look at the photographs -- You've
7 seen the photographs of the hole in the valve; right?

8 A. I have.

9 Q. You actually saw them first?

10 A. I've seen -- I watched them drill the
11 hole.

12 Q. There is a plate that's removed off the
13 valve?

14 A. Correct, there's about a one inch by inch
15 and a half steel or sheet metal plate that covers the
16 entire exhaust block.

17 Q. Would you agree with me that the fact that
18 there needs to be a hole drilled in a valve of an air
19 analysis instrument, Intoxilyzer 8000, that that's a
20 design defect?

21 A. Well, the valve design was not working and
22 the change made it work. So, whether it's a defect
23 or an engineering change, there was a change to the
24 valve's design to make it work.

25 THE COURT: When was this again?

1 THE WITNESS: In August 2004, Your Honor.

2 THE COURT: Thank you.

3 BY MR. GABRIEL:

4 Q. According to FDLE rules in effect in August
5 of 2002 the Florida Department of Law Enforcement has
6 certain duties if they want to modify or change an
7 approved Intoxilyzer instrument; right?

8 A. That is correct.

9 Q. They are contained in Exhibit Number 9,
10 Judge. Specifically 11D-8.003?

11 A. Correct.

12 Q. That rule deals with the approval process,
13 evaluation processes of a breath testing instrument?

14 A. That were in place at the time. They have
15 been superseded since then, but yes.

16 Q. You are familiar with that rule, 2002 rule
17 version that I'm talking about?

18 A. Yes.

19 Q. And you would agree with me that Subsection
20 5 states a manufacturer whose instrument has been
21 previously approved by the department --

22 A. Yes.

23 Q. That's the Intoxilyzer 8000; correct?

24 A. Correct, in 2004, yes.

25 Q. Because it was approved in 2002?

1 A. Correct.

2 Q. -- shall notify the department in writing
3 prior to making any notification - any modification
4 or adding any new options to such instrument?

5 A. That is correct.

6 Q. Since you were present, did you obtain any
7 writing from CMI?

8 A. We obtained no writing at the time.

9 Q. Do you know whether or not -- Do you have
10 personal knowledge whether or not Ms. Barfield, the
11 head of the Florida Department of Law Enforcement,
12 Alcohol Testing Program, received any written
13 notification prior to that drill being put to that
14 valve?

15 A. No. After it happened and after -- When
16 it first happened we were having trouble - Roger
17 Skipper phoned Tallahassee and notified Laura.
18 After the modification was done and evaluation was
19 done there was just a phone call from Roger Skipper,
20 who was the project manager, to his supervisor, Ms.
21 Barfield at the time. There was no written
22 notification whatsoever at that time.

23 Q. In fact, you've seen CMI agreeing with the
24 fact that they've never put in writing any
25 modification to FDLE?

1 A. That's correct.

2 Q. That rule goes on to require the department
3 to evaluate that modification; correct?

4 A. It does.

5 Q. And the standard, according to the rule in
6 2002, the rule in effect, is to determine whether or
7 not that modified breath testing instrument -
8 whether the instruments - whether there was an
9 effect on the instrument's method of analysis or
10 analytical reliability?

11 A. Correct.

12 Q. In this case here we're dealing with, would
13 you agree, analytical reliability?

14 A. Correct. Method of analysis, its infrared
15 light absorption, that was not changed.

16 Q. That's not changed?

17 A. Correct.

18 Q. When you are dealing with analytical
19 reliability, though, how would you define that?

20 A. Analytical reliability, in this particular
21 case, is the instrument's ability to measure the
22 vapor within the acceptable range of the rule.

23 Q. Prior to the hole we have an Intoxilyzer
24 8000 instrument, right --

25 A. Correct.

1 Q. -- that will not give reliable results?

2 A. They were giving results outside the
3 range - two hundredths outside the range.

4 Q. Were those ranges always low?

5 A. Yes.

6 Q. So by the drilling of the hole did it always
7 raise the results?

8 A. It did.

9 Q. And it raised it significantly?

10 A. Brought it right back up two hundredths.

11 Q. Now, do you have any knowledge what changed
12 in that Intoxilyzer 8000 instrument from two thousand
13 something tests that were done where there was never
14 a notation of a need for a drilling of a hole, air
15 leaks, to all of a sudden there was a need for a
16 major change in that instrument?

17 A. There were numerous changes made outside the
18 analytical portion of the instrument.

19 Q. In 2002 to 2004?

20 A. Between 2002 and 2004. Simple things like
21 the carrying handle notches were cut so the driver's
22 license -- There was probably about 18 physical
23 changes outside and inside the instrument that were
24 outside the analytical portion that we were aware of
25 and most of them we recommended to CMI, but I was

1 aware of no change to that analytical air flow.

2 Q. When we talk about the recirculation path,
3 what was being altered, is it a fair statement that
4 recirculated alcohol vapor from the simulator is
5 going to be going through the analytical chamber of
6 the instrument on more than one occasion?

7 A. Yes, it recirculates the same vapor over and
8 over.

9 Q. This is not a valve that is just allowing
10 air to leave the machine and not come back into the
11 analytical chamber; is that correct?

12 A. Correct.

13 Q. Was there ever any discussion by yourself or
14 with Mr. Skipper with higher-ups in the Florida
15 Department of Law Enforcement about the need for
16 notification of this hole change in putting it into
17 the record, so to say?

18 A. I was not part of the conversation and I had
19 no knowledge of the conversation.

20 Q. Is it a fair statement that you became the
21 whistleblower to this fact in early 2000 - I use the
22 term loosely - early 2012, I think it was in Naples?

23 A. I was asked -- Sarasota, I believe.

24 Q. Sarasota.

25 A. I was asked a question about it and I

1 testified truthfully about the hole being drilled,
2 yes.

3 Q. Is it a fair statement -- What happened to
4 the FDLE rules very shortly after the hole was
5 drilled?

6 A. Prior to the instrument being placed into
7 evidential use in 2006 a rule modification or update
8 was done and that particular written requirement for
9 modifications to the instrument was deleted from the
10 rule.

11 THE COURT: You are talking about Paragraph
12 4 or 5?

13 THE WITNESS: Yes, Your Honor.

14 THE COURT: And that was --

15 MR. GABRIEL: Exhibit Number 12.

16 THE COURT: That was in 2006? Is that what
17 you said, Mr. Malhiot?

18 THE WITNESS: Yes, the rule took effect in
19 2006. The promulgation and writing of that rule
20 took place 2005.

21 THE COURT: May I ask you another question,
22 just for my own purposes, for my thought process, Mr.
23 Malhiot?

24 THE WITNESS: Yes, Your Honor.

25 THE COURT: When was the Intoxilyzer 8000

1 actually put on line?

2 THE WITNESS: March 2006.

3 THE COURT: Thank you.

4 THE WITNESS: March 26th, I believe.

5 MR. GABRIEL: Judge, for the sake of the
6 record, Exhibit Number 9, is the --

7 THE COURT: FDLE rule.

8 MR. GABRIEL: -- FDLE rule. It went into
9 effect on 12-9 of '04, not '06, according to the
10 rules.

11 THE COURT: The one that you had me looking
12 at before, I thought you said it was 2002.

13 MR. GABRIEL: That was 2002. That was the
14 rule I'm claiming was in effect. What my argument
15 is going to, Judge, is after all this, the hole being
16 drilled, three months later the rules change.

17 THE COURT: Okay.

18 MR. GABRIEL: So we have the hole being
19 drilled in August of 2004 and then December --

20 THE COURT: It was changed to what it is
21 now?

22 MR. GABRIEL: It was -- The rule?

23 THE COURT: It says the department shall
24 conduct evaluations for approval of new instruments
25 under Subsection 2 in accordance with instrument

1 evaluation procedures.

2 MR. GABRIEL: No, it was -- When you say
3 now, that's what is confusing me.

4 THE COURT: I'm just looking at what I got
5 off Westlaw this morning. I just want to know if
6 that's - how it was changed.

7 MR. GABRIEL: The rule, Subsection 5 now
8 states department shall evaluate for approval of new
9 instrumentation under Subsection 10 in accordance
10 with the instrument evaluation procedure.

11 THE COURT: Right, you are saying that was
12 the new language in 2006?

13 MR. GABRIEL: There was new language in
14 2004.

15 THE COURT: Okay. Gotcha.

16 MR. GABRIEL: The point of emphasis - I say
17 that is because it was three months after we have the
18 hole being drilled and the notice required that
19 (inaudible) not being complied with.

20 THE COURT: Okay.

21 BY MR. GABRIEL:

22 Q. Matt, you had mentioned the fact that there
23 are numerous - there were numerous modifications to
24 the Intoxilyzer 8000, but the majority of them were
25 not significant?

1 A. Correct.

2 Q. And are you familiar with those changes?

3 A. Most of them. Some of them were so
4 insignificant that I don't even remember them.

5 Q. Matt, do you know who Brian Faulkner is?

6 A. I do.

7 Q. Who is he?

8 A. Presently he's the chief of engineering.
9 At the time he was in charge of the software
10 development for Florida's version of the Intoxilyzer.

11 Q. He works for CMI?

12 A. He does.

13 MR. GABRIEL: Judge, may I approach?

14 THE COURT: Sure.

15 MS. FARALDO: Judge, (Inaudible).

16 THE COURT: I can't hear you, Ms. Faraldo.

17 MS. FARALDO: The State would object to this
18 because Mr. Faulkner is not here for the State to
19 question.

20 THE COURT: May I see what it is, please?

21 This is an affidavit from Mr. Faulkner?

22 MR. GABRIEL: Yes, Your Honor.

23 THE COURT: What is it that you are going
24 to try to establish with this?

25 MR. GABRIEL: Judge, the manufacturer, CMI,

1 is putting in an affidavit forth to try to clarify
2 some issues dealing with whether or not they complied
3 with notice to the Florida Department of Law
4 Enforcement, notice to NHTSA and notice to OSAP.

5 MS. FARALDO: Sorry, Your Honor.
6 (Inaudible).

7 THE COURT: Who is Brian Faulkner with?

8 MR. GABRIEL: He is the head of engineering
9 at this present time for the manufacturer of the
10 Intoxilyzer 8000 instrument.

11 THE COURT: At CMO?

12 MR. GABRIEL: CMI.

13 THE COURT: Unfortunately I'm not going to
14 allow the affidavit at this time, but I'll allow you
15 to ask Mr. Malhiot any information that he might know
16 about it --

17 MR. GABRIEL: Thank you, sir.

18 THE COURT: -- since he was an FDLE person
19 intimately involved in what was going on.

20 I mean is the State disputing whether there
21 was or wasn't a letter sent?

22 MS. FARALDO: Your Honor, we'd leave that to
23 Ms. Barfield's testimony whether or not (inaudible)
24 and it was required.

25 THE COURT: That's not what I asked. Is

1 the State contesting whether any written notification
2 was made by CMI about this drilling of the hole?

3 MS. FARALDO: No, Your Honor.

4 THE COURT: Okay.

5 MR. GABRIEL: Judge, I would like to bring
6 to the Court's attention Exhibit Number 13.

7 BY MR. GABRIEL:

8 Q. Matt, you are familiar with the changes in
9 the instrument, you said?

10 A. Yes.

11 Q. And do you have recollection in 2005 the
12 changes to the printers that were being able to be
13 used?

14 A. Yes. There was a new printer - printer
15 driver or printer that was put in the instrument.

16 MR. GABRIEL: May I approach?

17 THE COURT: Sure.

18 BY MR. GABRIEL:

19 Q. I show you what's marked as Exhibit Number
20 13 in the book.

21 A. Yes.

22 Q. Do you recognize that?

23 A. I do.

24 Q. Seems that CMI is putting FDLE on notice of
25 a change to the printer; right?

1 A. Well, this particular one is notifying FDLE
2 of what external printers are compatible with the
3 drivers in the instrument, yes.

4 MR. GABRIEL: I bring the Court's attention
5 to Number 14.

6 BY MR. GABRIEL:

7 Q. Do you recognize that as (Inaudible)?

8 A. I do.

9 Q. Is that an exhibit from 2005, again, about
10 the fact that CMI is going to have a need to open up
11 the instrument and place some silicone around
12 electrical components?

13 A. Yes.

14 Q. And that appears to be the written
15 notification from CMI (Inaudible)?

16 A. Yes.

17 And it's from Pam Hagan who was the sales
18 representative responsible for the State of Florida?

19 Q. They actually memorialized it by sending out
20 FDLE photographs; correct?

21 A. They did.

22 MR. GABRIEL: I bring to the Court's
23 attention Exhibit 15.

24 THE COURT: Mr. Gabriel, can we just go
25 through - from Exhibit 13 to wherever else there

1 were written notices. I understand your point.

2 MR. GABRIEL: Okay. I can summarize it
3 real quick for the Court.

4 THE COURT: Okay.

5 MR. GABRIEL: Judge, Exhibit Number 15 deals
6 with change notices to (inaudible) --

7 THE COURT: I'm already at 19 so --

8 MR. GABRIEL: Okay.

9 THE COURT: How far does this go?

10 MR. GABRIEL: Judge, from 19 and then
11 there's also Number 32 and 33 which are evidence, in
12 my opinion, of CMI notifying FDLE of changes to the
13 instrument in writing.

14 THE COURT: Okay, thank you.

15 What about 19 and 18? It looks like those
16 are also notices?

17 MR. GABRIEL: Nineteen was changes to the
18 magnetic card reader and, again, the documentation on
19 two separate occasions in 2006 and then there's
20 another one in 2010, that they're notifying FDLE of
21 changes to that magnetic card reader.

22 THE COURT: So 19 is also a change; right?

23 MR. GABRIEL: Yes, sir.

24 THE COURT: Okay, thank you.

25 BY MR. GABRIEL:

1 Q. Matt, if you look back at the 2002 rules --

2 A. Yes.

3 Q. -- when there's a modification there's a
4 need for an evaluation; correct?

5 A. Correct, to evaluate that specific
6 modification.

7 Q. And an evaluation is done by doing what we
8 call Form 34?

9 A. Correct.

10 Q. It's doing simulator tests at different
11 levels?

12 A. Those are the minimum requirements, yes.

13 Q. Sometimes there's obviously more done?

14 A. Correct, scenario testing. Form 34 allows
15 for any additional testing as deemed appropriate.

16 Q. I would point the Court's attention to
17 Exhibit 20.

18 You are familiar with those evaluations?

19 A. Yes, most of them I was a part of.

20 Q. My next question. I'm going to show you
21 what's been marked as Number 20. It's an evaluation
22 study, 2005.

23 Do you recognize that evaluation study?

24 A. I do.

25 Q. That had to deal with software version -

1 re-evaluating software version of eighty-one twenty-
2 four; correct?

3 A. 8100.24, that's correct

4 Q. There was -- That was new software put
5 into the instrument in 2005?

6 A. Correct.

7 Q. And the FDLE received notification of it;
8 right?

9 A. Correct.

10 Q. And they needed to modify it according to
11 the - excuse me, evaluate it according to the 2002
12 rules?

13 A. Correct.

14 Q. They did that?

15 A. Yes.

16 Q. They did it on Instrument Number 1173, 1175,
17 and 1181; correct?

18 A. Correct.

19 Q. Are those instruments from CMI or do we have
20 FDLE's instruments?

21 A. They're CMI instruments.

22 Q. So when you are doing an evaluation for
23 modification, when the FDLE does do that, they get
24 instruments from CMI, they don't use their own
25 evidentiary breath testing instruments?

1 A. That's correct.

2 Q. They do that every time; right?

3 A. Every time I was employed, yes.

4 Q. When -- In that study of April 19, 2005,
5 was there ever any issue, any mention, any reference,
6 whatsoever, to a hole in exhaust valve, air leaks or
7 compensating for recirculation path?

8 A. No.

9 Q. Now, the purpose of the evaluation is listed
10 on the study; correct?

11 A. That is correct.

12 Q. But the author of that study makes a
13 specific note that the evaluations are not intended
14 to approve individual parts or components of the
15 blood testing instrument?

16 A. That is correct.

17 THE COURT: Can you direct me to where it
18 says that?

19 THE WITNESS: Page two under the purpose
20 statement, the last sentence, Your Honor.

21 THE COURT: Where is it again?

22 THE WITNESS: Page two under the purpose
23 statement, last sentence.

24 MR. GABRIEL: Judge, for the sake of the
25 record I have Number 20, 21, 22, 23, 24, 25 that are

1 more of the exact same evaluations done for all the
2 changes we talked about, except for the hole, of
3 course, that all have that exact same language in it
4 and all of them do not make any reference whatsoever
5 to air leaks, holes, drilling, anything of that
6 nature.

7 THE COURT: Mr. Gabriel, is it your
8 position that these evaluations that were done for
9 these other reasons were somehow different than the
10 evaluations that would have been done for the hole or
11 the drilling if it had been in a written form like
12 this? Are you saying the evaluations would have been
13 somehow different?

14 MR. GABRIEL: Yes.

15 THE COURT: How would they have been
16 different?

17 MR. GABRIEL: Well, Judge, when we're
18 talking about a problem that is dealing with the
19 recirculation of air into the breath testing
20 instrument, that is getting straight toward the
21 analytical reliability of that instrument.

22 THE COURT: Okay. Well, wait a minute, my
23 question is, when you say that the instruments were
24 evaluated in 20 through 25, what does that entail, I
25 guess is my question? Isn't it that the evaluations

1 include testing all the different simulator --

2 MR. GABRIEL: Yes, they do.

3 THE COURT: So they incorporate the
4 analytical process in the evaluation?

5 MR. GABRIEL: Yes, they do.

6 THE COURT: Okay.

7 MR. GABRIEL: But, Judge, I'll give you, you
8 know, 2000 reasons why --

9 THE COURT: I'm not arguing it with you, I
10 just want to know if that's true. I just didn't know
11 when you are saying evaluations for other reasons, I
12 didn't know if it was the same type of evaluation
13 that would have occurred had they sent written notice
14 at that time. That's all.

15 MR. GABRIEL: I do not believe it would be
16 the same type of evaluation, Judge.

17 THE COURT: Okay. All right. Why not?

18 MR. GABRIEL: Because we are dealing with
19 the air path, so hooking a regular simulator up to
20 the instrument is not dealing with the problem.

21 THE COURT: Well, if the drilling of the
22 hole allegedly corrected the problem, why wouldn't it
23 be tested in the same manner in 2005 as it would have
24 been in 2002 before the drilling is my question?

25 MR. GABRIEL: Two thousand reasons. They

1 tested this --

2 THE COURT: That's not my question, Mr.
3 Gabriel.

4 Let me ask Mr. Malhiot. Mr. Malhiot, when
5 they did the evaluations on, let's say, Exhibit 20,
6 which was --

7 MR. GABRIEL: Software.

8 THE COURT: For the software, when they do
9 the evaluations that we're talking about, just
10 describe to me what they do in the evaluation.

11 THE WITNESS: The evaluations start with
12 different simulator concentrations. They are all
13 the same, evaluating different simulator
14 concentrations. In the old rule, fifty consecutive
15 repetitive evaluations at different concentrations.
16 Under the new rule it was reduced to 25 and then
17 there is a statement in the evaluation process --

18 THE COURT: The new rule was in 2004?

19 THE WITNESS: Correct.

20 THE COURT: Okay.

21 THE WITNESS: Forward. Then, in addition
22 to that, any additional testing as deemed appropriate
23 could be added too, but the --

24 THE COURT: What kind of additional
25 testing?

1 THE WITNESS: Well, in the later evaluations
2 you'll see that there was a lot of scenario testing,
3 "what if" testing type of things done to evaluate
4 software, low volume samples, timing of portions of
5 instrumentation analysis, simulated subject testing.
6 There was additional scenario testing done that's
7 above and beyond the specific requirements of Form
8 34.

9 THE COURT: Okay, thank you.

10 BY MR. GABRIEL:

11 Q. We come around to 2007. Eventually there
12 was an Intoxilyzer 8000 with software changes sent to
13 the DOT; correct?

14 A. Correct, we have two instruments with two
15 different versions of software were sent.

16 Q. Exhibits 26 and 27?

17 A. Those are the versions of the software, yes.

18 MR. GABRIEL: May I approach?

19 BY MR. GABRIEL:

20 Q. According to number - Exhibit Number 26,
21 there appears, in 2007, to be testing done again by
22 Volpe Labs for the Department of Transportation;
23 correct?

24 A. Correct.

25 Q. Why was that done, to your knowledge?

1 A. To evaluate the differences -- This was
2 after the Version 26 software problems were detected.
3 Version 27 was placed into service and both versions
4 were sent to Volpe Labs to determine the analytical
5 reliability under the DOT standard for both versions
6 of the software.

7 Q. DOT has some different standards than FDLE
8 does; correct?

9 A. Yes, they have different testing protocols.

10 Q. In Paragraph 2 or, excuse me, Paragraph 3 of
11 Page two, states the State of Florida requests a
12 special test of this device in May 2007 and they're
13 talking about software changes; correct?

14 A. That is correct.

15 Q. Anywhere in this report do you see any
16 notification, documentation about the hole, about
17 problems with recirculation paths, about air leaks in
18 a breath testing device, do you see anything of that
19 nature?

20 A. No, it's not addressed in this report.

21 Q. The instruments that were sent were also -
22 do you know the instrument numbers?

23 A. I have to refer to that.

24 Q. Again, bottom of the third paragraph, Page
25 2.

1 A. Yes, two of the three instruments that FDLE
2 used for evaluations, Instrument 1173 and 1175.

3 Q. Those, again, are CMI instruments, not FDLE?

4 A. Correct. Now, I would like to clarify,
5 when I left FDLE in 2010 CMI owned the instruments.
6 There was talk at the time to have - to see if FDLE
7 could purchase those particular instruments. I do
8 not know today whether CMI still owns them or if FDLE
9 did, in fact, purchase those instruments.

10 Q. Do you have any knowledge as to why the
11 Florida Department of Law Enforcement chose to leave
12 out in this testing by the Florida Department of
13 Transportation, Volpe Labs, chose to leave out this
14 hole issue, the issue of the hole, the drilling hole,
15 the air leaks, recirculation paths, why they chose to
16 completely ignore that?

17 A. At the time our concern at FDLE was the two
18 versions of the software and the problems that we
19 were running into with Version 26 and massive
20 litigation throughout the state because of the
21 software problems.

22 Q. Would it be a fair statement at that point
23 in time the public and the defense community at large
24 had no knowledge about that hole being drilled?

25 A. That would be a fair statement, yes.

1 Q. Best that you can recall, was there ever any
2 type of notification whatsoever to anybody regarding
3 the hole?

4 A. Other than the phone calls between FDLE
5 staff and CMI, I don't know of any other
6 notifications.

7 Q. Now, attached in this report, which is
8 Exhibit 26, they talk about the DOT standards;
9 correct?

10 A. Yes.

11 Q. And they're contained in the Federal
12 Register dated September 17th, 1993, 58 Federal
13 Register 48705?

14 A. 48705 through 48710, yes.

15 Q. Now, the Federal Register itself, these
16 Federal regulations require an evidentiary breath
17 testing device that is on the CPL, that would be the
18 8000, correct, 2007?

19 A. Correct.

20 Q. Would you agree with me that they require
21 notification by the manufacturer of a modification to
22 that instrument?

23 A. They do.

24 Q. Would you agree with me that it requires
25 notification to different components in the Federal

1 system including NHTSA and OSAP?

2 A. Yes, there's multiple -- Whether it's a
3 single written notification that goes up the chain of
4 command through the U.S. Department of Transportation
5 and NHTSA if it's separate notifications, I'm not
6 aware of, but, yes, those agencies are to be
7 notified.

8 Q. Was any notification ever given that you
9 know of?

10 A. I have no knowledge.

11 Q. Turn to Page 12. Appendix B of the Federal
12 Register has guidelines for retesting modified breath
13 testing instruments; correct?

14 A. Yes.

15 Q. Do you know why when the Florida Department
16 of Law Enforcement wrote this report, dated October
17 18, 2007, and they put in here the DOT report with
18 that guideline, Appendix B, why they left out
19 important stuff?

20 A. I have no knowledge.

21 Q. Judge, I'd refer the Court to Exhibit Number
22 29.

23 I would like to refer the Court's attention
24 upon that exhibit to Page 8 - excuse me, 48709,
25 which is the fourth page of the document, Appendix B

1 is the guidelines for retesting and modifying --

2 MS. FARALDO: Judge, at this point the State
3 would object to the use of these Federal rules
4 because they are not the Florida rules, not the rule
5 required for the Intoxilyzers in this state. They
6 don't apply to what's required for the machines being
7 used.

8 THE COURT: Overruled.

9 MR. GABRIEL: Judge, in comparison --

10 THE COURT: Are you going to make an
11 argument now or are you going to --

12 MR. GABRIEL: No, I'm trying to be as clear
13 as possible.

14 THE COURT: Comparison of this to what?

15 MR. GABRIEL: To the rule cited in that
16 report that we're talking about, from October of
17 2007, is leaving out the last paragraph.

18 THE COURT: What report?

19 Talking about Exhibit 26?

20 MR. GABRIEL: Number 26.

21 THE COURT: Are you talking about Exhibit
22 26?

23 MR. GABRIEL: Yes, sir.

24 THE COURT: What are you asking me to
25 compare?

1 MR. GABRIEL: Page 12, which would be right
2 in the middle of the page, the end of Appendix B,
3 that Appendix B is different than Appendix B in the
4 Federal Register. It's missing the last paragraph.

5 THE COURT: Okay.

6 BY MR. GABRIEL:

7 Q. Mr. Malhiot, do you know whether or not the
8 Federal Register has ever published any form of
9 statement regarding the hole and why a re-evaluation
10 is not warranted?

11 A. I have no knowledge.

12 Q. I would like to refer the Court's attention
13 to Number 27. I apologize, Number 28.

14 Matt, are you aware that FDLE, Ms. Barfield,
15 had communication with Volpe Labs about this testing?

16 A. The 2007 testing?

17 Q. Yes, sir.

18 A. Yes.

19 Q. May I approach?

20 Was there ever a conversation by Ms.

21 Barfield, head of FDLE, Alcohol Testing Program, of
22 her decision to purposely leave out a communication
23 with Volpe Labs, the issue of the hole?

24 A. Could you ask that question again? I'm --

25 Q. Sure. You are familiar with the E-Mails --

1 We've talked about this before; correct?

2 A. Yes.

3 Q. And in these E-Mails you would agree with me
4 that the - Mr. Conde -- You know who he is?

5 A. I do.

6 Q. He's with Volpe Labs?

7 A. Yes.

8 Q. Runs it?

9 A. I -- I don't know if he runs it, but I
10 know he's part of Volpe Labs.

11 Q. You would agree with me that Mr. Volpe
12 (sic.) requires of Ms. Barfield, head of FDLE's
13 Alcohol Testing Program, what type of hardware
14 changes and software changes occur prior from - the
15 initial evaluation in 2002 to the 2007 test?

16 A. Correct.

17 Q. And would you agree with me that Ms.
18 Barfield does not, in any way, include any
19 notification of a hardware change of drilling a hole
20 in a recirculation valve?

21 A. That is correct.

22 THE COURT: Mr. Gabriel, I'm going to go
23 ahead and take about a 15 minute break, pick it up
24 again about five after.

25 (Thereupon, there was a short break after

1 which the following proceedings were had:)

2 THE COURT: You were on Exhibit 27, I
3 think, if I remember correctly, or was it 29?

4 MR. GABRIEL: Yes, 29.

5 May I approach the witness?

6 THE COURT: Of course.

7 MR. GABRIEL: Do you have that?

8 THE WITNESS: I have not been given this one
9 yet.

10 BY MR. GABRIEL:

11 Q. Referring the Court to Exhibit Number 29.
12 That's the Federal Register; correct?

13 A. It is.

14 Q. I would refer you to the second page,
15 right-hand column, middle paragraph.

16 Retesting will continue to be conducted when
17 necessary. Are you aware of that?

18 A. I am.

19 Q. Do you know the reason why the government
20 wants to retest evidentiary breath testing
21 (Inaudible)?

22 A. Well, if they're modified they want to make
23 sure the modification doesn't affect the reliability.

24 Q. The second - looks like the end of the
25 second paragraph there's parenthesis and then there's

1 a statement that the test procedures may be altered
2 in specific instances. If necessary, to meet unique
3 design features of EBTs.

4 A. Correct.

5 Q. Earlier I note that there was - you were
6 answering the Court and the Court had some questions
7 about the testing procedures needed for an
8 Intoxilyzer that has such an air leak in it you
9 needed to drill a hole in the valve. Do you think
10 that that, in your opinion, knowing the workings of
11 this Intoxilyzer 8000, is a situation where you are
12 going to need some unique testing?

13 A. It could, yes.

14 Q. The bottom of that paragraph I've been
15 referring to makes reference to the fact that the
16 manufacturer shall submit the proposed changes to the
17 OASP for review. Based upon this review a
18 determination will be made regarding whether or not -
19 whether retesting is required. Guidance to
20 manufacturers on considerations governing this
21 decision is given in Appendix B; correct?

22 A. Yes.

23 Q. To your knowledge, this, again, is
24 something, because of its nature of not being known
25 was never put through the proper channels to

1 determine what type of and whether it should be
2 re-evaluated?

3 A. That is correct.

4 Q. Mr. Malhiot, do you agree that (Inaudible)
5 breath testing according to FDLE rules means
6 (Inaudible)?

7 A. Before it's evaluated by FDLE, yes.

8 Q. There is no procedure the way the rules were
9 in 2002 or today that instrument can be approved by
10 the State of Florida to be used for evidentiary
11 breath testing and not be on the conformed products
12 list?

13 A. Correct. It goes one step further. Not
14 only can it not be approved, it can't even be looked
15 at for the approval process or evaluated for the
16 approval process. The appearance of the instrument
17 on the conforming product list is a prerequisite to
18 the FDLE evaluation.

19 Q. According to FDLE rules as they were in
20 2002, was the re-evaluated process in the rules, the
21 need for a re-evaluation for modification, was that
22 only applicable to software?

23 A. No. No.

24 Q. Let me ask you this question. The first
25 paragraph on Form 34 has the requirement that - that

1 in order for an instrument to be evaluated it has to
2 be on the conforming products list; correct?

3 A. Correct.

4 MR. GABRIEL: Judge, may I approach?

5 THE COURT: Yes, sir.

6 MR. GABRIEL: I don't think there's any
7 objection to this, this is a copy of Form 34, moved
8 into evidence.

9 BY MR. GABRIEL:

10 Q. Where's the notation dealing with
11 (inaudible)?

12 A. Number one.

13 Q. What does it state?

14 A. Quote, only breath test instruments listed
15 on the U.S. Department of Transportation conforming
16 products list of evidential breath measurement
17 devices will be evaluated, end quote.

18 MS. FARALDO: Your Honor, I think there
19 is -- I would object. (Inaudible) on which version
20 that is, if that is the proper one (inaudible) a
21 second to speak with our expert.

22 THE COURT: Speak with your expert.

23 MS. FARALDO: For clarification, which
24 version is that?

25 MR. GABRIEL: Form 34, (inaudible) 2004.

1 MS. FARALDO: Okay. According to our
2 expert the one that would be applicable in this
3 situation is the 2001. (Inaudible).

4 BY MR. GABRIEL:

5 Q. Are you familiar with Form 34?

6 A. I am.

7 Q. In 2001?

8 A. I am.

9 Q. Required evidentiary breath testing device
10 to be evaluated and be on the conforming products
11 list?

12 A. It did.

13 Q. Does it only apply to new instrumentation,
14 that requirement?

15 A. No, any instrument evaluated. New
16 instrumentation, yes, but the same form is used for
17 every evaluation.

18 Q. Does it apply to modifications of component
19 parts?

20 A. If an evaluation is being done it applies to
21 the relevance of why the evaluation is being done,
22 but all evaluations it applies to.

23 Q. So there is, that you know of, no limitation
24 to the conforming products list to only apply to
25 brand new instrumentation?

1 A. No, because the evaluation form is used for
2 all evaluations.

3 Q. Mr. Malhiot, can you think of different
4 situations where you would have a, quote, unquote,
5 reliable breath test result, but that its
6 admissibility into evidence is compromised because of
7 a rule violation?

8 A. Well, certainly, it happens all the time.

9 Q. Can you give the Court some examples?

10 A. Well, you may have a breath test
11 affidavit --

12 MS. FARALDO: I would object to relevance.

13 THE COURT: Sustained.

14 MR. GABRIEL: Judge, my argument to
15 relevancy is that it would become relevant. I
16 believe the government is going to be making an
17 argument that we still have a lot of breath testing
18 results and the results are reliable, look at all
19 these studies we've done.

20 What I'm trying to be able to do is to show,
21 through numerous examples, of where that exactly
22 happens, but we still have a rule violation and
23 there's a sanction for it.

24 THE COURT: I'm familiar with rule
25 violations. I ruled on one myself about six years

1 ago on the Guth Solutions. I understand where you
2 are going. I understand your point. It's still not
3 relevant to this issue.

4 MR. GABRIEL: Judge, I have no more
5 questions.

6 THE COURT: State.

7 MS. FARALDO: (Inaudible).

8 THE COURT: Sure. Ms. Faraldo, if you need
9 a few minutes to talk to some people or to get
10 yourself together I don't mind giving you a few
11 minutes. We've got all day. So it's no problem.

12 MS. FARALDO: (Inaudible).

13 THE COURT: Just tell me how much time you
14 need and we'll just take a break until you are ready.

15 MS. FARALDO: Your Honor, I think about 10
16 minutes.

17 THE COURT: Mr. Gabriel, I'm going to go
18 ahead and give her ten minutes to get prepared.
19 We'll take ten minutes.

20 (Thereupon, there was a short break, after
21 which the following proceedings were had:)

22 THE COURT: All right, Ms. Faraldo.

23 CROSS EXAMINATION

24 BY MS. FARALDO:

25 Q. Good morning.

1 How long did you work for FDLE?

2 A. Eight years.

3 Q. Eight years. And when did you cease
4 working at FDLE?

5 A. August, September of 2010.

6 Q. And did you quit?

7 A. I did resign, yes.

8 Q. And what were the circumstances regarding
9 you leaving FDLE?

10 A. I just recently got divorced, my daughter
11 graduated college, the governor was cutting our pay
12 and I decided - it was a personal move to depart
13 FDLE.

14 Q. Did you give FDLE proper notice that you
15 were leaving?

16 A. Yes.

17 Q. Okay. And what type of compensation are you
18 getting for today's testimony?

19 A. I'm being paid at the rate of \$180 an hour
20 plus travel expenses.

21 Q. Okay. And how are you currently
22 (Inaudible)?

23 A. Certainly.

24 Q. How are you currently employed?

25 A. Through my consulting firm.

1 Q. Okay. And what does your consulting firm -
2 what type of procedures does your consulting firm do?

3 A. Well, obviously expert testimony. We
4 consult on DUI cases, any case that involves alcohol
5 as an element to the offense or the element to the
6 case. We do training for legal practitioners.
7 Pretty much that's it.

8 Q. And what percentage of your consulting firm
9 deals with Intoxilyzer machines?

10 A. Probably 80 percent.

11 Q. So if there was nothing wrong with the
12 Intoxilyzer machine 80 percent of your income that
13 you got from your consulting firm would be gone?

14 A. No, not at all.

15 Q. Okay. So would it be in your best
16 interest, then, that these machines don't work?

17 A. No, not necessarily at all. There are many
18 cases in different states I'll consult on and issue
19 reports where rules were complied with or the
20 evidential breath test was a valid test, so not
21 necessarily, no.

22 Q. Okay. And are you associated in any way
23 with the Florida Association of Criminal Defense
24 Attorneys?

25 A. No, I'm not a member or -- No.

1 Q. And how about the national association?

2 A. No.

3 Q. Okay. And moving to the actual hole issue.
4 You were actually present at the time that the hole
5 was drilled?

6 A. I was.

7 Q. And you were with Mr. Roger Skipper?

8 A. I was.

9 Q. And at the time you were both employed with
10 FDLE?

11 A. We were.

12 Q. And did you make a phone call to Laura
13 Barfield?

14 A. No, Roger Skipper was the program manager
15 and he made the phone call and I was standing next to
16 him when he did so.

17 Q. Okay. And he let Laura Barfield, who was
18 the supervisor at that time, know about the hole, the
19 modification or update that was happening?

20 A. He did.

21 Q. Okay. The -- Part of the testimony, there
22 was a modification, the glue over the coils, were you
23 there for that?

24 A. I was not.

25 Q. Was Roger Skipper there for that?

1 A. I don't know.

2 Q. Okay. Were you there for any of the
3 modifications that we have written notes for?

4 A. Yes.

5 Q. Which one?

6 A. Most of the modifications to the hardware of
7 the instrument that were done that week --

8 Q. Well, (inaudible) exhibits.

9 A. I'm sorry. I'd have to review all the
10 exhibits to determine which ones I was present.

11 Q. Okay. The ones (inaudible) just moments
12 ago.

13 A. So your question is was I physically present
14 when those modifications were made at CMI?

15 Q. Yes.

16 A. I don't know. Some of them I may have been.

17 Q. But you don't recall for sure?

18 A. I don't, no.

19 Q. Okay. And just for clarification, when was
20 the hole drilled?

21 A. August 2004.

22 Q. Okay. And you said there was a simulator
23 error; is that correct?

24 A. Multiple simulator errors, correct.

25 Q. Did you change the instrument that you were

1 using?

2 A. I believe we had two instruments on the
3 bench. We changed them both. We changed the
4 fittings, we changed the simulators, we changed the
5 hoses, we changed the solutions, we changed --

6 Q. Okay.

7 A. Yes.

8 Q. Did you do a dry gas test?

9 A. We did.

10 Q. Okay. And did you (inaudible) breath test?

11 A. Zero alcohol subject testing, yes.

12 Q. Okay. And you knew -- Obviously you were
13 there when the hole was drilled in 2004?

14 A. Yes.

15 Q. And between 2004 and 2010 you remained
16 employed with the Florida Department of Law
17 Enforcement?

18 A. I did.

19 Q. And you testified on behalf of the Florida
20 Department of Law Enforcement for the state?

21 A. For the state and defense, we were
22 subpoenaed by both sides, yes.

23 Q. Okay. And at that time did you testify in
24 court that the Intoxilyzer was in compliance?

25 A. Sometimes, yes.

1 Q. And did you also testify between 2004 and
2 2010 that the machine, the Intoxilyzer 8000 was
3 (inaudible)?

4 A. I did.

5 MS. FARALDO: No further questions, Your
6 Honor.

7 THE COURT: Mr. Gabriel?

8 MR. GABRIEL: I have no further questions,
9 Judge.

10 THE COURT: I have a couple questions.

11 THE WITNESS: Yes, Your Honor.

12 THE COURT: You gave some pretty extensive
13 testimony about evaluation, evaluation testing.

14 THE WITNESS: Yes, Your Honor.

15 THE COURT: In 2001 and 2002; right?

16 THE WITNESS: Yes, Your Honor.

17 THE COURT: And then you testified that the
18 instruments - the 8000 instrument became operational
19 with FDLE around 2006, did I get that right?

20 THE WITNESS: March 2006, yes, Your Honor.

21 THE COURT: Were there any evaluations
22 performed between 2004 and 2006 for approval
23 evaluations?

24 THE WITNESS: Approval evaluations, no, Your
25 Honor.

1 THE COURT: So the last approval evaluation
2 that was performed by FDLE was in 2002, according to
3 your testimony?

4 THE WITNESS: That is correct, Your Honor.

5 THE COURT: Okay.

6 THE WITNESS: Unless they've done one since
7 my departure, since 2010, but between --

8 THE COURT: After you observed the drilling
9 of the hole, what kind of evaluations were done at
10 CMI in your presence to determine whether it
11 corrected the problem?

12 THE WITNESS: We continued using simulator
13 testing with the target values at different
14 concentrations similar to the testing that we did
15 before the drilling of the hole where it was running
16 two hundredths low, we repeated those testings after
17 the hole was drilled with the same simulator
18 testings.

19 THE COURT: And how did those tests that
20 you ran after the hole was drilled compare to the
21 Form 34 testing requirements?

22 THE WITNESS: Very similar testing, but the
23 procedure was not followed. I mean, we were doing
24 research and evaluation, not an evaluation study.
25 We did not complete Form 34, but we were doing

1 simulator testing.

2 THE COURT: What were the differences?

3 THE WITNESS: The differences is on Form 34
4 required 50 repetitive tests back to back at specific
5 concentrations. I don't believe we did the 50 back
6 to back. We were doing very targeted tests. We
7 would do ten in a row to evaluate. The purpose was
8 for debugging and finalization of software. So we
9 would run tests and scenarios, CMI engineers would
10 change software, we'd go back, insure that the
11 changes we asked for were made and it was more of a
12 debugging process that week.

13 THE COURT: Were there any other
14 differences in what you did after the drilling of the
15 hole and what would be required in Form 34, other
16 than the number of tests that you ran?

17 THE WITNESS: The number of tests, the
18 specific alcohol concentrations, we may not have done
19 them all, and we did a lot more scenario testing and
20 debugging testing than Form 34 would require.

21 THE COURT: And what was the purpose of
22 that?

23 THE WITNESS: We were finalizing software to
24 meet the requirements of Florida statute and Florida
25 rule requirements, meaning the development of the

1 forms, the development of the affidavit, the
2 development of user input questions, those things.
3 We were taking the instrument from a generic CMI
4 instrument and personalizing it, for lack of a better
5 term, to the Florida requirements. So there was a
6 lot of back and forth with, at the time, Brian
7 Faulkner, who was the software engineer.

8 THE COURT: All right, thank you.

9 Mr. Gabriel, do you have any questions as a
10 result of the Court's questions?

11 MR. GABRIEL: Briefly, Judge.

12 REDIRECT EXAMINATION

13 BY MR. GABRIEL:

14 Q. Matt, you were doing the testing in 2004
15 after it had been - the hole was drilled?

16 A. Yes.

17 Q. Were you utilizing any of the procedures -
18 I know you testified you were not utilizing the
19 procedures for FDLE Form 34 - were you utilizing the
20 procedures to be utilized according to Federal
21 regulation DOT --

22 A. No.

23 Q. You would agree with me that those standards
24 are even more involved than FDLE standards?

25 A. They have other testing that FDLE does not

1 do, that is correct.

2 Q. And, again, for the record, you didn't
3 utilize any of those?

4 A. No.

5 MR. GABRIEL: That's all the questions I
6 have, Judge.

7 THE COURT: Ms. Faraldo, do you have any
8 questions as a result of the Court's questions?

9 MS. FARALDO: No, Your Honor.

10 THE COURT: All right, you may step down.

11 THE WITNESS: Thank you, Your Honor.

12 THE COURT: Mr. Gabriel, do you have any
13 other witnesses?

14 MR. GABRIEL: No, Judge.

15 THE COURT: All right. Does the State have
16 any witnesses?

17 MS. FARALDO: Yes, Your Honor. The State
18 will be calling Ms. Barfield. The State would like a
19 few moments to confer with her about Mr. Malhiot's
20 testimony before I proceed.

21 THE COURT: Sure. How much time do you
22 need? How much time do you need?

23 MS. FARALDO: About ten minutes, Your
24 Honor.

25 (Thereupon, there was a short break, after

1 which the following proceedings were had:)

2 THE COURT: All right. Ms. Barfield, do
3 you want to come up and have a seat, please, and be
4 sworn.

5 THE CLERK: Do you solemnly swear the
6 testimony you are giving in the cause now and herein
7 shall be the truth, the whole truth, and nothing but
8 the truth so help you God?

9 MS. BARFIELD: I do.

10 THE COURT: Want to have a seat, please,
11 ma'am.

12 THEREUPON:

13 LAURA BARFIELD

14 was called as a witness by the State of Florida,
15 and after being first duly sworn was examined and
16 testified as follows:

17 DIRECT EXAMINATION

18 BY MS. FARALDO:

19 Q. Ms. Barfield, would you tell us what you do
20 for a living?

21 A. I am the program manager with the Alcohol
22 Testing Program with the Florida Department of Law
23 Enforcement.

24 Q. Okay. And what do you do there?

25 A. I supervise the Alcohol Testing Program

1 members and insure they're performing the duties that
2 I assign.

3 I'm responsible for the creation and
4 revision of Chapter 11D-8 which are the rules
5 governing blood and breath alcohol analysis. I
6 certify or permit all test operators, agency
7 inspectors, breath test instructors and blood
8 analysts to perform their respective duties in
9 Florida.

10 I create and revise the curriculum used to
11 train breath test operators and agency inspectors and
12 breath test instructors.

13 I am responsible for proficiency testing the
14 blood analysts to insure compliance and issuance of
15 certifications to perform blood alcohol analyses.

16 I approve alcohol reference solutions for
17 use in evidentiary breath test instruments in
18 Florida. Prepare and distribute the stop solutions
19 used to check evidence for breath test instruments in
20 Florida. The records custodian for the Alcohol
21 Testing Program and responsible for insuring public
22 records request are timely responded to.

23 I testify in court all over the State of
24 Florida in topics such as the Intoxilyzer 8000, the
25 Intoxilyzer 5000, breath alcohol testing, blood

1 alcohol testing, gas chromatography, infrared
2 spectroscopy which is also called infrared light
3 absorption, alcohol reference solutions, FDLE's
4 interpretation of Chapter 11D-8, retrograde
5 extrapolations, medical blood conversions.

6 Those are most of my job duties.

7 Q. Okay. And for how long have you been doing
8 this?

9 A. I've been with FDLE since December of 1994
10 where I was originally employed in the toxicology
11 section of the crime laboratory and I've been the
12 program manager with the Alcohol Testing Program
13 since July of 2001.

14 Q. And can you go over your educational
15 background and training you received (inaudible)?

16 A. I have a Bachelor's of Science in
17 Biochemistry that I received from Florida State
18 University in August of 1994. I have two and a half
19 years of training in forensic toxicology including
20 blood alcohol toxicology that I received from the
21 Florida Department of Law Enforcement and I am
22 certified in forensic toxicology by the Department of
23 Law Enforcement. I am certified by the manufacturer
24 CMI in the repair, calibration, operation, and
25 maintenance of the Intoxilyzer 5000 and the

1 Intoxilyzer 8000.

2 That covers most of them - most of my
3 training.

4 Q. Okay. And as far as continuing education,
5 do you attend conferences and training on a regular
6 basis?

7 A. Yes, I attend conferences. I present on
8 breath and blood alcohol testing issues and drugs of
9 abuse at conferences.

10 I'm a member of the International
11 Association for Chemical Testing. I was formerly
12 their Chairman of the Ethics Committee. I am a
13 member of the Technical Advisory Committee on DUI
14 enforcement and prosecution and was formerly the
15 Chair of the Breath Test Instrumentation Committee.

16 I am a certified lead technical assessor
17 with the American Society of Crime Laboratory
18 Directors, Laboratory Accreditation Board and my
19 responsibility there is to assess breath alcohol
20 calibration laboratories for meeting specific
21 standards for quality assurance and quality control
22 in conducting breath calibrations.

23 So that's more of my continuing education.

24 Q. Okay. And you are certified by CMI
25 specifically in the Intoxilyzer 8000?

1 A. Yes.

2 Q. Okay. And have you been called to testify
3 on the specific unit, the Intoxilyzer 8000?

4 A. Yes, I have.

5 Q. Okay. And you have been qualified as an
6 expert in other courts?

7 A. Yes.

8 Q. And I believe - have you been called as an
9 expert witness in this particular court?

10 A. I have been authorized to render opinions in
11 this court and in this county and I may have -
12 actually Monroe County I may have actually been
13 qualified, maybe not in this particular court but
14 within the county.

15 MS. FARALDO: At this time the State would
16 like to tender Ms. Barfield as an expert witness.

17 THE COURT: Same rules apply.

18 MS. FARALDO: Thank you, Your Honor.

19 BY MS. FARALDO:

20 Q. Okay. And do you test the reliability and
21 accuracy of the Intoxilyzer 8000?

22 A. That is the primary responsibility of the
23 Alcohol Testing Program.

24 Q. Okay. And are you aware of the hole that
25 we've been talking about all morning?

1 A. Yes.

2 Q. Okay. And can you tell the Court the
3 purpose of the hole and what it supposedly does?

4 A. It's purported purpose is to allow for
5 recirculation when you use simulators to allow for
6 leaks with your simulators where it will not impact
7 the leak in the simulator and allow the appropriate
8 or proper vapor concentration to get into the
9 instrument. That's the purported purpose.

10 Q. Okay. And which Intoxilyzers in Florida
11 have this particular update?

12 A. All of them.

13 Q. Okay. And were all of them done after they
14 were manufactured or are some comported - they were
15 born with the hole?

16 A. Yes. Some of the instruments in Florida
17 were purchased and delivered but not used for
18 evidence and came without the hole in the exhaust
19 port check valve. CMI, subsequent to the
20 engineering change notice in August of 2004, came to
21 Florida and drilled the hole in the check valve in
22 the instruments that did not have it, and I think
23 it's around Serial Number 900 or so instruments began
24 being what I called born with the hole, they were
25 made with the hole, and the rest of the instruments

1 used in Florida came that way.

2 Q. Okay. And so who puts the holes in these
3 particular machines?

4 A. CMI, the manufacturer, will.

5 Q. Okay. And you are - FDLE is aware of the
6 presence of the hole?

7 A. Yes.

8 Q. And can you tell us a little more where the
9 hole is in relation to the actual machine, the
10 instrument?

11 A. Well, it's in the exhaust port, a check
12 valve, and the check valve controls the flow of the
13 sample that's been presented to the instrument.
14 Depending on what is being analyzed, whether it's dry
15 gas standard or breath sample, the check valve will
16 open and exhaust that sample out into the air. If
17 it's a simulator the vapor will be recirculated from
18 the simulator back to the simulator and the check
19 valve will remain closed so that that will happen.
20 By having the check value remain closed the vapor
21 travels not out of the instrument, but back to the
22 simulators. So it's routing of the vapor sample.
23 That's what it's responsible for.

24 Q. Okay.

25 A. It's after the analysis of the sample is

1 where this particular piece is located. So whatever
2 sample is being analyzed, it's analyzed and then it
3 travels through this particular check valve.

4 Q. And is that the simulator sample or is
5 that --

6 A. It's all samples.

7 Q. Okay.

8 A. Simulator, dry gas, or breath.

9 Q. So -- Is it easily accessible from the
10 outside of the machine, like you can see it, or how
11 would you actually be able to actually see the hole
12 in the machine?

13 A. You'd have to take the instrument apart.
14 You'd have to open the top cover and remove the
15 sample chamber and then remove a metal plate that has
16 four screws attached to it, take that off in order to
17 see the check valve in the instrument. So you would
18 have to disassemble the instrument.

19 Q. So not -- An everyday person couldn't go
20 for this modification, someone with training or
21 expertise would have to go and make the modification?

22 A. Well, yes, because you would have to have
23 knowledge of the instrument, but the rule only allows
24 that the manufacturer or their authorized repair
25 facilities make - access the instrument. So, not

1 anyone could open up the instrument and do this by
2 rule either. You have to be an authorized repair
3 facility in order to open the instrument by rule.

4 Q. And despite the rules, once an instrument is
5 opened for whatever reason, what is the process then
6 to get that machine back into evidence?

7 A. It has to have a department inspection
8 conducted on it.

9 Q. Okay.

10 A. And then the agency would also have to
11 conduct an agency inspection prior to putting that
12 instrument back into evidentiary use.

13 Q. And is that for a machine that is already
14 online and in use?

15 A. Yes.

16 Q. Okay. And -- Now just going in general,
17 this update of the hole done by CMI was done in 2004;
18 is that correct?

19 A. Yes.

20 Q. And it talks a little bit about the kind of
21 research study evaluation and approval process. I
22 guess to start, can you explain to us the difference
23 between an evaluation and an approval?

24 A. Evaluations are conducted. An evaluation
25 will have a purpose. One of the purposes could be

1 the evaluation required for approval. The evaluation
2 does not approve the instrument.

3 Q. Okay.

4 A. The purpose of an evaluation could be to
5 look at the software which is required by rule.
6 Before a software version can be used for evidence in
7 Florida it has to be evaluated in accordance with
8 Form 34. So that would be the purpose on that. The
9 purpose could be because I want to look at using the
10 ethernet connection on the instrument. I'm not
11 required to do that, but that would be the purpose of
12 that evaluation.

13 So evaluations in accordance with Form 34
14 all have a different purpose, one of which would be
15 approval.

16 Q. Okay. And what was required under the
17 rules once this hole was drilled? What did FDLE have
18 to do by rule?

19 A. Nothing, the instrument wasn't being used
20 for evidence.

21 Q. And that was in 2004; correct?

22 A. August of 2004 the Intoxilyzer 8000 was not
23 being used for evidence in Florida.

24 Q. Okay. When did it finally go online and
25 start being used for evidence?

1 A. March 27th, 2006, which is the effective
2 date of the rule - the most current rule revision as
3 well.

4 Q. Okay. And since this update was done to
5 the Intoxilyzer 8000 how many tests have been done on
6 either research -- Let me back up. There's also
7 an evaluation and a research study; is that correct?

8 A. Correct.

9 Q. Can you explain to me what the difference
10 is?

11 A. Evaluations are done in accordance with and
12 as prescribed by Form 34, instrument evaluation
13 procedures. Research studies are authorized by Form
14 34, but will be additional procedures or additional
15 testing methods that are conducted in addition to the
16 steps on Form 34 and I'm required to record the
17 procedures followed and the results obtained.

18 Q. And so for an evaluation you go by the Rule
19 34?

20 A. Correct.

21 Q. And, so, for an actual evaluation all those
22 steps will be followed?

23 A. Correct.

24 Q. Okay. And in a research study you'll still
25 follow them, but -- What's the difference?

1 A. They won't be the steps on Form 34. There
2 is a particular numbered item on Form 34 that allows
3 additional testing for research purposes or quality
4 assurance purposes and it requires that I conduct -
5 record the procedures that are followed so that
6 everyone knows what I'm doing and the results
7 obtained and that will be reflected in a research
8 study and those are the different nomenclatures that
9 are used.

10 Q. Okay. So research studies are above and
11 beyond what's required?

12 A. Correct.

13 Q. And that's to insure - do quality testing
14 and insure accuracy and reliability?

15 A. Correct.

16 Q. Okay. And, to your knowledge, have you ever
17 done an evaluation and not adhered to Form 34?

18 A. No.

19 Q. Okay. Now, when you test for (inaudible)
20 the research study or evaluation or approval, do you
21 test the components or are you testing the entire
22 instrument?

23 A. It's the entire instrument as an analytical
24 testing system, from start to finish, does it work
25 with everything contained inside.

1 Q. Okay. So it doesn't matter what the change
2 is, you are still checking to make sure that the
3 entire machine is functioning the way it's supposed
4 to?

5 A. Correct.

6 Q. And that it's reliable?

7 A. Correct.

8 Q. Now, since this 2004 update, how many
9 research studies and evaluations have been done?

10 A. April '05 we did an evaluation, April of '05
11 I did two additional research studies, so that makes
12 three. December of 2005 I did an evaluation and
13 that's in accordance with Form 34. December 2005 I
14 did an additional research study. That makes five.
15 January of '06 I did an evaluation and a research
16 study. July of '06, an evaluation and a research
17 study. August of '06, an evaluation and a research
18 study. October of '06 I did an evaluation and a
19 research study. May of 2010 I did an evaluation and
20 a research study. January of 2007 I did a research
21 study. October of 2011 I did a research study. In
22 July of 2012 I did a research study. So 18
23 different evaluations and research studies have been
24 conducted, evaluations or research studies, I will
25 say.

1 Q. Okay. And all these instruments had this
2 particular hole?

3 A. Yes.

4 Q. And everyone at FDLE was there, that was
5 allowed to be there. It was a non-conforming
6 (Inaudible) research and evaluations?

7 A. The instruments that we were evaluating in
8 2005, we began using Instruments Serial Numbers
9 80-001173, 1175, and sometimes 1181. All of those
10 instruments were born with or had the hole when we
11 got them. It was not a change at that point.

12 Q. Okay. And you did a May - July 2012 study,
13 is that correct, or evaluation?

14 A. It was a research study.

15 Q. Okay. And what was the purpose of that
16 study?

17 A. Well, I followed the analytical steps from
18 Form 34, meaning the analytical testing that's
19 required by that form, but it is not an evaluation
20 because not all of the steps were followed, and I
21 showed that - an instrument that contained a hole in
22 the check valve and the testing conducted on that
23 versus an instrument that I conducted testing that
24 did not have a hole in the check valve that the
25 results met the specifications required by Form 34

1 for those tests.

2 So essentially I'm testing an instrument
3 without a hole and an instrument with a hole in the
4 exhaust port check valve and the results were the
5 same.

6 Q. And aside from the Florida Department of Law
7 Enforcement has anyone else conducted exams since
8 2004 on the Intoxilyzer 8000 the way Florida uses it?

9 A. Yes, the Department of Transportation and an
10 independent company that I had do the October 2011
11 research study, Drug and Alcohol Research, conducted
12 testing using the Intoxilyzer 8000.

13 Q. Can you tell us about -- Well, first, the
14 2007 study done by the U.S. Department of
15 Transportation, did that particular machine have the
16 hole that we've talked about today?

17 A. Both of those instruments had the hole.

18 Q. Okay. And what were the results, what
19 happened with that '07 DOT examination of the
20 machine?

21 A. The report that's in evidence, the 2007
22 report, it shows that it met their specifications,
23 their analytical testing requirements.

24 Q. Okay. I just asked you a little bit about -
25 there's a product - or approved products list. Is

1 that the correct (inaudible) Federal government?

2 A. The conforming products list of evidentiary
3 breath test devices or something like that it's
4 called, yes. It's commonly referred to as the
5 conforming products list.

6 Q. Okay. And there was something else that we
7 were talking about today that is almost directly
8 (inaudible), we were talking about certain rules to
9 modifications, what the Federal government applies.
10 Does that apply to Florida?

11 A. No, those -- What's been talked about
12 aren't rules, those are notices. They're notices of
13 procedures that are followed, but they are not rules.
14 There is something that the Department of
15 Transportation has to follow or what they do as far
16 as testing with breath devices, but it has nothing to
17 do with Florida.

18 Q. Okay. And going back, Drug and Alcohol
19 Research - they did an evaluation of some kind on the
20 Intoxilyzer 8000?

21 A. They did a research study.

22 Q. Okay. And can you tell us about what came
23 out of that?

24 A. Well, that was a study that was conducted to
25 show that the calibration at the flow sensor in the

1 Intoxilyzer 8000 did not affect the calculation of
2 breath alcohol results, it did not affect the
3 Breathalyzer results, and there were three
4 Intoxilyzer 8000s that were used, all of which had
5 the hole in them, and one had the flow calibration -
6 flow sensor calibrated low, one had it calibrated
7 high and one had it calibrated properly, and the
8 subjects were dosed with alcohol and were required to
9 submit to breath tests on each of those instruments
10 and then had venous blood drawn and we had the venous
11 blood analyzed by the University of Miami and it
12 showed that the flow sensor calibration has no effect
13 on breath alcohol test results.

14 Q. Okay. There was also some talk about
15 reports that have come out since 2005 and that the
16 hole isn't listed in these reports. Is there a
17 reason for that?

18 A. I just --

19 (Thereupon, the digital recording had a
20 pause or error after which the following proceedings
21 were had:)

22 THE WITNESS: I was more worried about them.

23 THE COURT: That means that one more
24 tourists turned on an air conditioner too many.

25 A. I don't remember what your question was.

1 BY MS. FARALDO:

2 Q. That's okay. I don't remember if you
3 answered it or not.

4 We were talking about (inaudible) 2005 and
5 the way that you guys kind of presented it is there
6 is no hole listed. Why is that?

7 A. I just didn't -- There's several things
8 that aren't listed. The quick disconnects that are
9 used on it now aren't listed either. I am in the
10 process of incorporating that information and
11 revising the reports so that it reflects it, so that
12 there is no confusion. And technically the rule
13 doesn't require me to evaluate these changes anyway.
14 I'm simply doing it as an extra quality assurance
15 step trying to evaluate the different updates to the
16 instrument to simply show the public, the defense
17 community that was brought up, the judges, whoever
18 wants to know, that it doesn't affect it.

19 The rule does require or does state that the
20 department inspection that's conducted when an
21 instrument is returned from repair or when it's
22 registered, it's conducted annually, that validates
23 the approval of the - the approval and the accuracy
24 and reliability of each - each instrument to be used
25 for evidence, and that is now what covers any changes

1 to the instrument to show it doesn't affect it
2 instead of its written notification that I really
3 can't - don't have the authority to make them notify
4 me, and the evaluation, the formal evaluations that
5 occur.

6 Q. When did the written notification - when
7 did that change?

8 A. December of 2004.

9 Q. Okay. And the defense motion specifically
10 alleges that FDLE tried to hide this particular
11 update. Is there any truth to that?

12 A. No.

13 Q. Okay. And just to (inaudible) all of the
14 machines in the State of Florida have (inaudible)
15 hole?

16 A. Yes.

17 Q. And they're in compliance with the rules?

18 A. Yes.

19 Q. Okay.

20 A. Well, those that are being used for evidence
21 would be in compliance with the rule.

22 Q. Okay. So the ones that the people are
23 actually blowing into are in compliance? People who
24 are getting pulled over and having their sample
25 actually tested for possible use in evidence, those

1 machines are in compliance?

2 A. They would be in compliance with the rules,
3 yes.

4 Q. And I think we went over this already, but
5 to clarify, it was approximately two years after the
6 hole was drilled into the machine that the breath
7 machine gets put into use or goes online for
8 evidence?

9 A. Yeah, about a year and a half, not quite two
10 years.

11 Q. Okay. All right. And none of these
12 machines have been used (Inaudible) about ten years.
13 Have there been other updates or modifications?

14 A. Yes.

15 Q. And do every single one of them warrant a
16 full hearing like we're having today, (inaudible)
17 hole and how does the hole relate in relation to
18 those?

19 THE COURT: Ms. Faraldo, I think you need
20 to restate that question again. You have about four
21 questions in there.

22 MS. FARALDO: I apologize, Your Honor.

23 BY MS. FARALDO:

24 Q. The Intoxilyzer machine, is it an ongoing
25 process to making sure of its accuracy and quality

1 assurance and stuff like that?

2 A. Yes. The rules do require and do
3 contemplate that it's tested monthly. It's tested
4 with each test to show that it's reliable and it's
5 tested each year by FDLE, so it's an ongoing quality
6 assurance process.

7 Q. And is there a reapproval process?

8 A. No. The statute does not afford a
9 reapproval process, first of all. The statutory
10 authority that you must have in order to write rules
11 states that the Alcohol Testing Program has the
12 authority to approve or disapprove, but not
13 reapprove. There is no purpose for reapproving.
14 It's either approved and in compliance or it's not
15 approved. That would be listed in the rule. If
16 the instrument is listed in the rule it's approved.
17 If it's not listed in the rule it's not approved or
18 disapproved.

19 Q. Okay. And once it goes (inaudible), once it
20 goes online did the - I know you spoke to this, I
21 just want to make sure I understand, did the rule
22 require an evaluation of the change?

23 A. No.

24 Q. Okay.

25 A. Although it has been evaluated, it was not

1 required.

2 Q. Okay. And once -- Can you just walk us
3 through -- Once an instrument is approved, what
4 happens from there? Like what --

5 A. It must be inspected each year by the
6 department, which is called the department
7 inspection, which validates the approval, accuracy,
8 and reliability of that particular instrument. The
9 instrument has to be registered so that we can be
10 accountable for it. It has to have -- If it's in
11 evidentiary use it has to be inspected by the agency
12 at least once each calendar month.

13 There's a prescribed set of testing
14 procedures that insure the reliability of the breath
15 test itself and those are what keeps the test results
16 from that particular instrument to show that it's
17 accurate and reliable, and that's what's required.

18 MS. FARALDO: Okay. I would like to mark
19 what will be State's Exhibit A or 1, whichever the
20 Court refers.

21 THE COURT: It's A for now.

22 Have you seen this document, Mr. Gabriel?

23 MR. GABRIEL: I think I have.

24 THE COURT: Attached to the affidavit?

25 MS. FARALDO: Yes (Inaudible).

1 MR. GABRIEL: (Inaudible).

2 MS. FARALDO: May I approach?

3 THE COURT: Sure.

4 BY MS. FARALDO:

5 Q. Ms. Barfield, can you just tell the Court
6 what (inaudible) Exhibit A?

7 A. This is an affidavit that I prepared that
8 discusses the Intoxilyzer 8000.

9 Q. Okay. And just past your affidavit what is
10 attached to that?

11 A. As referenced within the affidavit there are
12 attachments containing the registration for all
13 Monroe County breath testing instruments, Intoxilyzer
14 8000 breath testing instruments.

15 Q. Okay.

16 A. And the department inspections for each of
17 those instruments since we began doing department
18 inspections on them.

19 Q. There's one particular that has a yellow tab
20 next to it. Can you tell us what that is and the
21 serial number for that particular machine?

22 A. This is the registration of evidentiary
23 breath test instrument for the CMI, Inc. Intoxilyzer
24 8000 80-000868, the owner of which is Monroe County
25 Sheriff's Office, and the date of its registration

1 was January 11th, 2006. It is signed by me and it
2 states the above instrument is hereby approved for
3 evidentiary breath alcohol testing in the State of
4 Florida pursuant to Chapter 11D-8, Florida
5 Administrative Code and that the instrument and its
6 related records are subject to inspection at any time
7 by the Department of Law Enforcement.

8 MS. FARALDO: At this time the State would
9 request that this affidavit and the attachments be
10 moved into evidence.

11 MR. GABRIEL: Judge, I only have an
12 objection to the affidavit. As to the underlying
13 documents I don't have an objection to, but as to the
14 affidavit, we have Ms. Barfield here, I don't see --

15 THE COURT: I'm going to admit the exhibit,
16 but I'm not going to consider the affidavit --

17 MS. FARALDO: Thank you, Your Honor.

18 THE COURT: -- since she's here to testify.

19 MS. FARALDO: So I guess that will be
20 marked State Exhibit 1?

21 THE COURT: Uh-huh.

22 BY MS. FARALDO:

23 Q. Now, this registration of evidentiary breath
24 test instrument, what does that tell you about that
25 particular machine?

1 A. That Intoxilyzer 8000 80-000868 is an
2 approved breath test instrument to be used in the
3 State of Florida. I approved it. By rule you have
4 to have - an instrument has to be registered for use
5 in this state in order for it to be approved.

6 Q. Okay. And is there -- Just to clarify for
7 the record, there is a date when that machine was
8 certified for use?

9 A. Yes, January 11th, 2006.

10 Q. Now, I want to back up a little bit and
11 clarify something. I know when you started talking a
12 little bit about the DOT and the conforming products
13 list, I just want to make sure, for the record, the
14 DOT model specifications that we were talking about,
15 does FDLE or any of these machines under the rules
16 that the Florida Legislature has designated - do
17 these DOT model specifications have any effect - or
18 place any requirement on the machines (Inaudible)?

19 A. No, the model specifications are made by DOT
20 and I don't have - FDLE doesn't have the statutory
21 authority to delegate our authority to them, first of
22 all, so they have no effect on the Alcohol Testing
23 Program, the model specifications.

24 Q. Can you explain to the Court why (inaudible)
25 instrument used in Florida is on the conforming

1 products list?

2 A. When you are going to evaluate an instrument
3 for approval, which part of that form states -
4 there's a paragraph at the top before the section one
5 that was read, it states that we will only evaluate
6 instruments listed on a conforming products list of
7 devices to measure breath alcohol. That's a list
8 that states breath test instruments, by manufacture
9 and model, that the DOT has looked at. The purpose
10 of that particular rule is a quality assurance - is
11 for quality assurance.

12 Before I want to waste the time of the
13 Alcohol Testing Program or the resources of the
14 Alcohol Testing Program I want someone else to have
15 looked at it and say that it meets their requirements
16 for testing, that it's accurate and reliable, and
17 that's all that that particular requirement is for.

18 The requirement, though, is for it to be on
19 the conforming products list, not be in the model
20 specifications which --

21 (Thereupon, the digital recording had a
22 pause or error after which the following proceedings
23 were had:)

24 THE COURT: Go ahead.

25 A. -- which is not the model specifications,

1 it's simply a list of manufacturer and model.

2 Q. Okay.

3 THE COURT: They didn't warn you about the
4 lie detector test?

5 THE WITNESS: No.

6 THE COURT: I'm just kidding.

7 BY MS. FARALDO:

8 Q. If for whatever reason the DOT decides to
9 remove the Intoxilyzer 8000 (inaudible) its use in
10 the State of Florida?

11 A. No.

12 Q. Is there any ongoing requirement past that
13 point for the State of Florida Intoxilyzers with the
14 Federal - any Federal (Inaudible)?

15 A. No.

16 Q. Now, what is the Intoxilyzer 8000 - what
17 was its status with the conforming products list at
18 the time it was (Inaudible) approved?

19 A. At the time it was being - the evaluation
20 was being conducted, the purpose of which was to
21 ultimately approve the instrument, the Intoxilyzer
22 8000, manufactured by CMI, was on the conforming
23 products list. It had not yet been published, but it
24 did appear on the list.

25 THE COURT: Are you talking in 2001?

1 THE WITNESS: It went on their list in 2001
2 in accordance with the Department of Transportation.

3 BY MS. FARALDO:

4 Q. So -- Was it just an issue of publication?

5 A. Yes.

6 Q. Okay. And why is that? How is that?

7 A. The Federal Register is published or the
8 conforming products list is updated about once every
9 two years. So, when I went to look at evaluating the
10 Intoxilyzer 8000 I had a letter from the Department
11 of Transportation saying that it met their model
12 specifications and that it would appear on the next -
13 in the next publication, and that's exactly what
14 happened.

15 I did call them and ask them for
16 clarification, if an agency were to call you and ask
17 you is the Intoxilyzer 8000 on the conforming
18 products list, what would your answer be, their
19 answer was yes. And that, in consultation with my
20 legal advisor at the time as well, was meaning to us
21 that the Intoxilyzer 8000 appeared on the U.S.
22 Department of Transportation's conforming products
23 list.

24 Q. Okay. And (inaudible) Defense Exhibit
25 Number 27, does it say anywhere - can I approach,

1 Your Honor - can you tell me, this is Defense
2 Exhibit - this is 27. Does that give you any
3 indication that the Intoxilyzer 8000 was on the
4 conforming products list at the time that it was
5 being examined for approval in Florida?

6 A. Yes. Page 3 of Exhibit 27, the second full
7 paragraph, second sentence, the Intoxilyzer 8000 that
8 I tested in 2001 was placed on the conforming
9 products list at that time. It further corroborates
10 the information I had at the time that I evaluated
11 the Intoxilyzer 8000 for evidentiary use in Florida.

12 Q. Thank you. Now, in the defense motion there
13 are allegations that the results could be raised by
14 altering (Inaudible). Will you explain or clarify
15 that for the Court?

16 A. No, because my testing doesn't corroborate
17 that statement. When I tested an Intoxilyzer 8000
18 with a hole in the check valve versus an instrument
19 without a hole in the check valve the results were
20 exactly the same. Also, it was indicated in all of
21 the evaluations and research studies conducted before
22 the hole was put in the instrument and after the hole
23 was put in the instrument. So it does not
24 corroborate that.

25 Q. And that's in the 2005, 2006, 2007, 2010,

1 2011, 2012 studies, evaluation and research studies?

2 A. Correct.

3 Q. Okay. In the motion there's also - they
4 talk about the alteration of a screw valve. Can you
5 explain that?

6 A. It's not a screw valve, it's a screw. It's
7 a screw that holds the exhaust port check valve
8 assembly, meaning its holder, in place, and if you
9 were to look at the assembly, it's a piece of plastic
10 that has a lip that the check valve that has the hole
11 in it sits in. That is seated in the instrument and
12 there's a screw to hold it in place and it goes -
13 the screw will screw right in over the lip of the
14 check valve assembly and it was a six millimeter in
15 length screw that slightly poked out and possibly
16 could affect the check valve moving up or down so CMI
17 changed it to be a five millimeter screw, meaning one
18 millimeter less, so that it still seats over the lip
19 of the check valve assembly, but does not go over
20 into where the check valve moves up and down.

21 That was evaluated beginning in all of the
22 evaluation and research studies starting in July of
23 '06.

24 So everything I listed from July '06 to the
25 present, that shorter screw also has been evaluated.

1 Q. And did that change affect the accuracy or
2 reliability of the Intoxilyzer 8000?

3 A. No, the instruments, when we were evaluating
4 them with the longer screw or the shorter screw, both
5 produced the - was accurate and reliable result.

6 Q. There is reference to multiple cases in the
7 motion. I believe you are familiar with them, the
8 '92 Flood case, and then '88 Polak case. Is that
9 correct? Are you familiar with those?

10 A. Yes.

11 Q. Okay. Can you tell us how that particular
12 issue is different from the case we're arguing today?

13 A. Well, it dealt with the Intoximeter 3000
14 which is a breath test instrument that had a dual
15 methodology. It used infrared and it used fuel cell
16 or electrochemical. And agencies were drilling a
17 hole in the fuel cell portion of that methodology to
18 deactivate it and that was a change in the
19 instrument's method of operation and it was ruled
20 back then that that was a substantial modification
21 that required reapproval which even back then there
22 was no such thing as reapproval, but it did affect
23 the method of administration or the method that the
24 instrument used and the rules back then required that
25 the department evaluate it, and even at the time of

1 those cases that was still in the rule, that they had
2 to evaluate it, and it was never evaluated, and
3 that's basically what those cases deal with.

4 Q. Do the updates that we talked about today,
5 do they change the method and analysis of the
6 operation of the Intoxilyzer 8000?

7 A. No, the Intoxilyzer 8000 uses infrared light
8 absorption or infrared spectroscopy and putting a
9 hole in the exhaust port check valve has nothing to
10 do with its method of analysis.

11 Q. Okay.

12 MS. FARALDO: Just give me one moment.

13 BY MS. FARALDO:

14 Q. Moving to the rule that we were talking
15 about earlier, who writes those rules?

16 THE COURT: Who what?

17 MS. FARALDO: Who writes those rules, the
18 rules that we were talking about today that govern
19 the Intoxilyzer 8000.

20 A. I do and assistants from the Alcohol Testing
21 Program and a legal advisor.

22 Q. And what's the purpose of those rules?

23 A. To insure the accuracy and reliability of
24 blood and breath alcohol testing results.

25 Q. Okay. And FDLE gets authorization to write

1 those rules from where?

2 A. The Florida statutes, specifically
3 316.1932(1)(a)(2) outlines our specific authorities.
4 That similar language is also listed in sections of
5 322 and 327.

6 Q. Okay. And are the Intoxilyzers, in use for
7 evidence right now in the State of Florida, are they
8 in compliance with those rules?

9 A. In general, yes. To say specifically
10 that - every single one I might have issue with, but
11 in general, yes. The ones being used for evidence
12 would be in compliance with the rules unless
13 something was brought to my attention.

14 Q. And those rules, as you know them, are in
15 compliance with 316 - the Florida statute?

16 A. Yes.

17 Q. Okay. And if someone wanted to challenge
18 those rules is there - is there a (inaudible) to do
19 that?

20 A. Yes. Statute 120.56, I think, is the way
21 that a person can either challenge a new rule or an
22 existing rule.

23 MS. FARALDO: Your Honor, at this point
24 (Inaudible) but I think the Court is aware of that
25 process or would you like me to (Inaudible)?

1 THE COURT: I'm pretty familiar with it.

2 BY MS. FARALDO:

3 Q. In this particular case - just to kind of
4 close up - when a subject, in this case, the
5 Defendant, went to go sit at the Breathalyzer, at the
6 Intoxilyzer 8000 and give a sample, what happens?
7 Like what kind of information do we get from that?

8 A. Well, there's a prescribed testing sequence
9 that the operator has to follow that the subject has
10 to submit to and there's rule requirements
11 incorporated into that test sequence, but mainly the
12 instrument will conduct diagnostic tests checking its
13 internal workings and control test before and after
14 the subject breath samples to show that it's working
15 properly and then there are requirements of the
16 samples themselves. The results have to be within
17 .02 of each other and collected at least two minutes
18 apart.

19 Q. And you can see that on a breath alcohol
20 test affidavit, that information?

21 A. Yes.

22 MS. FARALDO: Okay. The State would like
23 to mark as Exhibit B the breath test affidavit for
24 Ms. Lindsay Ellis.

25 MR. GABRIEL: Judge, my objection to it is

1 relevancy. My motion is dealing with the instrument
2 as a whole, not one specific - Ms. Ellis' case, that
3 there's some issue with her instrument, it's dealing
4 with all of them. There is -- (inaudible)
5 relevancy to Ms. Lindsay's results, whatever they may
6 be. She gave a test on an 8000, that 8000 has a
7 hole in it and I'm making that challenge.

8 THE COURT: I just don't see the relevancy
9 to the issues before the Court at this time. I
10 understand where you are going, you want to show that
11 they were reliable and they were within .02 and all
12 that, but I don't think it's relevant to the issues
13 that Mr. Gabriel is raising, so I'm going to sustain
14 the objection.

15 MS. FARALDO: Your Honor, can I just have a
16 moment?

17 THE COURT: Sure.

18 BY MS. FARALDO:

19 Q. Ms. Barfield, just to address the issue of
20 the written notice, why was there no notice received
21 from (inaudible), received from CMI in relation to
22 this particular hole?

23 A. Well, we were notified verbally. Written
24 notice wasn't obtained -- The instrument wasn't in
25 evidentiary use and there wasn't a plan for when it

1 would go into evidentiary use, so it wasn't important
2 at that time, and then the rule changed, so it wasn't
3 important to have the notice.

4 Q. And when did the rule change?

5 A. In December of 2004 and the instrument was
6 evaluated with it in there. The instruments that
7 were evaluated were born that way. That's another
8 reason there was no notice, they came that way. So
9 it wasn't noticed in anything that they provided
10 after that.

11 Q. And in 2006 and 2011 and today was the
12 8000 - Intoxilyzer 8000 in compliance with all
13 governing rules and regulations (Inaudible) used for
14 evidence?

15 A. Yes.

16 Q. And to your knowledge, is the Intoxilyzer
17 8000 accurate and reliable?

18 A. Yes.

19 MS. FARALDO: I have no further questions of
20 Ms. Barfield.

21 THE COURT: Mr. Gabriel?

22 CROSS EXAMINATION

23 BY MR. GABRIEL:

24 Q. Ms. Barfield, some of your last testimony
25 was in regard to why was there a lack of notice. You

1 stated that it wasn't important, you stated that the
2 machine was not in use; correct?

3 A. I didn't hear the first part of your
4 question.

5 Q. In answering the second to last question you
6 just got done, you stated that giving notice pursuant
7 to the rule was not important, the machine was not in
8 evidentiary use; is that correct?

9 A. Well, if I said it wasn't important at the
10 time because the instrument was not in evidentiary
11 use - the whole sentence is important to say it that
12 way. I didn't just say oh, it's not important, it
13 wasn't in evidentiary use. It wasn't important at
14 that time because verbal notice had been given and
15 the instrument wasn't in evidentiary use at that
16 point in time.

17 Q. But the rules do not allow for that choice
18 to occur, right, to use verbal notice versus written
19 notice?

20 A. It does say written notice, I do agree with
21 that.

22 Q. So you would agree that -- As program
23 manager, how do you start to decipher when the
24 program violates the rules, when it's important and
25 when it's not?

1 A. The program didn't violate the rules.

2 Q. Well, the program did not get written
3 notice; correct?

4 A. We did not get written notice, no.

5 Q. And there was a change in the instrument?

6 A. In August of 2004 when the instrument was
7 not being used for evidence there was a change.

8 Q. Correct. Well, the rule doesn't talk about
9 let's divide up instruments that are being used and
10 instruments that are not, there's only one rule to
11 apply with evidentiary breath testing instruments;
12 correct?

13 A. Correct. No, there's several rules that
14 apply to evidentiary breath testing instruments, but
15 conceptually, yes.

16 Q. And in this case here the rule required,
17 prior to a change, written notice, which you
18 acknowledge did not occur?

19 A. Correct.

20 Q. So that's a rule violation of the rules?

21 A. For something that wasn't being used for
22 evidence, yes.

23 Q. Do you believe the rule anywhere says that
24 not getting written notice and making a modification
25 is okay if the instrument is not being used for

1 evidentiary breath testing at this time or something
2 to that nature?

3 A. Yes, I do believe that because when --

4 Q. Where do you find --

5 A. Let me finish my statement, please.

6 During that time we were in rule
7 promulgation to remove that particular option not
8 because of this hole, as you previously alluded to,
9 this was something that I did not have the statutory
10 authority to require, so it needed to be removed from
11 the rule. We were moving towards that, and so if you
12 look at the big picture at the time and the
13 instrument not being used for evidence, it was not
14 important at that time. Then the rule changed.

15 Q. Well, before you get to the rule change, you
16 had a lot to do with the rule being changed, it was
17 your rule being changed --

18 A. Correct.

19 Q. -- you were the navigator of that change,
20 changing that rule; right?

21 A. Not the sole navigator, but the primary one.

22 Q. It has always been your belief that there
23 should only be one approval study on this breath
24 testing instrument, the 8000, and everything else you
25 would just do through in-house evaluations; is that a

1 fair statement?

2 A. Correct, once it's approved it remains
3 approved until such time as I disapprove it, which is
4 what the statute says.

5 Q. I'm talking about your belief. Your belief
6 is there should only be one approval study; correct?

7 MS. FARALDO: Objection, relevance,
8 (Inaudible).

9 THE COURT: Overruled. You can answer,
10 please.

11 A. There is one approval -- There's one
12 evaluation for approval. Then the instrument is
13 either approved by incorporation by reference into
14 Chapter 11D-8 or it is not incorporated by reference
15 into Chapter 11D-8 and it is not approved.

16 BY MR. GABRIEL:

17 Q. Well, we've been talking a lot about
18 evaluations and Form 34 and the stuff you have to do
19 to have an evaluation. The question is, it could be
20 for an approval; right?

21 A. That's a purpose, yes.

22 Q. When you get something approved, the 8000
23 approved, there's also some other administrative
24 steps that you have to take?

25 A. Correct, I have to evaluate software used

1 with that instrument in accordance with Form 34
2 before it's used.

3 Q. You have to make written publication of a
4 rule change; correct?

5 A. That is not a rule requirement, that is a
6 statutory requirement. My rules don't say that that
7 has to be done is my point. That is a statutory
8 requirement required by Statute 120.

9 Q. You are familiar with the Intoxilyzers,
10 correct, 5000s and 8000s, both approved instruments
11 in the State of Florida, allegedly, right?

12 A. Yes. There are two approved breath testing
13 instruments in the State of Florida, yes.

14 Q. On the conforming products list would you
15 agree with me there's approximately six approved
16 5000s?

17 MS. FARALDO: Objection, Your Honor
18 (Inaudible).

19 THE COURT: Overruled.

20 A. I don't know how many. There are several
21 different Intoxilyzer 5000s listed, yes. I will
22 agree with that. I don't know if it's exactly six.

23 MR. GABRIEL: Judge, may I approach?

24 THE COURT: Sure.

25 MS. FARALDO: I'm sorry, what is that?

1 MR. GABRIEL: It will be Exhibit Number 85.

2 MS. FARALDO: 85?

3 MR. GABRIEL: 85 (inaudible).

4 THE COURT: Counsel, I don't have an 85. I
5 have up to 50.

6 MR. GABRIEL: 35. Copy of Federal Register
7 for 2007, December.

8 BY MR. GABRIEL:

9 Q. Can you tell me how many Intoxilyzer 5000s
10 are on the conforming products list, is it seven or
11 eight?

12 A. It's eight, which is not six.

13 Q. It's more. Now, some of those are software
14 version changes. You are familiar with them;
15 correct?

16 A. These are not software version changes.

17 Q. They're all hardware changes?

18 THE COURT: Your exhibit is 35 and your
19 packet is pretty thick. I have no idea what you got
20 there right now.

21 MR. GABRIEL: Judge, can I see that part of
22 the package and I'll direct you to it?

23 This page, at the bottom.

24 BY MR. GABRIEL:

25 Q. Some of them are - most of them are

1 hardware changes then? Modification --

2 A. I don't know.

3 Q. Differences -- You don't know what they
4 are?

5 A. No.

6 Q. But we use the Intoxilyzer 5000 as an
7 approved instrument in Florida?

8 A. No, the Intoxilyzer 5000 series is an
9 approved instrument in Florida.

10 Q. The series. What do you mean the series?

11 A. Some of them had recirculation and some of
12 them did not have recirculation.

13 Q. Okay. When did it change from 5000 - 5000
14 series, do you know that?

15 A. Not without looking at the rule I do not.

16 Q. Eventually there was a rule change to change
17 it from the 5000 because there are these different
18 modifications that were occurring to make it the
19 series of 5000 at FDLE; correct?

20 A. I don't know. It would not have been FDLE
21 I don't think. Maybe HRS.

22 Q. You would agree with me that when that
23 occurred it has to go through formal rule-making
24 process, correct, the APA, (inaudible), public
25 notice, publication?

1 A. I don't know.

2 Q. Do you know the procedure for when you
3 change an FDLE rule?

4 A. Yes.

5 Q. What is that?

6 A. In accordance with the Administrative
7 Procedures Act.

8 Q. Tell me the procedure. That's what I'm
9 wondering. They have to publish first, give so many
10 notices to interested parties, allow so many days to
11 go by for written in comments, all these steps are
12 correct; right?

13 A. You have to do a notice of rule - rule of
14 drafting.

15 Q. Right.

16 A. That has a hearing associated with it if
17 someone wants to have it. There's certain steps that
18 you have to do. That's where you are drafting your
19 rules. Then you have to go and do a notice of rule
20 making and it also has to have a public hearing.
21 Then you have to notify the interested parties at
22 that point in time. Then it has to be approved by
23 the cabinet several times, and then -- There's lots
24 and lots of steps that go on that I have nothing to
25 do with.

1 Q. Right. You would agree with me, though,
2 that if you want to change your rules, FDLE rules,
3 you have to go through that process to be legal?

4 A. Yes.

5 Q. Okay. And that's a lot of work, a lot of
6 extra work versus just doing an evaluation in-house;
7 right?

8 A. Not necessarily. Depends on what the
9 change is for. If you go through emergency rule
10 making then you don't go through all of those steps,
11 it depends on what you are doing.

12 Q. Well, in regard to the approval of the 8000
13 breath testing instrument there would be no emergency
14 to it; right?

15 A. I would think not, but maybe, you never
16 know.

17 Q. In all fairness, the Administrative
18 Procedures Act has a lot of steps that could be
19 characterized, frankly, a pain, that you would have
20 to go through in order to change rules; correct?

21 A. That would be your language.

22 Q. A lot of steps then?

23 A. There are a lot of steps that go to changing
24 your rules, yes.

25 Q. Is that the reason why, when there's been

1 modifications to the instrument, you are not going
2 through rule making, you are going through the
3 evaluation process, you are not doing the formal
4 approval process?

5 A. I'm not required to do either.

6 Q. I didn't ask you if you are required, I
7 asked you motive. Why is the Florida Department of
8 Law Enforcement --

9 MS. FARALDO: Objection, Your Honor,
10 relevance, (Inaudible) was actually required.

11 THE COURT: She can answer if she knows.
12 Overruled.

13 BY MR. GABRIEL:

14 Q. Why does the Florida Department of Law
15 Enforcement appear to have a motive that I only want
16 to do one approval study and everything else done
17 in-house the easy way without all the steps of the
18 APA?

19 THE COURT: Mr. Gabriel, I'm afraid you are
20 going to have to rephrase the question because you
21 changed it from when I overruled. Your question was
22 why does it appear that FDLE has a motive. I don't
23 know if they have a motive. Maybe you need to
24 rephrase it.

25 BY MR. GABRIEL:

1 Q. What is the FDLE's motive of only wanting
2 one approval study for Intoxilyzer 8000 and the rest
3 be done by an evaluation process?

4 A. Because you only approve the instrument
5 once.

6 Q. Did you get -- Did you ever have comments
7 from people that work with you in Florida Department
8 of Law Enforcement about, Ms. Barfield, we should be
9 doing a reapproval?

10 MS. FARALDO: Object, hearsay.

11 THE COURT: Overruled, she can answer.

12 A. No, not that I'm aware of. Not that I
13 remember.

14 BY MR. GABRIEL:

15 Q. Do you have any recollection of Matthew
16 telling you, now you are his boss at that time, that
17 in 2007 when you got the change of the software to
18 the 2007, to the 27 (inaudible), that just do another
19 reapproval and you solve a lot of problems, a formal
20 reapproval? Do you have any recollection of a
21 conversation like that?

22 A. Oh, about reapproving the instrument, yeah,
23 several times we talked about that. Now I know what
24 you are talking about now. Not with Mr. Malhiot, it
25 was more than just Mr. Malhiot, yes. Several times,

1 over several years, with attorneys actually, with
2 judges even.

3 Q. Okay. I agree. And you stood firm in your
4 position that I wish not to do that for certain
5 reasons; correct?

6 A. I don't need to do that because it's already
7 approved.

8 Q. You testified earlier that the Florida
9 statute that gives you the authority to enact rules
10 has one provision that deals with the approval or
11 disapproval of instruments?

12 A. Correct.

13 Q. Is it your statement here, as the head of
14 the Florida Department of Law Enforcement, Alcohol
15 Testing Program, that that statute does not allow the
16 department to do any reapproval of a modified
17 instrument?

18 A. Yes. Nowhere does it contemplate or use the
19 word reapproved. It's not approved, disapproved or
20 reapproved, it's approved or disapproved.

21 Q. That's not my question. My question is, is
22 it the head of Florida Department of Law Enforcement,
23 Alcohol Testing Program's position that Florida
24 statute does not give you the authority to do it?

25 A. At this point in time, yes, unless otherwise

1 told, yes.

2 Q. Otherwise told by?

3 A. My legal advisor. I'm not an attorney.

4 That's my interpretation of that statute, approve or
5 disapprove.

6 Q. Okay.

7 A. It's not a legal interpretation because I'm
8 not a lawyer or a judge.

9 Q. You talk about the fact that there is a
10 procedure for rule issues to go through the
11 Administrative Procedures Act, correct, challenges to
12 the rules?

13 A. Yes, Statute 120.56, I believe.

14 Q. Right. And a person interested, such as,
15 let's say, myself could file a petition?

16 A. A person who has standing is allowed to file
17 a rules challenge.

18 Q. Let me ask you the question this way. As
19 of today, have you been served with a petition that
20 my office filed versus - Mr. Vuong versus the Florida
21 Department of Law Enforcement?

22 MS. FARALDO: Objection.

23 THE COURT: Grounds?

24 MS. FARALDO: Relevance and (inaudible).

25 THE COURT: Sustained.

1 BY MR. GABRIEL:

2 Q. Do you know of any person challenging these
3 rules that we're talking about through the
4 administrative channels of DOAH, Department of
5 Administrative Hearings? Let me ask the question
6 again.

7 MS. FARALDO: Objection, (Inaudible)
8 relevance.

9 THE COURT: Mr. Gabriel, what does that have
10 to do with the hearing today?

11 MR. GABRIEL: Judge, the State opened the
12 door talking about the administrative challenge. I'm
13 trying to lay the (inaudible).

14 THE COURT: I'm going to sustain the
15 objection. I don't think it has any bearing on the
16 issue that we have before us today.

17 BY MR. GABRIEL:

18 Q. Your testimony was that since the machine,
19 the 8000, is not used for evidence is the reason that
20 you did not give notification; correct?

21 A. We weren't given notification in writing,
22 that's my testimony.

23 Q. That's not my question. You testified, do
24 you agree, that it was due to the fact that it was
25 not being used for evidentiary use was the reason why

1 you did not give written notification?

2 A. No, that's not what I testified to. I said
3 it wasn't important at the time because we weren't
4 using the instrument for evidence and we were not
5 notified in writing. We --

6 Q. I apologize. Once it started becoming used
7 for evidence in 2006 did you ever put anybody, the
8 public, on notice that there was a change in the
9 instrument with a hole being drilled because a breath
10 testing instrument was leaking?

11 A. No, because that's not the reason why the
12 hole was put in the instrument, so I would have never
13 put that in writing, but with that said, no, I forgot
14 about the hole in the instrument, it was already
15 evaluated and all of the instruments contained it and
16 it wasn't - there was no rule requirement that I
17 have that in writing or that I evaluate it, so at the
18 time of being used for evidence I evaluated the
19 software version 26 in accordance with Form 34, which
20 would have been the same procedures I would have done
21 if I was approving it and then we began using the
22 Intoxilyzer 8000 with that software version in March
23 of '06.

24 Q. So, when the Department of Transportation
25 asked you specifically hardware changes why did you

1 leave it out?

2 A. I gave the Department of Transportation the
3 information I had. I don't have all of the hardware
4 changes. I also, on the phone, directed Mr. Conde to
5 talk to CMI, but I didn't even think about the hole
6 in the check valve.

7 Q. So you forgot?

8 A. Yes.

9 Q. Until some former employee of yours let the
10 cat out of the bag, so to say?

11 A. If that's what you want to call it, that's
12 fine.

13 Q. Well, I'm wondering why the Florida
14 Department of Law Enforcement doesn't disclose things
15 when they have a statutory obligation to do
16 something?

17 MS. FARALDO: Objection, argumentative.

18 THE COURT: Sustained.

19 BY MR. GABRIEL:

20 Q. Is there a reason for not giving
21 notification at these different intervals I'm talking
22 about, prior to the change of drilling the hole, when
23 you talked to Ed Conde with DOT testing, when you did
24 19 studies - let's just back it up and say 18
25 studies, why there's no written report until this

1 litigation begins about a hole ever in boxes of
2 documents?

3 A. Because I had forgotten about the hole being
4 put in the check valve.

5 Q. Do you know whether or not FDLE rules allow
6 for forgetfulness?

7 MS. FARALDO: Objection, Your Honor,
8 argumentative.

9 THE COURT: Sustained.

10 BY MR. GABRIEL:

11 Q. There's been a lot of questions about the
12 Department of Transportation and the guidelines.
13 You're familiar with those guidelines; correct?

14 A. I am.

15 Q. And in order for this instrument to be on
16 the CPL, conforming products list, or as a result of
17 it being on the CPL are there any Federal funds
18 coming to FDLE?

19 A. No.

20 Q. For the purchase of that instrument, the
21 8000?

22 A. No.

23 Q. How did the Florida Department of Law
24 Enforcement gather the money? They got a grant;
25 right?

1 A. Byrne and Grant Residual Fund, yes.

2 Q. You said DOT -- When the State was asking
3 you, the DOT evaluation really is not relevant
4 because it doesn't apply to you?

5 A. Correct, what they do does not apply to me
6 or to the State of Florida.

7 Q. Yet we have you, in 2004, spending
8 taxpayers' money asking the Florida - excuse me,
9 asking the Department of Transportation for a special
10 evaluation of the Intoxilyzer 8000 with two different
11 software versions in it; correct?

12 A. Not in 2004, incorrect.

13 Q. I apologize, 2007, you are right. 2007.

14 A. I did not ask alone for the evaluation of
15 the DOT - of the 8000 by the DOT and it wasn't for
16 the reasons that have been testified to earlier.

17 The reason that the testing was asked for as
18 far as 2007 testing is because there was litigation
19 going on in Seminole County in Florida where the
20 claim was that the Intoxilyzer 8000 wasn't on the
21 conforming products list because it didn't list
22 software version 26 and 27 on the conforming products
23 list, which is not the purpose of the conforming
24 products list, but to appease that court I requested
25 to have two instruments looked at by the Department

1 of Transportation which they weren't going to do at
2 first and then did look at. So they weren't even
3 looking at it for the reasons that have been
4 purported to today.

5 Q. They were looking at it because there was an
6 issue with it; correct?

7 A. No.

8 Q. So you mean to tell me that switching from
9 26 to 27 in the software there weren't legal issues
10 being challenged throughout the State of Florida?

11 A. There were legal issues that had nothing to
12 do with my request of the DOT.

13 Q. I didn't say it did, but those challenges
14 had to deal with volumes, volume issues in the
15 software; right?

16 A. No, not volume issues, the reporting of a
17 message that dealt with volume, but not volume
18 issues.

19 Q. Okay. The reporting of when volume problems
20 occurred?

21 A. When volume wasn't met on a unique scenario
22 that the judge is familiar with, yes.

23 THE COURT: That was the last time you
24 testified, right?

25 THE WITNESS: Yes, sir.

1 BY MR. GABRIEL:

2 Q. So, the Department of Law Enforcement has
3 utilized the Department of Transportation Volpe Labs
4 in 2001 and in 2007; right?

5 A. No. No. That's incorrect.

6 Q. So, again, you are saying in 2007 you didn't
7 ask for that study?

8 A. In 2007 I did, but it had nothing to do with
9 2001.

10 Q. CMI sent the instrument to get it initially
11 on the conforming products list; right?

12 A. Correct, but I had nothing to do with that.

13 Q. You're right, I apologize.

14 THE COURT: Mr. Gabriel, I think we are
15 going to go ahead and break at this point. Come back
16 at one, okay.

17 Okay, we'll be in recess until one, thanks.

18 (Thereupon, there was a lunch break from
19 12:00 p.m. until 1:02 p.m. after which the following
20 proceedings were had:)

21 THE COURT: All right, Mr. Gabriel.

22 MR. GABRIEL: Thank you.

23 BY MR. GABRIEL:

24 Q. Ms. Barfield, according to 11D-803
25 Subparagraph 5, the 2002 issue -- You are familiar

1 with that rule, we've been talking a lot about it?

2 A. Well, it's 11D-8.003.

3 Q. Okay. Subparagraph 5, makes a statement
4 that the department shall evaluate such modifications
5 or options to an approved breath test instrument and
6 determine whether they affect the instrument's method
7 of analysis or analytical reliability; correct?

8 A. That is what is stated. That's part of
9 that rule.

10 Q. I understand. The first part above it is
11 that the manufacturer whose instrument has been
12 previously approved by the department shall notify
13 the department in writing prior to making any
14 modification or adding a new option to such
15 instrument; correct?

16 A. Correct.

17 Q. In this case here would you agree with me
18 there's been lots of testimony of all the different
19 evaluations, the one approval study, and then
20 research studies done by FDLE; correct? I think you
21 said there was 18 or 19 of them.

22 A. After 2005, yes.

23 Q. Even before 2005 we've talked about -
24 you've heard the testimony and my questions to Mr.
25 Malhiot about other ones; correct?

1 A. Yes.

2 Q. As far as you know, is there any evaluation
3 that was ever done in accordance with rule - excuse
4 me, Form 34 for the issue of the hole --

5 A. Yes.

6 Q. -- that specifically has stated in its
7 purpose this is to determine the hole in the purge
8 valve?

9 A. Yes.

10 Q. What study would that be?

11 A. Starting in April of 2005, which I have
12 finished my revision to that report that states that
13 it was for the hole.

14 Q. Okay.

15 A. I have not finished --

16 Q. What you are saying --

17 A. -- the research study revisions or
18 amendment to those reports yet.

19 Q. What you are doing now is, since this issue
20 has come up, you have - you are going and changing
21 your report, is that what you are saying?

22 A. I'm amending my reports. I additionally
23 went to CMI in May of 2012, looked at every change
24 notice from 2004 on and I'm incorporating anything
25 that has been evaluated into the reports.

1 Q. After the fact? Well after the fact?

2 A. Yes.

3 Q. Do you think that that's the way that FDLE
4 wants to have done their reports and their
5 research --

6 A. Of course not, of course not, but that is
7 going to be my remedy and my remedy in the future
8 will be procedurally implemented as well so that we
9 don't have to keep doing this.

10 Q. Is that a different remedy?

11 A. It's an internal procedure that I'm going to
12 implement.

13 Q. What is that?

14 A. Oh, what is it?

15 Q. Yes.

16 A. I plan to go to CMI every year and look at
17 every change notice from the point that I stopped to
18 the point that I've gone to, evaluate it, if I
19 haven't, and put it in writing, even though I don't
20 have to do all of that, to try to save from having to
21 do what we're going through now.

22 Q. I understand. So your new policy is going
23 to put the public on notice of any change that you
24 learn of through CMI? When you say putting it in
25 writing, that's putting the public on notice?

1 A. Well, it would be documented in writing so
2 the public would know, I suppose, anyone would know.
3 It's not anything that I haven't already done, it's
4 just a different way of keeping track of it and
5 noting it better.

6 Q. Prior to this issue coming up, would it be a
7 fair statement that all of the evaluation studies
8 done according to Rule 34 were not for a stated
9 purpose of dealing with the hole? If you don't
10 understand my question I'll rephrase it for you.

11 A. The answer to that would be correct. They
12 were not -- They weren't specifically to look at
13 the hole, although they did.

14 Q. So, in essence, since it was testing a
15 simulator that went through that valve and air flowed
16 through there that's why you are reasoning to put it
17 into the reports now, after the fact?

18 A. Because it was done I will document that it
19 was done.

20 Q. Was there any specialized testing done
21 regarding it?

22 A. Yes.

23 Q. During those studies?

24 A. During 2002 - the 2012, excuse me, research
25 study which was specifically on this.

1 Q. Right. I'm talking about Rule 34 evaluation
2 pursuant to this rule, 11D-8.003, Subparagraph 5, you
3 have to have a Rule 34 procedure; correct?

4 A. No, that's incorrect, because that was in
5 2002, we're in 2012, I would be following the 2006
6 rules at this point in time.

7 Q. My question is in reference to the 2002
8 rules, at that point in time, when this change
9 occurred, the rules required a Rule 34 evaluation;
10 correct?

11 A. No.

12 Q. When the rule states the department shall
13 evaluate such modifications, how is that evaluation
14 done?

15 A. That doesn't mean -- The word evaluate
16 there is not talking about the Form 34 evaluation
17 procedures. Basically we will look at the change
18 and determine if we need to do analytical testing.
19 If we do need to do analytical testing we would do
20 analytical testing, but that word evaluate there is
21 more like determine, see what it is and determine if
22 we need to.

23 Q. I understand. The next subparagraph of
24 rule - of this rule is Paragraph 6 that states the
25 department shall conduct evaluations for approval

1 under Subsection 4 and 5 in accordance with
2 instrument evaluation procedures, Form 34.

3 A. Correct.

4 Q. So my --

5 A. If I were to do analytical testing I would
6 be following Form 34, but the rule doesn't
7 automatically say I have to. For example, the quick
8 disconnects added to the outside of the instrument
9 where the simulator connects to the instrument, if
10 that were a written change I would look at that to
11 see do I really need to do analytical testing on
12 this, the answer to that is no, it's this - the
13 connection outside the instrument. It has nothing
14 to do with the analytical method or testing.

15 Q. What about reliability, analytical
16 reliability?

17 A. No, it doesn't.

18 Q. So when the rule says that you should be
19 concerned with evaluations for method of analysis
20 change or analytical reliability issues that change
21 in the disconnect doesn't affect the reliability?

22 A. No.

23 Q. What about when you have a situation when
24 the machines fail?

25 A. I didn't have that situation.

1 Q. Well, in this case right here Mr. Malhiot
2 testified, and you verified it, that in 2004, when
3 they were at the lab, the first day they started
4 testing this would not pass any maintenance exam.

5 A. I did not verify that. That was purported
6 to me and I do not believe, even to this day, that
7 the hole in the check valve is what resolved the
8 issue.

9 First of all, when they were assessing what
10 was wrong they changed at least three different
11 things all at once, one of which was actually taking
12 the instrument apart and re-putting it back together.
13 It's my opinion, based on what I've heard --

14 Q. When you say what you heard, who have you
15 heard it from?

16 A. Mr. Malhiot.

17 Q. And only him?

18 A. And Mr. Skipper, the two people involved.

19 Q. Right.

20 A. It's my opinion that it was actually taking
21 the instrument apart and reseating the sample chamber
22 back onto the - back onto the instrument, the -
23 reseating that is actually what fixed the issue, not
24 the hole in the check valve. The hole in the check
25 valve fixed nothing. Nothing.

1 Q. So your opinion is that you differ from your
2 department inspectors that you had sent there, in
3 their opinion, correct?

4 A. Yes.

5 Q. And you differ from the manufacturer?

6 A. Yes.

7 Q. And you differ from anybody who had - what
8 the manufacturer wrote, is to clear the leaks in the
9 recirculation path?

10 A. I don't differ from the manufacturer,
11 actually.

12 Q. How don't you?

13 A. Because the manufacturer is not placing a
14 hole in the check valve of every single Intoxilyzer
15 8000. They only do that for Florida and Ohio, that
16 I'm aware. So my opinion doesn't differ from the
17 manufacturer. They don't believe they need the hole
18 either.

19 Q. Except in the State of Florida they do?

20 A. In the State of Florida we do have the hole
21 in the check valve. Not that it needs it, but it
22 will be there.

23 Q. Well, CMI believes that they need it there
24 to compensate for leaks in the recirculation path,
25 correct, that's what they wrote in the report, in the

1 change order?

2 A. That's why it was done.

3 Q. Right.

4 A. Back then that is why it was done. That is
5 not their opinion now.

6 Q. When you were notified by Mr. Skipper or Mr.
7 Malhiot of this issue going on, you were aware of
8 what your own rules were at that point in time;
9 correct?

10 A. I was aware of what the rules were at the
11 time. I don't remember being notified.

12 Q. So when Mr. Skipper and Mr. Malhiot say they
13 contacted FDLE and spoke to you, you don't remember
14 that?

15 A. No.

16 Q. Do you dispute it?

17 A. I don't remember it. I don't remember
18 having conversations during that time about this.

19 Q. Would you expect your department inspectors
20 to know the rules?

21 A. I would expect that, yes.

22 Q. Do you have any reason why there is a
23 failure to comply with the written notice?

24 A. Only what I've already stated in answering
25 that question.

1 Q. Just forgot?

2 A. That's not -- That wasn't my answer.

3 Q. Well, you testified earlier that when we're
4 dealing with Mr. Conde, the issue of the hole, in
5 2007, you forgot it existed; right?

6 A. That was one of the times I said I forgot,
7 yes.

8 Q. Okay. And what I'm wondering is, when you
9 wrote in your E-Mail response to Mr. Conde, Exhibit
10 28, you wrote out a rather detailed list of software
11 changes and hardware changes to respond to Mr.
12 Conde's direct question, tell me hardware changes and
13 software changes; correct?

14 A. I would not call it detailed. I sent the
15 list of the five software changes that I knew of and
16 the list of the hardware things were from the
17 evaluation reports that were already in existence.
18 So it wasn't like I went back through and actually
19 checklist everything. The (inaudible) aren't on
20 there, adding the (inaudible) aren't there. That
21 wasn't a change that I was noticed on. I mean,
22 there's several other things that aren't on there.

23 Q. Let me ask you a question. Had there been
24 a research study or, excuse me, an evaluation study
25 according to Form 34 on this hole issue, then you

1 probably would have been able to notify Mr. Conde
2 when DOT was doing testing; is that your testimony?

3 A. No, that's not my testimony. I haven't said
4 that. That's not what I said.

5 Q. It's a hypothetical. That's what I'm asking
6 you.

7 MS. FARALDO: Objection (inaudible),
8 speculation.

9 THE COURT: Overruled. She can testify if
10 she knows the answer.

11 BY MR. GABRIEL:

12 Q. Do you believe that had there been a study
13 that that would have kept you to remember the fact -
14 you just testified the way I got all this list of
15 changes is I reviewed my studies, makes sense. Do
16 you think if there was a study on the hole you would
17 have remembered that, too, and told DOT?

18 A. There was a study on the hole, just wasn't
19 documented.

20 Q. In 2007?

21 A. Yes. There had been several since then.

22 Q. You can show me a study that says, with a
23 stated purpose, this is to document the hole?

24 A. As I just previously answered, it was not
25 documented. The study had been done several times

1 and it was not documented.

2 Q. Do you believe when the rules - your rules
3 require certain actions to take place prior to other
4 actions that is important?

5 MS. FARALDO: Objection, Your Honor, that
6 is a very broad issue (inaudible).

7 THE COURT: She can answer if she
8 understands the question.

9 A. When things are being used for evidence,
10 yes, all the rules should be followed. I always
11 testify to that. And when this instrument was used
12 for evidence all the rules were followed.

13 BY MR. GABRIEL:

14 Q. What about when it's not used for evidence,
15 do the rules not apply when an instrument is not used
16 for evidence?

17 A. There are no rules when it's not used for
18 evidence.

19 Q. So the rules would apply 100 percent no
20 matter if it's for evidence - if it's being used for
21 evidence at this time or not, the rules still apply?

22 MS. FARALDO: Objection, asked and
23 answered. We've been through this line of
24 questioning already.

25 THE COURT: Overruled. She can answer if

1 she understands the question.

2 A. I don't understand the question.

3 BY MR. GABRIEL:

4 Q. Do you believe one set of rules applies,
5 that there should not be a distinguishing fact to the
6 application of stated rules because the machine is
7 not in evidentiary use versus the machine is in
8 evidentiary use?

9 A. The rules do not apply for an instrument
10 that is not in evidentiary use. I have no power
11 over an instrument that is not in evidentiary use.

12 Q. So in this case here we have an Intoxilyzer
13 8000, it's in evidentiary use, it's an approved
14 instrument in 2002, right, it's on the CPL?

15 A. It is not in evidentiary use, it is an
16 approved breath test instrument.

17 Q. Can you show me where in the rules it would
18 distinguish the instrument, that if it's not in
19 evidentiary use these rules do not apply?

20 A. There was not a registered Intoxilyzer 8000
21 in the State of Florida therefore there was not an
22 instrument in evidentiary use that was an Intoxilyzer
23 8000.

24 Q. Can you show me anywhere in the rule versus
25 this argument you are giving, anywhere in the rule,

1 that states that?

2 A. Rule 11D-8.004(1) requires an instrument to
3 be registered before it can be used for evidence.

4 Q. Right. Do you know if anywhere in the
5 rules, Ms. Barfield, that state that these rules do
6 not apply if it's not for evidentiary use yet?

7 MS. FARALDO: Objection, asked and
8 answered.

9 MR. GABRIEL: I haven't gotten an answer
10 yet, Judge.

11 THE COURT: She can answer the question.

12 A. You wouldn't write a rule for the negative
13 that you are talking about. There are parameters
14 that have to be met. There's no registered
15 instrument, hence there's no evidentiary instrument.

16 BY MR. GABRIEL:

17 Q. So the answer would be no, there's not -
18 it's not in the rules?

19 A. It is in the rules. I'm stating which rule
20 is talking about what you are talking about. In
21 order for it to be in evidentiary use it has to be
22 registered. At the point in time that you are
23 talking about there was no registered instruments.

24 Q. So what you are saying is until 2006 when it
25 got registered, all these machines got registered,

1 the rules don't really matter, who cares, nothing
2 applies at all; is that what you are saying?

3 MS. FARALDO: Objection, argumentative.

4 THE COURT: She can answer.

5 BY MR. GABRIEL:

6 Q. They're not in evidentiary use until 2006.

7 A. Correct.

8 Q. So the hell with the rules, they don't
9 apply. Why are we doing Form 34s? All these, why
10 are we doing anything, it doesn't apply, you are
11 saying.

12 A. Section 003 of the rule is a global process.
13 It is to look at a make and model and to subject it
14 to approval or to evaluate the software to be used
15 for evidence. When you are talking about the actual
16 evidentiary breath test instrument there is a
17 completely different set of rules.

18 Q. Right. The one that - when they're used.
19 There's a rule for when I use it for a breath test on
20 a suspect. We're talking about the approval process
21 that says this is a good enough instrument to use in
22 Florida, we like it, we're going to use it, it's
23 reliable enough, it meets our parameters, right?
24 That's what 03 is about? 003.

25 A. A make and a model, yes.

1 Q. And in this case here you testified that the
2 rules don't really apply when allegedly, according to
3 the defense, there's a violation, because we're not
4 using it at that time, we're still in the approval
5 process even though it's already been approved?

6 A. That is not what I stated at all.

7 Q. Why would FDLE rules, if what you are
8 stating is correct, why is there any issue of
9 compliance with FDLE rules prior to 2006 at all?

10 A. Because the rules changed before it was used
11 for evidence, two times before it was used for
12 evidence, and you have to follow the rules in effect
13 when it is used for evidence.

14 Q. Now some of those changes that are
15 applicable to this issue right here is that the
16 Florida Department of Law Enforcement removed
17 notification, the issue of notification from the
18 rules; correct?

19 A. Yes, but implemented other ways to assess
20 the issues that we're talking about.

21 Q. But that - those other ways did not contain
22 a component of notice, would that be a fair
23 statement?

24 A. That is correct, notice is completely taken
25 out.

1 Q. Why is that?

2 A. Because I do not have the statutory
3 authority to require an outside company to do
4 something.

5 Q. What about requiring the Florida Department
6 of Law Enforcement to put notice to everybody, that
7 is what notice is for, that we have an instrument and
8 if a change occurs we're making a change? Here's our
9 evaluation on that change, something that simple.
10 Why is there not any type of notification
11 requirements in the rules now?

12 MS. FARALDO: Objection, (inaudible) Your
13 Honor, (inaudible).

14 THE COURT: She can answer it, overruled.

15 A. Because the rules that are in effect take
16 care of accuracy and reliability of a particular
17 instrument being used for evidence. Therefore
18 additional rules do not need to be created.

19 BY MR. GABRIEL:

20 Q. You just testified earlier that you are
21 going to put in new procedures by Florida Department
22 of Law Enforcement to where you are going to
23 physically go to the manufacturer, physically review
24 their records and physically write notices, but you
25 are not going to make it a rule, is that a fair

1 statement?

2 A. That's an internal procedure that I'm not
3 required to do, but I'm going to do.

4 Q. And I'm not arguing that you are required,
5 you testified that's what you are going to do. I got
6 that right?

7 A. That's what I'm thinking about doing.
8 That's what I testified to.

9 Q. Is there any reason when you think of that
10 procedure, why, again, notification of the public,
11 putting everyone on notice, is something you've left
12 out? Why is that?

13 A. They will be noticed because I'm going to
14 put it in the report.

15 Q. So you think --

16 A. There doesn't need to be a rule requiring me
17 to do that because it doesn't affect the accuracy and
18 reliability of the breath test result. The rules in
19 place take care of that and show the public that that
20 device at that point in time is both accurate and
21 reliable.

22 Q. Let's change gears for a second, okay. You
23 testified that the hole is in a valve, it's not an
24 exit valve for the instrument, it's the recirculation
25 valve, that if you are doing a wet bath simulator

1 that that air is going to come through that valve,
2 back into the simulator and then come back into the
3 instrument; is that correct?

4 A. That's not what I testified to.

5 Q. Is that correct?

6 A. That's incorrect.

7 Q. Okay. Tell me what would be correct.

8 A. The valve is the same valve that allows
9 samples to exit the instrument or to be used for
10 recirculation. The same valve does either or
11 depending on whether it's up or down and depending on
12 the type of sample that's being analyzed.

13 Q. Okay. So that valve, when it's doing
14 recirculation, what is it recirculating?

15 A. Simulator vapor.

16 Q. Pardon?

17 A. The vapor from the simulator solutions.

18 Q. Air with alcohol?

19 A. Basically, yes.

20 Q. It's recirculating it from the instrument
21 after it's been analyzed; right? After it goes
22 through the analytical chamber --

23 A. Well, it -- Okay, yes.

24 Q. Is that correct?

25 A. Well, it starts at the simulator. It's

1 recirculation, it's a loop. So it starts at the
2 simulator, goes through the - into the instrument,
3 it is analyzed.

4 Q. Right.

5 A. Enters the check valve.

6 Q. Right.

7 A. And is redirected back to the simulator,
8 that is recirculation.

9 Q. Back again. The loop is never one circle,
10 it's going to be more, it's running pretty
11 consistently while you are doing the test?

12 A. It is one circle that continues. It's the
13 same circle. It's a continuous cycle of the same --

14 Q. That's why it's a recirculation path, it's
15 recirculating back into the analytical chamber of the
16 instrument?

17 A. No, it's recirculating back to the
18 simulator.

19 Q. Once it leaves the simulator where does it
20 go again?

21 A. It goes back into the vapor, vapor of the
22 entire simulator. It's not the same sample.

23 Q. And does that vapor go back into the
24 instrument through the analytical chamber?

25 A. Part of that vapor would be going back into

1 the instrument at different points in time. It's
2 not the same vapor sample.

3 Q. Do you have any recollection of when it was
4 that you first became aware of the issue of the hole
5 back in 2004?

6 A. Sometime in 2004.

7 Q. Soon after it was happening, while they were
8 still up in Kentucky?

9 A. I don't remember. Honestly, I don't
10 remember.

11 Q. Do you have any recollection at all, while
12 they were there for that week, of being notified and
13 told of this problem?

14 A. No.

15 MR. GABRIEL: That's all the questions I
16 have, Judge.

17 THE COURT: Pardon me?

18 MR. GABRIEL: That's all the questions I
19 have. Thank you.

20 THE COURT: All right. Any redirect?

21 MS. FARALDO: No further questions, Your
22 Honor.

23 THE COURT: Thank you, Ms. Barfield. You
24 may step down.

25 Any further witnesses?

1 MS. FARALDO: No, Your Honor.

2 THE COURT: Oh, I'm sorry, Ms. Barfield, I
3 do have one more question for you, I apologize.

4 I've been looking at the -- I've got three
5 different versions of the - I think I've got three
6 different versions of the administrative code. I
7 think I've got a 2002 version, a 2004 version and a
8 2006 version, I guess, I don't know, but -- I don't
9 think I have a 2006 version. So my question for you
10 is, I pulled this off of Westlaw this morning just to
11 look at it again because I didn't have the packet
12 with me, it was at the Clerk's Office, I was here
13 pretty early, and Mr. Gabriel, maybe you can help me
14 with this, I'm looking at the bottom of what I pulled
15 off of Westlaw and it says that the latest revision
16 or amendment was December 9th of 2004.

17 So my question is, you both have been
18 talking about a 2006 revision to the Administrative
19 Code. I think I heard you saying that.

20 THE WITNESS: Yes, Your Honor.

21 THE COURT: I don't think I have that
22 unless it's in the packet you gave me, Mr. Gabriel.

23 THE WITNESS: May I explain? That rule
24 section wasn't amended. There is a March 27th of '06
25 rule revision, but 11D-8.003's last revision was

1 effective December 9th of 2004.

2 THE COURT: But Paragraph 5 was amended, is
3 that what you are telling me?

4 MR. GABRIEL: No, Paragraph 5 of Rule
5 11D-8.003 was not - the last amendment to that was
6 in --

7 THE COURT: 2004.

8 MR. GABRIEL: -- 2004, 12/2004.

9 THE WITNESS: The paragraph that you are
10 talking about was changed from '02 to '04 to remove
11 it --

12 THE COURT: Okay.

13 THE WITNESS: And then that rule section
14 wasn't revised again in March. Other parts of the
15 rule were so there's an effective date for --

16 THE COURT: I have another question for you.
17 You testified on your direct with the State that
18 there were a number of evaluations and research
19 studies that you did in 2005 and 2006. What were
20 those evaluations again for?

21 THE WITNESS: Some of them were for software
22 revisions, some of them were for upgrades - updates
23 to the instrument as well.

24 THE COURT: Okay, thank you. Okay. I
25 don't have any other questions. Anyone have

1 questions as a result of my questions?

2 MR. GABRIEL: No, Judge.

3 THE COURT: Okay. You can step down, Ms.
4 Barfield.

5 Mr. Gabriel, did you want to make any
6 argument?

7 MR. GABRIEL: Sure, Judge.

8 THE COURT: Pardon me?

9 MR. GABRIEL: Sure.

10 Judge, it is the defense's contention that
11 there's been a rule violation here. That would be
12 11D-8.003, Subparagraph 5 of the 2002 rules. That
13 requirement states that the manufacturer whose
14 instrument has been previously approved by the
15 department shall notify the department in writing
16 prior to making any modifications or adding any new
17 option to such instrument.

18 I do not believe there's any dispute of the
19 fact that that's exactly what occurred here, that
20 there was not notification.

21 THE COURT: Mr. Gabriel, I need you to
22 address yourself to this issue: It says a
23 manufacturer whose instrument has been previously
24 approved by the department, which is FDLE, right?

25 MR. GABRIEL: Yes, sir.

1 THE COURT: The testimony is that this
2 instrument wasn't approved until 2006, at least
3 that's what I've heard. How do you get to the point
4 that at the time that the drilling of the hole
5 occurred that this was an approved instrument?

6 MR. GABRIEL: Judge, I believe the record --
7 I think there's a bit of a misunderstanding. This
8 instrument was approved in 2002. It's on the
9 conforming products list as an approved instrument.

10 THE COURT: It was approved by DOT, but not
11 by FDLE.

12 MR. GABRIEL: It was approved by FDLE for
13 use in two thousand and - in 2002. The approval
14 study was conducted on May 29th, two thousand -
15 excuse me - 2002. The instrument was approved in
16 November of 2002, the rules that we've been talking
17 so much about.

18 THE COURT: That's fine. Where do I find
19 that approval in the documents that you supplied and
20 where do you come to that conclusion, November of
21 2002, I guess is my question.

22 MR. GABRIEL: It's going to be in Rule
23 11D-8.003, Subparagraph 2, states the department has
24 approved the following breath instruments for
25 evidentiary use, the Intoxilyzer 5000 Series

1 including - and then it goes on to state the
2 Intoxilyzer 8000 using software approved by the
3 department in accordance with instrument evaluation
4 Form 34, March of (inaudible).

5 THE COURT: Okay. Make your argument,
6 please.

7 MR. GABRIEL: It's the defense contention,
8 Judge, that there's a rule violation here and, again,
9 it's our belief that the evidence is not disputing
10 the fact that there's not been written notification
11 and that there has not, at that time, been an
12 evaluation according to the rules. So we have two
13 different aspects that are missing here, one is the
14 written notification prior to making the change and
15 the other is the evaluation.

16 Ms. Barfield has testified that there, in
17 fact, has been evaluations, it just wasn't written in
18 the report that it was an evaluation for that
19 purpose. It's our belief, Judge, that that - that
20 that is not correct. To say just because I did a
21 Form 34 and the instrument had a hole in it is
22 directly addressing the questions Your Honor asked
23 Mr. Malhiot about what would potentially be some
24 different types of tests that you would do
25 considering a hole issue versus, let's say, a

1 software issue and he explained that.

2 I also questioned Mr. Malhiot about DOT
3 standards and the fact that they, too, used different
4 types of standards and testing and that their rules
5 and guidelines specifically talk about the unusual
6 situation that we may have to adapt a type of a test
7 to the issue that is being raised. In this case
8 here, Judge, according to Ms. Barfield, she disputes
9 what the manufacturer says as - that we have a
10 recirculation path issue. She's disputing the two
11 eyewitnesses - excuse me, the one eyewitness that
12 was there and testified today as to what was going
13 on.

14 What we know, Judge, is that, according to
15 Mr. Malhiot, he starts the testing out first thing in
16 the morning, hooks the simulators up, and this
17 machine is reporting remarkably low for what it is
18 supposed to be and it is uniformly and consistently
19 low, to such a level that that machine would not be
20 approved for use in the State of Florida. It would
21 not pass a Form 34. It would not pass a maintenance
22 test, a monthly maintenance.

23 Eventually as he described, there was
24 troubleshooting going on for the day by himself, Mr.
25 Skipper, with consultation of CMI employees and other

1 people from FDLE on the phone, and eventually their
2 way of remedying the problem was to open it up, take
3 a drill out, and to totally modify the intended
4 purpose of a valve in a breath testing instrument
5 because when you have a valve and you drill a hole
6 through it, it is technically no longer a valve. A
7 valve is supposed to have air pressure either
8 blocking it or opening it, opening it or shutting it.
9 The idea of creating a leak in the valve to
10 compensate for leaks, according to Mr. Malhiot, does
11 not make sense and is not proper, it needs to be
12 properly approved.

13 The defense has contended that this type of
14 a change is most certainly affecting the analytical
15 reliability of the instrument and I use those words
16 specifically because that's the test that was in
17 effect in the rule 11D-8.003, Paragraph 5, the 2002
18 version. I have not attacked it upon the other
19 tests which is the method of analysis. Ms. Barfield
20 is correct, that's infrared, we're not - it's not
21 doing anything with that, but on analytical
22 reliability, to take an instrument that for a whole
23 day will not give a good result, modify it in some
24 way and have perfect results, that's changing -
25 that's changing the analytical reliability of that

1 instrument, it's making it work. It wasn't working,
2 it is working.

3 I have tried to lay out for the Court the
4 path that is going on and to talk to Ms. Barfield
5 about FDLE's choice of removing notification from the
6 rules and what type of issues are going to be created
7 and could be created, because this case is a perfect
8 example of it. We have a problem that's not properly
9 documented. That problem has now surfaced eight
10 years later and it has become an issue that is now in
11 front of Your Honor for a whole day, in front of many
12 other judges for a whole day going throughout the
13 State of Florida. That problem can be specifically
14 solved if the rules were complied with at that point
15 in time. So it's the Defendant's contention that
16 that's the purpose of these rules.

17 In the packet I enclosed copies of older
18 rules also. Exhibit Number 31 is the 1997 rules and
19 I did that for the purpose of saying, Judge, if you
20 look at this rule I think it's a pretty clear
21 indicator, again, confirming the intent of why we
22 have notification going on and that rule, again,
23 talks about the fact that we have one approved
24 instrument. If a manufacturer wants to modify it
25 you've got to put people on notice. It continues

1 with that history of notification and the importance
2 of it. Here we have, first of all, the rule and
3 notification being violated. We then get with the
4 Department of Transportation regulations. They are
5 not regulations that say Ms. Barfield, as head of
6 FDLE, has to do X, Y, Z, they're regulations to allow
7 states and local agencies like FDLE to make the
8 proper choice and when a Federal regulation has
9 notice requirements in it for a manufacturer of an
10 instrument to do something they, in our position,
11 Judge, should not be taken lightly. Here the
12 manufacturer did not give any notification to
13 anybody. They just made changes. I know the --
14 I tried to lay out for the Court in Exhibits 9 -
15 excuse me, 13, 14, 15, 16, 17, 18, 19, 32 and 33, in
16 sequential events, from 2005, right after this
17 happened, to 2006, different perfect examples of the
18 system working. If there's a change in a
19 modification to an instrument, CMI notifies Ms.
20 Barfield of FDLE, Ms. Barfield, from FDLE, does an
21 approval study, Form 34 study, to determine whether
22 or not there's any issue on it. That is exactly the
23 purpose of why that rule is there and why it says
24 it's there.

25 When -- We have, within a matter of three

1 and a half months after the hole is drilled, Judge,
2 we have FDLE modifying their rules to remove this
3 notice requirement. We have opportunities, through
4 notification, to Mr. Conde, with DOT, in 2007, the
5 E-Mailed asked - he asked the perfect relevant
6 questions, tell me about the software changes and
7 tell me about the hardware changes. Ms. Barfield
8 goes and gets all her evaluations and makes a list up
9 she's testified to to a certain degree to communicate
10 with the testing person. What's absent, any mention
11 of the hole. Why? According to Ms. Barfield it's
12 because she forgot, she didn't remember about it.
13 Well, that seems to be an exact reason why we have
14 notification in making a record of something. I
15 would believe, and I think she agreed with me, that
16 she somehow looked at her evaluation studies, pulled
17 them all up and said, okay, this one I did this, so
18 that's a change, this one I did that, so that's a
19 change, this one did that, listed them down and
20 responded.

21 If there was a study in 2004 that said we've
22 done this type of research on this hole issue, on the
23 recirculation path, then obviously the system, this
24 outline of notification, recordkeeping, would have
25 worked, because DOT would have been notified about

1 it. FDLE would have it in their records and it would
2 not be something that has to come about six, seven,
3 eight years later through a former employee.

4 The Department of Transportation
5 regulations, Judge, I make this contention because,
6 according to Form 34, an instrument to be evaluated
7 has to be on the conforming products list. The 8000
8 was on the conforming products list. It's our
9 contention that if you make significantly enough of a
10 modification you need to get it back onto that list.
11 FDLE -- Excuse me, DOT regulations state exactly
12 that, there needs to be reapproval, and I've painted
13 the perfect example for the Court, look at the 5000,
14 FDLE's position was, no, we don't have to do that,
15 it's on there one time, that's enough. Wait a
16 minute. Look at the 5000. I said six, Ms. Barfield
17 corrected me and showed me that there was eight
18 different versions of the Intoxilyzer 5000 on the
19 conforming products list. If that list is not for
20 that express purpose of having a device and if it
21 alters or is changed or modified in a significant
22 fashion that it gets reapproved there would not be
23 eight different 5000s on there, but only one 8000
24 with, according to Ms. Barfield, 16, 17 different
25 modifications.

1 I agree, some of them, they don't matter,
2 they are of no significance whatsoever, but when
3 we're opening an instrument up and picking a drill
4 up, we've got two DCA opinions that talk exactly
5 about that, picking the drill up, drilling a hole
6 into the instrument, that's a problem. In Flood and
7 in Polak, in both of them, Judge, they were dealing
8 with the Intoxilyzer - or the Intoximeter 3000, I
9 believe. Ms. Barfield is correct that that
10 instrument is a different type of device, it is one
11 that is using a fuel cell and infrared, that they
12 drilled a hole in it to bypass one of the two
13 methods, that is correct, but still the basis of that
14 decision is this, if you have an instrument and you
15 significantly enough modify it, that's a question for
16 the Court, not for Ms. Barfield, then you need to
17 reapprove it, that's why we have an approval process.
18 That's why it's there.

19 I painted out for the Court the fact that
20 when DOT did their evaluation they published a report
21 and in that report they leave out what I think is
22 something rather important, and that is a true full
23 rendering of the Federal regulation. That's the part
24 of the regulation that says if you are not going to
25 order re-evaluation of an instrument that's been

1 modified then it needs to be published in that
2 Federal Register. Again, why? Notice. You're
3 notifying not only the public, you are notifying
4 every law enforcement agency, every FDLE throughout
5 the country, of the fact that here's an instrument,
6 it has been modified, but it has been determined by
7 us to be of no significance whatsoever and therefore
8 there is no need for reapproval of that.

9 Ms. Barfield said we use DOT for - well, we
10 like somebody else to check out the instrument before
11 we spend a lot of time and money doing an evaluation
12 and approving something and it is the purpose of the
13 conforming products list. The same holds true when
14 you make a modification of it. If you have an
15 instrument that's been modified, the inquiry still
16 should start again. It should start anew, if you can
17 prove that that modification has significant nature.
18 When we have an instrument that's not working until
19 you modify it, that's significant, Judge, and that's
20 our position.

21 Thank you very much.

22 THE COURT: State?

23 MS. FARALDO: Your Honor, just to clarify
24 the 2002 approval --

25 THE COURT: Just state your argument,

1 please.

2 MS. FARALDO: Okay. Basically for
3 evidentiary use this machine was not approved until
4 2006 for use in evidentiary use. Those are the rules
5 that apply.

6 Ms. Barfield testified late today of what's
7 required and what's not required. (Inaudible) about
8 removal of rules and what rules should be and
9 shouldn't be, this is not conformed for that, that's
10 administrative court. There was a lot of talk about
11 DOT regulations. Those do not apply to this
12 situation, those are Federal rules, not Florida state
13 rules. The rules (inaudible) Ms. Barfield went over
14 (inaudible) reviewed this and the defense and the
15 State have submitted orders (inaudible) over this
16 issue and shot down. Basically the formal approval
17 process for the Intoxilyzer as modified by the purged
18 valve hole and the shorter retaining screw was not
19 necessary. (Inaudible) agreement with the State's
20 position, the facts of this case demonstrate --

21 THE COURT: Ms. Faraldo, please don't read
22 the case to me, okay. I've read the cases already,
23 so you don't need to read the cases to me. Just
24 make your argument, please.

25 MS. FARALDO: Basically the State would

1 argue that the modification was not significant, that
2 Ms. Barfield testified that they are in compliance.
3 The defense's own witness testified that between 2006
4 and 2010 that he testified that the Intoxilyzer 8000
5 was in compliance and reliable and we find that
6 (Inaudible). And the 2002 approval and the CMI
7 approval, not FDLE, that FDLE approval for
8 evidentiary use happened in 2006.

9 THE COURT: All right. Mr. Gabriel, any
10 other argument you want to make?

11 MR. GABRIEL: Judge, I've been referring to
12 this Rule 11D-8.003, the 2002 version, Paragraph 2
13 states Intoxilyzer 8000 is an approved instrument for
14 use in the State of Florida. That's it, Judge.

15 THE COURT: All right. I did some
16 extensive research on my own, a lot of cases, and a
17 lot of reading. I went through quite a bit of your
18 packet before the hearing, Mr. Gabriel.

19 I'm going to do something I don't usually
20 do, I'm going to give a ruling now because I know
21 that you've got another hearing set Tuesday and I
22 think it will save everybody a lot of time and money.

23 MR. GABRIEL: That hearing has been
24 cancelled, Judge. On Monday.

25 THE COURT: All right. With Judge Fowler?

1 MR. GABRIEL: Yes. Because you were hearing
2 this one.

3 THE COURT: Okay. I was not aware that it
4 was cancelled. As of this morning it was Judge
5 Fowler's understanding it was still going forward.

6 MR. GABRIEL: My understanding in speaking
7 to the other attorney involved was that he had spoken
8 to the JA and, again, that that hearing has been
9 cancelled. I spoke to the assistant state attorney
10 handling it and I think she had the same
11 understanding, that that has been taken off the
12 docket.

13 THE COURT: Ms. Eubicki (phonetic), can you
14 shed light on this?

15 MS. EUBICKI: Yes, Your Honor. Yesterday, I
16 was alerted that the motion had been taken off of the
17 docket and I did send a confirmation E-Mail to Mr.
18 Bell, whose case it was, it's regarding Defendant
19 Madrigul (phonetic). He did confirm with me that it
20 was taken off the docket and it would have been the
21 same exact motion.

22 THE COURT: Okay. Okay. Well, then, if
23 that's true, then I'm just going to go ahead and
24 write up an order. I'll have it out within ten days
25 of today's date.

1 MR. GABRIEL: Thank you, Judge.

2 THE COURT: Okay.

3 All right. We'll be in recess.

4 Thank you both.

5 MS. FARALDO: Your Honor (Inaudible).

6 THE COURT: I can't hear you both. I can't
7 hear when you are both talking.

8 MS. FARALDO: The only thing (inaudible)
9 there is something pending in Marathon. We're
10 unsure about that.

11 THE COURT: I have no idea.

12 MS. FARALDO: And the information you got
13 is (Inaudible).

14 MR. GABRIEL: I confirmed that at lunchtime
15 when I spoke to Mr. Bell. (Inaudible).

16 MS. FARALDO: (Inaudible).

17 MR. GABRIEL: I didn't do it.

18 THE COURT: Pardon me?

19 MR. GABRIEL: I didn't do that one.

20 THE COURT: I'm only worried about Ms.
21 Barfield and Mr. Malhiot having to stay here until
22 Tuesday. I understood that there was some
23 arrangements made to save them the time.

24 I'll write it up --

25 MR. GABRIEL: Thank you, Judge.

1 THE COURT: -- and I'll have it out within
2 ten days, okay. Thank you.

3 (Thereupon, the hearing concluded at 1:51
4 p. m.)

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

STATE OF FLORIDA :

COUNTY OF PALM BEACH:

I, DONNA MIHALKO, Court Reporter,
certify that I was authorized to and did
transcribe the foregoing proceedings from a
digital recording of said hearing and that the
transcript is a true record of the digital
recording of said hearing transcribed to the best
of my ability.

Dated this _____ day of

_____, 2013.

DONNA MIHALKO

Court Reporter

| | | | | |
|---|---|--|--|--|
| \$ | 15 - 24:12, 54:23, 55:5, 69:23, 172:15 16 - 172:15, 174:24 16th - 1:1, 2:6 17 - 172:15, 174:24 17th - 65:12 18 - 46:22, 55:15, 66:17, 99:22, 138:24, 143:21, 172:15 19 - 55:7, 55:10, 55:15, 55:22, 58:4, 138:24, 143:21, 172:15 1993 - 65:12 1994 - 89:9, 89:18 1997 - 171:18 1:02 - 142:19 1:51 - 1:20, 181:3 | 2006 - 48:7, 48:16, 48:19, 49:2, 50:12, 55:19, 82:19, 82:20, 82:22, 97:1, 110:1, 111:9, 115:25, 122:11, 137:7, 147:5, 156:24, 157:6, 158:9, 164:8, 164:9, 164:18, 165:19, 167:2, 172:17, 177:4, 178:3, 178:8 2007 - 62:11, 62:21, 63:12, 65:18, 66:17, 67:17, 68:16, 69:15, 99:20, 101:14, 101:21, 115:25, 128:7, 133:17, 133:18, 140:13, 140:18, 142:4, 142:6, 142:8, 152:5, 153:20, 173:4 201 - 2:6 2010 - 7:21, 7:24, 11:20, 55:20, 64:5, 77:5, 81:15, 82:2, 83:7, 99:19, 115:25, 178:4 2011 - 99:21, 101:10, 116:1, 122:11 2011-ct-1375-k - 1:3 2012 - 1:19, 47:22, 99:22, 100:12, 116:1, 144:23, 146:24, 147:5 2013 - 182:14 206 - 2:12 209 - 32:20 20th - 36:15 21 - 34:24, 58:25 22 - 58:25 23 - 58:25 24 - 58:25 25 - 58:25, 59:24, 61:16 26 - 62:16, 62:20, 63:2, 64:19, 65:8, 67:19, 67:20, 67:22, 137:19, 140:22, 141:9 26th - 49:4 27 - 62:16, 63:3, 68:13, 70:2, 114:25, 115:2, 115:6, 133:18, 140:22, 141:9 27th - 97:1, 164:24 28 - 68:13, 152:10 29 - 66:22, 70:3, 70:4, 70:11 29th - 167:14 | 56:8, 56:14, 62:8, 72:25, 73:7, 73:25, 74:5, 83:21, 83:25, 84:3, 84:15, 84:20, 85:19, 96:8, 96:13, 97:12, 97:14, 97:16, 97:19, 98:1, 98:2, 98:17, 99:13, 100:18, 100:25, 126:18, 127:1, 137:19, 144:4, 146:8, 147:1, 147:3, 147:9, 147:16, 148:2, 148:6, 152:25, 168:4, 168:21, 169:21, 172:21, 174:6 34s - 157:9 35 - 128:6, 128:18 | 23:6, 23:19, 24:8, 24:17, 25:7, 27:18, 29:23, 30:5, 31:20, 32:2, 33:5, 36:19, 40:15, 42:19, 43:23, 45:24, 46:12, 48:25, 50:24, 52:10, 62:12, 65:18, 71:11, 82:2, 82:18, 88:24, 90:1, 90:25, 91:3, 91:21, 96:22, 97:5, 101:8, 101:12, 102:20, 103:1, 109:8, 109:14, 109:24, 111:1, 113:9, 113:16, 113:22, 114:10, 114:17, 114:21, 115:3, 115:7, 115:11, 115:17, 117:2, 118:6, 118:7, 118:19, 120:6, 121:6, 122:12, 122:17, 125:24, 126:22, 131:12, 133:2, 136:19, 137:22, 139:21, 140:10, 140:15, 140:20, 150:15, 155:13, 155:20, 155:23, 168:2, 174:7, 174:23, 178:4, 178:13 8000s - 103:4, 127:10 8100.24 - 57:3 8208 - 30:21 8209 - 30:22, 30:24, 31:5 85 - 3:9, 128:1, 128:2, 128:3, 128:4 87 - 3:12 8:30 - 1:20 |
| \$180 - 77:19 | 2 | 4 | 9 | |
| 0 | 2 - 17:13, 49:25, 63:10, 63:25, 167:23, 178:12 2,300 - 40:15 2-0 - 32:12, 37:16 20 - 24:12, 56:17, 56:21, 58:25, 59:24, 61:5 200 - 20:5 2000 - 15:21, 47:21, 60:8 2001 - 15:17, 15:21, 16:17, 19:5, 21:3, 21:5, 21:6, 21:23, 74:3, 74:7, 82:15, 89:13, 113:25, 114:1, 115:8, 142:4, 142:9 2002 - 7:18, 7:19, 7:21, 7:24, 11:19, 21:6, 21:11, 21:22, 21:23, 23:17, 23:21, 25:8, 25:11, 26:3, 27:19, 29:10, 30:5, 30:10, 31:18, 32:10, 43:5, 43:16, 43:25, 45:6, 46:19, 46:20, 49:12, 49:13, 56:1, 57:11, 60:24, 69:15, 72:9, 72:20, 82:15, 83:2, 142:25, 146:24, 147:5, 147:7, 155:14, 164:7, 166:12, 167:8, 167:13, 167:15, 167:16, 167:21, 170:17, 176:24, 178:6, 178:12 2004 - 35:18, 35:19, 36:1, 36:17, 38:15, 39:22, 43:1, 43:24, 46:19, 46:20, 49:19, 50:14, 61:18, 73:25, 80:21, 81:13, 81:15, 82:1, 82:22, 85:14, 92:20, 95:17, 96:21, 96:22, 99:8, 101:8, 105:8, 122:5, 124:6, 140:7, 140:12, 144:24, 149:2, 163:5, 163:6, 164:7, 164:16, 165:1, 165:7, 165:8, 173:21 2005 - 27:16, 28:16, 48:20, 53:11, 54:9, 56:22, 57:5, 58:4, 60:23, 99:12, 99:13, 100:8, 103:15, 104:4, 115:25, 143:22, 143:23, 144:11, 165:19, 172:16 | 5 | A | |
| 0-2 - 32:12 0-5 - 32:12, 37:16 0-6-0 - 37:25 0-6-1 - 37:25 0-6-2 - 37:25 0-8 - 32:12, 37:15, 37:23, 38:3, 38:4 003 - 157:12, 157:24 02 - 24:11, 120:17, 121:11 03 - 157:24 05 - 24:11 08 - 24:11 Objection - 154:5 | 2006 - 48:7, 48:16, 48:19, 49:2, 50:12, 55:19, 82:19, 82:20, 82:22, 97:1, 110:1, 111:9, 115:25, 122:11, 137:7, 147:5, 156:24, 157:6, 158:9, 164:8, 164:9, 164:18, 165:19, 167:2, 172:17, 177:4, 178:3, 178:8 2007 - 62:11, 62:21, 63:12, 65:18, 66:17, 67:17, 68:16, 69:15, 99:20, 101:14, 101:21, 115:25, 128:7, 133:17, 133:18, 140:13, 140:18, 142:4, 142:6, 142:8, 152:5, 153:20, 173:4 201 - 2:6 2010 - 7:21, 7:24, 11:20, 55:20, 64:5, 77:5, 81:15, 82:2, 83:7, 99:19, 115:25, 178:4 2011 - 99:21, 101:10, 116:1, 122:11 2011-ct-1375-k - 1:3 2012 - 1:19, 47:22, 99:22, 100:12, 116:1, 144:23, 146:24, 147:5 2013 - 182:14 206 - 2:12 209 - 32:20 20th - 36:15 21 - 34:24, 58:25 22 - 58:25 23 - 58:25 24 - 58:25 25 - 58:25, 59:24, 61:16 26 - 62:16, 62:20, 63:2, 64:19, 65:8, 67:19, 67:20, 67:22, 137:19, 140:22, 141:9 26th - 49:4 27 - 62:16, 63:3, 68:13, 70:2, 114:25, 115:2, 115:6, 133:18, 140:22, 141:9 27th - 97:1, 164:24 28 - 68:13, 152:10 29 - 66:22, 70:3, 70:4, 70:11 29th - 167:14 | 4 - 31:24, 48:12, 148:1 4-0 - 32:12 4-11-2002 - 24:6 40 - 24:12 400 - 27:9 460 - 32:25 4601 - 2:11 48705 - 65:13, 65:14 48709 - 66:24 48710 - 65:14 | 9 - 43:9, 49:6, 172:14 900 - 92:23 9:00 - 40:11 9th - 164:16, 165:1 | |
| 1 | 3 | 6 | 8 | |
| 1 - 17:13, 108:19, 110:20 1-5 - 32:12 1.1 - 33:24, 34:1 1.5 - 24:11 10 - 42:3, 50:9, 76:15 10-3 - 21:7 10-3-02 - 32:2 100 - 20:5, 154:19 10th - 27:16, 28:15 11-26 - 32:6 1173 - 57:16, 64:2 1175 - 57:16, 64:2, 100:9 1181 - 57:17, 100:9 11d-8 - 25:16, 88:4, 89:4, 110:4, 126:14, 126:15 11d-8.003 - 43:10, 143:2, 147:2, 165:5, 166:12, 167:23, 170:17, 178:12 11d-8.003's - 164:25 11d-8.004(1 - 156:2 11d-803 - 142:24 11th - 110:1, 111:9 12 - 48:15, 66:11, 68:1 12-9 - 49:9 12/2004 - 165:8 120 - 127:8 120.56 - 119:20, 135:13 122 - 3:12 12:00 - 142:19 13 - 53:6, 53:20, 54:25, 172:15 14 - 54:5, 172:15 | 3 - 19:1, 19:19, 20:3, 63:10, 115:6 3-0 - 32:12 30 - 24:12 3000 - 117:13, 175:8 302 - 1:21 30th - 28:17, 29:7, 29:10 31 - 171:18 316 - 119:15 316.1932(1)(a)(2 - 119:3 32 - 55:11, 172:15 322 - 119:5 327 - 119:5 33 - 55:11, 172:15 33040 - 1:22, 2:7 333 - 27:10 33458 - 2:12 34 - 17:24, 17:25, | 5 - 21:10, 31:24, 32:1, 43:20, 48:12, 50:7, 142:25, 143:3, 147:2, 148:1, 165:2, 165:4, 166:12, 170:17 50 - 32:15, 84:4, 84:5, 128:5 5000 - 7:16, 15:9, 88:25, 89:25, 129:6, 129:8, 129:13, 129:17, 129:19, 167:25, 174:13, 174:16, 174:18 5000s - 127:10, 127:16, 127:21, 128:9, 174:23 530 - 2:6 58 - 65:12 | 8 - 29:15, 30:13, 30:16, 31:14, 33:3, 66:24 80 - 78:10, 78:12 80-000868 - 109:24, 111:1 80-001173 - 100:9 800 - 24:21 8000 - 8:19, 8:23, 9:15, 13:21, 14:19, 14:23, 15:3, 16:18, 19:5, 20:5, 20:6, 20:17, 21:3, 21:12, 21:15, 21:21, 22:24, | |
| 180 - 77:19 | 4 | 7 | 8 | |
| 0 | 2 - 17:13, 49:25, 63:10, 63:25, 167:23, 178:12 2,300 - 40:15 2-0 - 32:12, 37:16 20 - 24:12, 56:17, 56:21, 58:25, 59:24, 61:5 200 - 20:5 2000 - 15:21, 47:21, 60:8 2001 - 15:17, 15:21, 16:17, 19:5, 21:3, 21:5, 21:6, 21:23, 74:3, 74:7, 82:15, 89:13, 113:25, 114:1, 115:8, 142:4, 142:9 2002 - 7:18, 7:19, 7:21, 7:24, 11:19, 21:6, 21:11, 21:22, 21:23, 23:17, 23:21, 25:8, 25:11, 26:3, 27:19, 29:10, 30:5, 30:10, 31:18, 32:10, 43:5, 43:16, 43:25, 45:6, 46:19, 46:20, 49:12, 49:13, 56:1, 57:11, 60:24, 69:15, 72:9, 72:20, 82:15, 83:2, 142:25, 146:24, 147:5, 147:7, 155:14, 164:7, 166:12, 167:8, 167:13, 167:15, 167:16, 167:21, 170:17, 176:24, 178:6, 178:12 2004 - 35:18, 35:19, 36:1, 36:17, 38:15, 39:22, 43:1, 43:24, 46:19, 46:20, 49:19, 50:14, 61:18, 73:25, 80:21, 81:13, 81:15, 82:1, 82:22, 85:14, 92:20, 95:17, 96:21, 96:22, 99:8, 101:8, 105:8, 122:5, 124:6, 140:7, 140:12, 144:24, 149:2, 163:5, 163:6, 164:7, 164:16, 165:1, 165:7, 165:8, 173:21 2005 - 27:16, 28:16, 48:20, 53:11, 54:9, 56:22, 57:5, 58:4, 60:23, 99:12, 99:13, 100:8, 103:15, 104:4, 115:25, 143:22, 143:23, 144:11, 165:19, 172:16 | 4 - 31:24, 48:12, 148:1 4-0 - 32:12 4-11-2002 - 24:6 40 - 24:12 400 - 27:9 460 - 32:25 4601 - 2:11 48705 - 65:13, 65:14 48709 - 66:24 48710 - 65:14 | 7 - 1:19, 3:8, 26:13, 27:15, 33:3 733 - 27:10 76 - 3:9 | 8 - 29:15, 30:13, 30:16, 31:14, 33:3, 66:24 80 - 78:10, 78:12 80-000868 - 109:24, 111:1 80-001173 - 100:9 800 - 24:21 8000 - 8:19, 8:23, 9:15, 13:21, 14:19, 14:23, 15:3, 16:18, 19:5, 20:5, 20:6, 20:17, 21:3, 21:12, 21:15, 21:21, 22:24, |
| 1 | 5 | 8 | 8 | |
| 1 - 17:13, 108:19, 110:20 1-5 - 32:12 1.1 - 33:24, 34:1 1.5 - 24:11 10 - 42:3, 50:9, 76:15 10-3 - 21:7 10-3-02 - 32:2 100 - 20:5, 154:19 10th - 27:16, 28:15 11-26 - 32:6 1173 - 57:16, 64:2 1175 - 57:16, 64:2, 100:9 1181 - 57:17, 100:9 11d-8 - 25:16, 88:4, 89:4, 110:4, 126:14, 126:15 11d-8.003 - 43:10, 143:2, 147:2, 165:5, 166:12, 167:23, 170:17, 178:12 11d-8.003's - 164:25 11d-8.004(1 - 156:2 11d-803 - 142:24 11th - 110:1, 111:9 12 - 48:15, 66:11, 68:1 12-9 - 49:9 12/2004 - 165:8 120 - 127:8 120.56 - 119:20, 135:13 122 - 3:12 12:00 - 142:19 13 - 53:6, 53:20, 54:25, 172:15 14 - 54:5, 172:15 | 5 - 21:10, 31:24, 32:1, 43:20, 48:12, 50:7, 142:25, 143:3, 147:2, 148:1, 165:2, 165:4, 166:12, 170:17 50 - 32:15, 84:4, 84:5, 128:5 5000 - 7:16, 15:9, 88:25, 89:25, 129:6, 129:8, 129:13, 129:17, 129:19, 167:25, 174:13, 174:16, 174:18 5000s - 127:10, 127:16, 127:21, 128:9, 174:23 530 - 2:6 58 - 65:12 | 8 - 29:15, 30:13, 30:16, 31:14, 33:3, 66:24 80 - 78:10, 78:12 80-000868 - 109:24, 111:1 80-001173 - 100:9 800 - 24:21 8000 - 8:19, 8:23, 9:15, 13:21, 14:19, 14:23, 15:3, 16:18, 19:5, 20:5, 20:6, 20:17, 21:3, 21:12, 21:15, 21:21, 22:24, | 8 - 29:15, 30:13, 30:16, 31:14, 33:3, 66:24 80 - 78:10, 78:12 80-000868 - 109:24, 111:1 80-001173 - 100:9 800 - 24:21 8000 - 8:19, 8:23, 9:15, 13:21, 14:19, 14:23, 15:3, 16:18, 19:5, 20:5, 20:6, 20:17, 21:3, 21:12, 21:15, 21:21, 22:24, | |
| 180 - 77:19 | 6 | 8 | 8 | |
| 0 | 2 - 17:13, 49:25, 63:10, 63:25, 167:23, 178:12 2,300 - 40:15 2-0 - 32:12, 37:16 20 - 24:12, 56:17, 56:21, 58:25, 59:24, 61:5 200 - 20:5 2000 - 15:21, 47:21, 60:8 2001 - 15:17, 15:21, 16:17, 19:5, 21:3, 21:5, 21:6, 21:23, 74:3, 74:7, 82:15, 89:13, 113:25, 114:1, 115:8, 142:4, 142:9 2002 - 7:18, 7:19, 7:21, 7:24, 11:19, 21:6, 21:11, 21:22, 21:23, 23:17, 23:21, 25:8, 25:11, 26:3, 27:19, 29:10, 30:5, 30:10, 31:18, 32:10, 43:5, 43:16, 43:25, 45:6, 46:19, 46:20, 49:12, 49:13, 56:1, 57:11, 60:24, 69:15, 72:9, 72:20, 82:15, 83:2, 142:25, 146:24, 147:5, 147:7, 155:14, 164:7, 166:12, 167:8, 167:13, 167:15, 167:16, 167:21, 170:17, 176:24, 178:6, 178:12 2004 - 35:18, 35:19, 36:1, 36:17, 38:15, 39:22, 43:1, 43:24, 46:19, 46:20, 49:19, 50:14, 61:18, 73:25, 80:21, 81:13, 81:15, 82:1, 82:22, 85:14, 92:20, 95:17, 96:21, 96:22, 99:8, 101:8, 105:8, 122:5, 124:6, 140:7, 140:12, 144:24, 149:2, 163:5, 163:6, 164:7, 164:16, 165:1, 165:7, 165:8, 173:21 2005 - 27:16, 28:16, 48:20, 53:11, 54:9, 56:22, 57:5, 58:4, 60:23, 99:12, 99:13, 100:8, 103:15, 104:4, 115:25, 143:22, 143:23, 144:11, 165:19, 172:16 | 6 - 147:24 | 8 - 29:15, 30:13, 30:16, 31:14, 33:3, 66:24 80 - 78:10, 78:12 80-000868 - 109:24, 111:1 80-001173 - 100:9 800 - 24:21 8000 - 8:19, 8:23, 9:15, 13:21, 14:19, 14:23, 15:3, 16:18, 19:5, 20:5, 20:6, 20:17, 21:3, 21:12, 21:15, 21:21, 22:24, | |
| 1 | 7 | 8 | 8 | |
| 1 - 17:13, 108:19, 110:20 1-5 - 32:12 1.1 - 33:24, 34:1 1.5 - 24:11 10 - 42:3, 50:9, 76:15 10-3 - 21:7 10-3-02 - 32:2 100 - 20:5, 154:19 10th - 27:16, 28:15 11-26 - 32:6 1173 - 57:16, 64:2 1175 - 57:16, 64:2, 100:9 1181 - 57:17, 100:9 11d-8 - 25:16, 88:4, 89:4, 110:4, 126:14, 126:15 11d-8.003 - 43:10, 143:2, 147:2, 165:5, 166:12, 167:23, 170:17, 178:12 11d-8.003's - 164:25 11d-8.004(1 - 156:2 11d-803 - 142:24 11th - 110:1, 111:9 12 - 48:15, 66:11, 68:1 12-9 - 49:9 12/2004 - 165:8 120 - 127:8 120.56 - 119:20, 135:13 122 - 3:12 12:00 - 142:19 13 - 53:6, 53:20, 54:25, 172:15 14 - 54:5, 172:15 | 7 - 1:19, 3:8, 26:13, 27:15, 33:3 733 - 27:10 76 - 3:9 | 8 - 29:15, 30:13, 30:16, 31:14, 33:3, 66:24 80 - 78:10, 78:12 80-000868 - 109:24, 111:1 80-001173 - 100:9 800 - 24:21 8000 - 8:19, 8:23, 9:15, 13:21, 14:19, 14:23, 15:3, 16:18, 19:5, 20:5, 20:6, 20:17, 21:3, 21:12, 21:15, 21:21, 22:24, | 8 - 29:15, 30:13, 30:16, 31:14, 33:3, 66:24 80 - 78:10, 78:12 80-000868 - 109:24, 111:1 80-001173 - 100:9 800 - 24:21 8000 - 8:19, 8:23, 9:15, 13:21, 14:19, 14:23, 15:3, 16:18, 19:5, 20:5, 20:6, 20:17, 21:3, 21:12, 21:15, 21:21, 22:24, | |
| 180 - 77:19 | | | | |

| | | | | |
|--|--|---|--|---|
| <p>accountable - 108:10</p> <p>Accreditation - 90:18</p> <p>accuracy - 37:18, 91:21, 98:14, 104:23, 106:25, 108:7, 117:1, 118:23, 159:16, 160:17</p> <p>accurate - 108:17, 112:16, 117:5, 122:17, 160:20</p> <p>acknowledge - 124:18</p> <p>Act - 25:15, 25:23, 130:7, 131:18, 135:11</p> <p>actions - 154:3, 154:4</p> <p>actual - 28:5, 35:25, 79:3, 93:9, 97:21, 157:15</p> <p>adapt - 169:6</p> <p>added - 61:23, 148:8</p> <p>adding - 44:4, 143:14, 152:20, 166:16</p> <p>addition - 61:21, 97:15</p> <p>additional - 24:25, 36:18, 36:20, 36:23, 56:15, 61:22, 61:24, 62:6, 97:14, 98:3, 99:11, 99:14, 159:18</p> <p>additionally - 144:22</p> <p>address - 121:19, 166:22</p> <p>addressed - 63:20</p> <p>addressing - 168:22</p> <p>adhered - 98:17</p> <p>administration - 117:23</p> <p>Administration - 10:11</p> <p>Administrative - 25:15, 25:23, 110:5, 130:6, 131:17, 135:11, 136:5, 164:18</p> <p>administrative - 126:23, 136:4, 136:12, 164:6, 177:10</p> <p>admissibility - 75:6</p> <p>admit - 17:21, 18:7, 110:15</p> <p>advanced - 8:20</p> <p>advisor - 114:20, 118:21, 135:3</p> <p>Advisory - 22:11, 90:13</p> <p>affect - 70:23, 103:1, 103:2, 104:18, 105:1, 116:16, 117:1, 117:22, 143:6, 148:21, 160:17</p> <p>affecting - 170:14</p> <p>affidavit - 51:21, 52:1, 52:14, 75:11, 85:1, 108:24, 109:7, 109:9, 109:11, 110:9, 110:12, 110:14, 110:16, 120:20, 120:23</p> <p>afford - 107:8</p> <p>afraid - 132:19</p> <p>afternoon - 40:12</p> <p>agencies - 9:20, 10:17, 66:6, 117:16, 172:7</p> | <p>agency - 4:17, 8:12, 9:1, 9:12, 9:16, 10:9, 11:6, 39:3, 88:6, 88:11, 95:10, 95:11, 108:11, 114:16, 176:4</p> <p>ago - 30:21, 76:1, 80:12</p> <p>agree - 15:4, 20:15, 20:20, 38:13, 41:10, 42:17, 43:19, 45:13, 65:20, 65:24, 69:3, 69:11, 69:17, 72:4, 85:23, 123:20, 123:22, 127:15, 127:22, 129:22, 131:1, 134:3, 136:24, 143:17, 175:1</p> <p>agreed - 17:19, 173:15</p> <p>agreeing - 29:6, 44:23</p> <p>agreement - 17:20, 177:19</p> <p>ahead - 19:25, 29:14, 35:16, 69:23, 76:18, 112:24, 142:15, 179:23</p> <p>Air - 7:14, 21:19, 161:18</p> <p>air - 20:16, 20:18, 22:23, 23:2, 24:16, 24:18, 33:5, 33:18, 33:19, 33:20, 34:7, 35:14, 39:16, 41:4, 41:7, 41:12, 42:18, 46:14, 47:1, 47:10, 58:6, 59:5, 59:19, 60:19, 63:17, 64:15, 71:8, 93:16, 103:24, 146:15, 161:1, 170:7</p> <p>alarming - 40:14</p> <p>alcohol - 11:5, 11:14, 14:10, 15:1, 15:13, 32:13, 33:22, 37:17, 41:13, 47:4, 78:4, 81:11, 84:18, 88:5, 88:15, 88:16, 88:25, 89:1, 89:3, 89:20, 90:8, 90:19, 103:2, 103:8, 103:13, 110:3, 112:7, 118:24, 120:19, 161:18</p> <p>Alcohol - 7:8, 7:18, 7:21, 28:14, 44:12, 68:21, 69:13, 87:21, 87:25, 88:20, 89:12, 91:23, 101:11, 102:18, 107:11, 111:22, 112:13, 112:14, 118:20, 134:14, 134:23</p> <p>alerted - 179:16</p> <p>allegations - 115:13</p> <p>allegedly - 60:22, 127:11, 158:2</p> <p>alleges - 105:10</p> <p>allow - 38:2, 38:25, 52:14, 92:4, 92:5, 92:7, 123:17, 130:10, 134:15, 139:5, 172:6</p> <p>allowable - 38:7</p> <p>allowed - 100:5, 135:16</p> <p>allowing - 47:9</p> <p>allows - 56:14, 94:23, 98:2, 161:8</p> <p>alluded - 125:8</p> <p>almost - 102:7</p> <p>alone - 140:14</p> <p>alteration - 116:4</p> | <p>altered - 34:19, 47:3, 71:1</p> <p>altering - 115:14</p> <p>alters - 174:21</p> <p>amended - 164:24, 165:2</p> <p>amending - 144:22</p> <p>amendment - 144:18, 164:16, 165:5</p> <p>American - 90:17</p> <p>analyses - 88:15</p> <p>analysis - 42:19, 45:9, 45:14, 62:5, 88:5, 93:25, 118:5, 118:10, 143:7, 148:19, 170:19</p> <p>analysts - 88:8, 88:14</p> <p>analytical - 41:19, 45:10, 45:13, 45:18, 46:18, 46:24, 47:1, 47:5, 47:11, 59:21, 60:4, 63:4, 98:23, 100:17, 100:18, 101:23, 143:7, 147:18, 147:19, 147:20, 148:5, 148:11, 148:14, 148:15, 148:20, 161:22, 162:15, 162:24, 170:14, 170:21, 170:25</p> <p>Analytical - 45:20</p> <p>analyzed - 93:14, 94:2, 103:11, 161:12, 161:21, 162:3</p> <p>anew - 176:16</p> <p>anniversary - 36:15</p> <p>annually - 104:22</p> <p>answer - 114:18, 114:19, 126:9, 132:11, 133:11, 146:11, 148:12, 152:2, 153:10, 154:7, 154:25, 156:9, 156:11, 156:17, 157:4, 159:14</p> <p>answered - 104:3, 153:24, 154:23, 156:8</p> <p>answering - 71:6, 123:5, 151:24</p> <p>anyway - 104:13</p> <p>Apa - 129:24, 132:18</p> <p>apart - 94:13, 120:18, 149:12, 149:21</p> <p>apologize - 13:14, 34:6, 68:13, 106:22, 137:6, 140:13, 142:13, 164:3</p> <p>apparent - 40:11</p> <p>appear - 6:2, 113:24, 114:12, 132:15, 132:22</p> <p>appearance - 32:1, 72:16</p> <p>Appearances - 2:2</p> <p>appeared - 5:22, 21:6, 30:11, 114:21</p> <p>Appearing - 2:4, 2:9</p> <p>appearing - 5:22</p> <p>appease - 140:24</p> <p>Appendix - 66:11, 66:18, 66:25, 68:2, 68:3, 71:21</p> <p>applicable - 72:22, 74:2, 158:15</p> <p>application - 155:6</p> <p>applies - 74:20,</p> | <p>74:22, 102:9, 155:4, 157:2</p> <p>apply - 67:6, 74:13, 74:18, 74:24, 91:17, 102:10, 124:11, 124:14, 140:4, 140:5, 154:15, 154:19, 154:21, 155:9, 155:19, 156:6, 157:9, 157:10, 158:2, 177:5, 177:11</p> <p>approach - 13:9, 18:22, 22:2, 23:22, 26:10, 30:14, 51:13, 53:16, 62:18, 68:19, 70:5, 73:4, 109:2, 114:25, 127:23</p> <p>appropriate - 56:15, 61:22, 92:7</p> <p>Approval - 25:16, 28:22, 82:24</p> <p>approval - 18:15, 23:18, 25:6, 25:13, 25:14, 27:22, 28:1, 28:4, 28:6, 28:9, 28:21, 29:12, 29:20, 29:22, 32:10, 33:2, 43:12, 49:24, 50:8, 72:15, 72:16, 82:22, 83:1, 95:21, 95:23, 96:1, 96:15, 98:20, 104:23, 108:7, 112:3, 115:5, 125:23, 126:6, 126:11, 126:12, 126:20, 131:12, 132:4, 132:16, 133:2, 134:10, 143:19, 147:25, 157:14, 157:20, 158:4, 167:13, 167:19, 172:21, 175:17, 176:24, 177:16, 178:6, 178:7</p> <p>approve - 58:14, 88:16, 96:2, 107:12, 113:21, 133:4, 135:4</p> <p>approved - 15:16, 16:12, 26:20, 31:8, 31:18, 43:7, 43:21, 43:25, 72:9, 72:14, 101:25, 107:14, 107:15, 107:16, 107:17, 108:3, 110:2, 111:2, 111:3, 111:5, 113:18, 126:2, 126:3, 126:13, 126:15, 126:22, 126:23, 127:10, 127:12, 127:15, 129:7, 129:9, 130:22, 134:7, 134:19, 134:20, 143:5, 143:12, 155:13, 155:16, 158:5, 166:14, 166:24, 167:2, 167:5, 167:8, 167:9, 167:10, 167:12, 167:15, 167:24, 168:2, 169:20, 170:12, 171:23, 177:3, 178:13</p> <p>approving - 137:21, 176:12</p> <p>Approximate - 9:11</p> <p>approximate - 23:13, 39:19</p> <p>April - 23:17, 23:20, 25:8, 25:10, 27:19, 28:16, 29:7, 29:10, 58:4, 99:10, 144:11</p> <p>area - 7:11, 9:6</p> | <p>areas - 9:21, 11:4</p> <p>argue - 178:1</p> <p>arguing - 60:9, 117:12, 160:4</p> <p>argument - 49:14, 67:11, 75:14, 75:17, 155:25, 166:6, 168:5, 176:25, 177:24, 178:10</p> <p>argumentative - 138:17, 139:8, 157:3</p> <p>arise - 14:10</p> <p>arises - 4:22</p> <p>arrangements - 180:23</p> <p>Arthur - 17:14</p> <p>aside - 101:6</p> <p>aspect - 39:9</p> <p>aspects - 168:13</p> <p>assembly - 116:8, 116:9, 116:14, 116:19</p> <p>assess - 90:19, 158:19</p> <p>assessing - 149:9</p> <p>assessment - 41:10</p> <p>assessor - 90:16</p> <p>assign - 88:2</p> <p>assistant - 179:9</p> <p>Assistant - 2:7</p> <p>assistants - 118:20</p> <p>assisted - 22:16</p> <p>associated - 78:22, 130:16</p> <p>Association - 11:16, 78:23, 90:11</p> <p>association - 79:1</p> <p>assurance - 90:21, 98:4, 104:14, 107:1, 107:6, 112:10, 112:11</p> <p>Attached - 108:24</p> <p>attached - 20:7, 24:23, 65:7, 94:16, 109:10</p> <p>attachments - 109:12, 110:9</p> <p>attached - 170:18</p> <p>attempt - 15:23, 16:23, 16:25</p> <p>attempting - 15:5, 16:18</p> <p>attend - 90:5, 90:7</p> <p>attending - 11:13</p> <p>attention - 4:15, 30:12, 53:6, 54:4, 54:23, 56:16, 66:23, 68:12, 119:13</p> <p>Attorney - 2:5, 2:8</p> <p>attorney - 135:3, 179:7, 179:9</p> <p>Attorneys - 78:24</p> <p>attorneys - 14:12, 134:1</p> <p>August - 35:19, 36:17, 43:1, 43:4, 49:19, 77:5, 80:21, 89:18, 92:20, 96:22, 99:17, 124:6</p> <p>aunt - 4:19</p> <p>author - 58:12</p> <p>authorities - 119:3</p> <p>authority - 105:3, 107:10, 107:12, 111:21, 125:10, 134:9, 134:24, 159:3</p> <p>authorization - 118:25</p> <p>authorized - 91:10, 94:24, 95:2, 97:13, 182:7</p> <p>automatically -</p> |
|--|--|---|--|---|

| | | | | |
|---|---|---|---|---|
| 148:7 available - 8:21, 15:21 average - 9:12 aware - 25:12, 46:24, 47:1, 66:6, 68:14, 70:17, 91:24, 93:5, 119:24, 133:12, 150:16, 151:7, 151:10, 163:4, 179:3 | 98:11 big - 125:12 Biochemistry - 89:17 bit - 18:21, 95:20, 101:24, 111:10, 111:12, 167:7, 178:17 block - 41:19, 42:16 blocking - 170:8 blood - 58:15, 88:5, 88:7, 88:14, 88:15, 88:25, 89:5, 89:20, 90:8, 103:10, 103:11, 118:24 blowing - 39:17, 105:23 blurry - 19:23 Board - 90:18 board - 19:9 book - 53:20 born - 92:15, 92:24, 100:10, 122:7 boss - 133:16 bottom - 63:24, 71:14, 128:23, 164:14 boxes - 139:1 brand - 74:25 break - 69:23, 69:25, 76:14, 76:20, 86:25, 142:15, 142:18 Breath - 11:15, 11:22, 12:13, 90:15 breath - 7:12, 7:14, 8:11, 8:15, 10:5, 11:5, 11:6, 14:18, 14:24, 15:1, 15:11, 16:6, 16:10, 33:17, 43:13, 45:7, 57:25, 59:19, 63:18, 65:16, 66:12, 70:20, 72:5, 72:11, 73:14, 73:16, 74:9, 75:5, 75:10, 75:17, 78:20, 81:10, 88:5, 88:7, 88:11, 88:12, 88:17, 88:19, 88:25, 90:8, 90:19, 90:22, 93:15, 94:8, 102:3, 102:16, 103:2, 103:9, 103:13, 106:6, 108:14, 109:13, 109:14, 109:23, 110:3, 110:23, 111:2, 112:7, 112:8, 117:14, 118:24, 120:14, 120:19, 120:23, 124:11, 124:14, 125:1, 125:23, 127:12, 131:13, 137:9, 143:5, 155:16, 157:16, 157:19, 160:18, 167:24, 170:4 Breathalyzer - 103:3, 120:5 Brian - 2:13, 4:4, 51:5, 52:7, 85:6 brief - 21:17 Briefly - 85:11 bring - 4:15, 53:5, 54:4, 54:22 broad - 154:6 broke - 41:3 Brought - 46:10 brought - 26:4, 40:24, 104:17, 119:13 business - 7:22 bypass - 175:12 Byrne - 140:1 | cabinet - 130:23 calculate - 20:4 calculation - 103:1 calendar - 108:12 calibrate - 10:6 calibrated - 103:6, 103:7 calibration - 8:20, 10:4, 10:5, 89:24, 90:20, 102:25, 103:5, 103:12 calibrations - 90:22 campuses - 12:23 cancelled - 178:24, 179:4, 179:9 Canton - 7:10 card - 55:18, 55:21 care - 159:16, 160:19 cares - 157:1 carrying - 46:21 case - 14:24, 45:12, 45:21, 78:4, 78:6, 117:8, 117:12, 120:3, 120:4, 121:2, 124:16, 143:17, 149:1, 155:12, 158:1, 169:7, 171:7, 177:20, 177:22, 179:18 Case - 1:3 cases - 78:4, 78:18, 117:6, 118:1, 118:3, 177:22, 177:23, 178:16 cat - 138:10 cease - 77:3 cell - 117:15, 117:17, 175:11 certain - 22:17, 31:25, 43:6, 102:8, 130:17, 134:4, 154:3, 173:9 Certainly - 33:16, 77:23 certainly - 75:8, 170:14 Certificate - 182:1 certification - 8:21 certifications - 8:10, 88:15 certified - 8:12, 10:6, 89:22, 89:23, 90:16, 90:24, 111:8 certify - 88:6, 182:7 chain - 66:3 Chair - 90:15 Chairman - 90:12 challenge - 119:17, 119:21, 121:7, 135:17, 136:12 challenged - 141:10 challenges - 135:11, 141:13 challenging - 136:2 chamber - 47:5, 47:11, 94:15, 149:21, 161:22, 162:15, 162:24 change - 34:17, 34:25, 35:9, 35:10, 42:22, 42:23, 43:6, 46:16, 47:1, 47:16, 49:16, 53:25, 55:6, 55:22, 69:19, 80:25, 84:10, 92:20, 99:1, 100:11, 105:7, 107:22, 117:1, 117:18, 118:5, 122:4, 124:5, 124:7, 124:17, 125:15, 125:19, | 127:4, 129:13, 129:16, 130:3, 131:2, 131:9, 131:20, 133:17, 137:8, 138:22, 144:23, 145:17, 145:23, 147:8, 147:17, 148:10, 148:20, 151:1, 152:21, 159:8, 159:9, 160:22, 168:14, 170:14, 172:18, 173:18, 173:19 changed - 39:12, 45:15, 45:16, 46:11, 49:20, 50:6, 81:3, 81:4, 81:5, 116:17, 122:2, 125:14, 125:16, 125:17, 132:21, 149:10, 158:10, 165:10, 174:21 changes - 35:25, 46:17, 46:23, 51:2, 53:8, 53:12, 55:12, 55:17, 55:21, 59:2, 62:12, 63:13, 69:14, 71:16, 84:11, 104:13, 104:25, 128:14, 128:16, 128:17, 129:1, 137:25, 138:4, 152:11, 152:12, 152:13, 152:15, 153:15, 158:14, 172:13, 173:6, 173:7 changing - 125:20, 131:23, 144:20, 170:24, 170:25 channels - 71:25, 136:4 Chapter - 88:4, 89:4, 110:4, 126:14, 126:15 characterized - 131:19 charge - 51:9 check - 34:19, 37:18, 37:19, 40:6, 40:8, 40:9, 88:19, 92:19, 92:21, 93:11, 93:12, 93:15, 93:18, 93:20, 94:3, 94:17, 100:22, 100:24, 101:4, 115:18, 115:19, 116:7, 116:10, 116:14, 116:16, 116:19, 116:20, 118:9, 138:6, 139:4, 149:7, 149:24, 150:14, 150:21, 162:5, 176:10 checked - 39:15, 40:7 checking - 10:4, 39:10, 39:18, 99:2, 120:12 checklist - 152:19 checklists - 37:5 Chemical - 11:16, 90:11 chief - 40:25, 51:8 choice - 123:17, 171:5, 172:8 chose - 64:11, 64:13, 64:15 chromatography - 89:1 circle - 162:9, 162:12, 162:13 Circuit - 1:1, 2:6 circular - 33:17, | 33:20 circulation - 41:4, 41:25 circumstances - 77:8 cited - 67:15 civil - 14:11 claim - 140:20 claiming - 49:14 clarification - 73:23, 80:19, 114:16 clarify - 31:25, 52:1, 64:4, 106:5, 111:6, 111:11, 115:14, 176:23 Cle - 10:22 clear - 67:12, 150:8, 171:20 Clerk - 5:11, 87:5 Clerk's - 164:12 close - 41:25, 120:4 closed - 93:19, 93:20 Cmi - 7:16, 8:17, 8:22, 15:4, 15:14, 15:22, 17:14, 24:2, 24:4, 34:18, 36:14, 41:7, 44:7, 44:23, 46:25, 51:11, 51:25, 52:12, 53:2, 53:24, 54:10, 54:15, 55:12, 57:19, 57:21, 57:24, 64:3, 64:5, 64:8, 65:5, 80:14, 83:10, 84:9, 85:3, 89:24, 90:24, 92:19, 93:4, 95:17, 109:23, 113:22, 116:16, 121:21, 138:5, 142:10, 144:23, 145:16, 145:24, 150:23, 169:25, 172:19, 178:6 Cmi's - 35:22 Cmo - 52:11 code - 164:6 Code - 110:5, 164:19 coils - 79:22 cold - 6:12 collected - 120:17 college - 77:11 Colorado - 12:15 column - 70:15 comfortable - 5:17 coming - 37:24, 139:18, 146:6 command - 66:4 comments - 34:25, 130:11, 133:6 Commission - 8:15, 11:3 Committee - 22:12, 90:12, 90:13, 90:15 commonly - 102:4 communicate - 173:9 communication - 68:15, 68:22 community - 14:14, 38:2, 64:23, 104:17 company - 34:18, 101:10, 159:3 compare - 67:25, 83:20 comparison - 67:9 Comparison - 67:14 compatible - 54:2 compensate - 33:10, 35:14, 150:24, 170:10 |
| B | C | | | |

| | | | | |
|---|--|---|--|---|
| <p>compensated - 34:21 compensating - 58:7 compensation - 20:22, 20:25, 23:2, 77:17 complain - 13:1 complete - 26:22, 31:7, 31:9, 32:21, 83:25 completed - 10:14, 11:3, 11:8 completely - 64:16, 157:17, 158:24 compliance - 81:24, 88:14, 105:17, 105:21, 105:23, 106:1, 106:2, 107:14, 119:8, 119:12, 119:15, 122:12, 158:9, 178:2, 178:5 complied - 50:19, 52:2, 78:19, 171:14 comply - 151:23 component - 74:18, 158:22 components - 54:12, 58:14, 65:25, 98:21 comported - 92:14 compromised - 75:6 concentration - 32:16, 33:22, 37:16, 39:17, 92:8 concentrations - 20:9, 24:13, 27:5, 61:12, 61:14, 61:15, 83:14, 84:5, 84:18 conceptually - 124:15 concern - 64:17 concerned - 148:19 concluded - 181:3 conclusion - 167:20 Conde - 69:4, 138:4, 138:23, 152:4, 152:9, 153:1, 173:4 Conde's - 152:12 conditioner - 103:24 conditioning - 39:16 conduct - 27:4, 49:24, 95:11, 98:4, 120:12, 147:25 conducted - 19:7, 25:6, 28:16, 29:11, 70:16, 95:8, 95:24, 97:15, 99:24, 100:22, 100:23, 101:7, 101:11, 102:24, 104:20, 104:22, 113:20, 115:21, 167:14 conducting - 90:22 confer - 86:19 Conference - 11:15, 11:22 conferences - 11:13, 90:5, 90:7, 90:9 confirm - 179:19 confirmation - 179:17 confirmed - 180:14 confirming - 171:21 conflicting - 31:19</p> | <p>conformed - 72:11, 177:9 conforming - 15:24, 16:7, 21:4, 31:21, 72:17, 73:2, 73:15, 74:10, 74:24, 100:5, 102:2, 102:5, 111:12, 111:25, 112:6, 112:19, 113:17, 113:22, 114:8, 114:17, 114:22, 115:4, 115:8, 127:14, 128:10, 139:16, 140:21, 140:22, 140:23, 142:11, 167:9, 174:7, 174:8, 174:19, 176:13 confusing - 50:3 confusion - 104:12 connect - 39:14 connection - 96:10, 148:13 connectors - 39:11, 39:13 connects - 148:9 consecutive - 61:14 consider - 13:24, 17:18, 110:16 considerations - 71:20 considered - 11:1 considering - 168:25 consistently - 162:11, 169:18 consult - 78:4, 78:18 consultation - 114:19, 169:25 Consulting - 7:9, 14:9 consulting - 14:5, 77:25, 78:1, 78:2, 78:8, 78:13 contact - 9:22 contacted - 151:13 contain - 158:21 contained - 43:9, 65:11, 98:25, 100:21, 137:15 containing - 109:12 contemplate - 107:3, 134:18 contended - 170:13 contention - 166:10, 168:7, 171:15, 174:5, 174:9 contesting - 53:1 continue - 70:16 continued - 83:12 continues - 162:12, 171:25 continuing - 10:23, 10:24, 90:4, 90:23 continuous - 162:13 control - 90:21, 120:13 controls - 93:12 conversation - 47:18, 47:19, 68:20, 133:21 conversations - 151:18 conversions - 89:5 cool - 39:16, 39:17 copies - 171:17 Copy - 128:6 copy - 13:3, 13:10, 13:13, 19:18, 19:21,</p> | <p>19:22, 73:7 corporation - 7:10, 15:12 correct - 8:7, 11:21, 12:3, 16:7, 20:11, 21:4, 21:8, 21:24, 22:17, 23:21, 24:3, 24:14, 24:20, 25:7, 25:9, 25:16, 25:19, 26:1, 26:17, 26:21, 26:24, 27:2, 29:20, 30:4, 30:22, 32:13, 32:14, 32:17, 34:10, 35:18, 35:19, 36:6, 37:10, 38:4, 39:4, 41:15, 43:8, 43:23, 44:5, 45:1, 45:3, 47:11, 54:20, 56:4, 57:2, 57:3, 57:17, 58:1, 58:10, 58:11, 58:16, 62:13, 62:23, 63:8, 63:13, 63:14, 65:9, 65:18, 66:13, 69:1, 69:21, 70:12, 71:21, 72:3, 73:2, 80:23, 80:24, 83:4, 86:1, 95:18, 96:21, 97:7, 100:13, 102:1, 117:9, 123:2, 123:8, 124:3, 124:12, 126:6, 127:4, 127:10, 128:15, 129:19, 129:24, 130:12, 131:20, 134:5, 135:11, 136:20, 139:13, 140:11, 141:6, 143:7, 143:15, 143:20, 143:25, 146:11, 147:3, 147:10, 150:3, 150:25, 151:9, 152:13, 158:8, 158:18, 158:24, 161:3, 161:5, 161:7, 161:24, 168:20, 170:20, 175:9, 175:13 Correct - 9:18, 14:20, 24:7, 24:13, 26:2, 26:7, 26:18, 27:3, 27:7, 29:21, 29:25, 30:23, 32:21, 36:3, 36:4, 36:7, 37:15, 38:5, 38:20, 39:3, 39:25, 40:4, 40:21, 41:3, 41:9, 42:14, 43:11, 43:24, 44:1, 45:11, 45:14, 45:17, 45:25, 47:12, 51:1, 56:5, 56:9, 56:14, 57:6, 57:9, 57:13, 57:18, 61:19, 62:14, 62:24, 64:4, 65:19, 69:16, 71:4, 72:13, 73:3, 97:8, 97:20, 97:23, 98:12, 98:15, 99:5, 99:7, 116:2, 124:8, 124:13, 124:19, 125:18, 126:2, 126:25, 134:12, 140:5, 142:12, 143:16, 148:3, 157:7 corrected - 60:22, 83:11, 174:17 correctly - 70:3 corroborate - 115:16, 115:24 corroborates - 115:9 Counsel - 128:4</p> | <p>country - 176:5 County - 1:1, 1:15, 1:21, 9:7, 91:12, 109:13, 109:24, 140:19, 182:4 county - 91:11, 91:14 couple - 82:10 course - 10:15, 12:7, 18:23, 59:3, 70:6, 145:6 courses - 8:18, 11:4 court - 6:7, 6:14, 81:24, 88:23, 91:9, 91:11, 91:13, 140:24, 177:10 Court - 1:1, 1:15, 4:3, 4:6, 4:8, 4:11, 4:13, 4:25, 5:6, 5:9, 5:16, 6:1, 6:5, 6:16, 6:18, 6:23, 12:8, 12:19, 12:22, 13:3, 13:10, 13:15, 13:23, 16:3, 16:23, 17:2, 17:11, 17:16, 17:25, 18:5, 18:11, 18:23, 19:10, 19:16, 19:20, 19:23, 22:3, 23:23, 25:2, 25:12, 26:11, 27:12, 27:15, 27:18, 27:21, 27:24, 28:5, 28:10, 28:13, 28:20, 28:23, 29:5, 29:10, 29:17, 30:15, 30:18, 31:3, 31:13, 32:7, 33:14, 33:24, 34:3, 34:6, 34:11, 35:2, 35:9, 35:16, 35:24, 38:19, 42:25, 43:2, 48:11, 48:14, 48:16, 48:21, 48:25, 49:3, 49:7, 49:11, 49:17, 49:20, 49:23, 50:4, 50:11, 50:15, 50:20, 51:14, 51:16, 51:20, 51:23, 52:7, 52:11, 52:13, 52:18, 52:25, 53:4, 53:17, 54:24, 55:3, 55:4, 55:7, 55:9, 55:14, 55:22, 55:24, 58:17, 58:21, 59:7, 59:15, 59:22, 60:3, 60:6, 60:9, 60:17, 60:21, 61:2, 61:8, 61:18, 61:20, 61:24, 62:9, 66:21, 67:8, 67:10, 67:14, 67:18, 67:21, 67:24, 68:5, 69:22, 70:2, 70:6, 70:11, 71:6, 73:5, 73:22, 75:9, 75:13, 75:24, 76:6, 76:8, 76:13, 76:17, 76:22, 82:7, 82:10, 82:12, 82:15, 82:17, 82:21, 83:1, 83:5, 83:8, 83:19, 84:2, 84:13, 84:21, 85:8, 86:7, 86:10, 86:12, 86:15, 86:21, 87:2, 87:10, 91:17, 92:2, 103:23, 106:19, 108:20, 108:21, 108:24, 109:3, 109:5, 110:15, 110:18, 110:21, 111:24, 112:24, 113:3, 113:6, 113:25, 115:15, 118:16, 119:24, 120:1, 121:8, 121:9, 121:17,</p> | <p>122:21, 126:9, 127:19, 127:24, 128:4, 128:18, 132:11, 132:19, 133:11, 135:23, 135:25, 136:9, 136:14, 138:18, 139:9, 141:23, 142:14, 142:21, 153:9, 154:7, 154:25, 156:11, 157:4, 159:14, 163:17, 163:20, 163:23, 164:2, 164:21, 165:2, 165:7, 165:12, 165:16, 165:24, 166:3, 166:8, 166:21, 167:1, 167:10, 167:18, 168:5, 171:3, 172:14, 174:13, 175:16, 175:19, 176:22, 176:25, 177:21, 178:9, 178:15, 178:25, 179:3, 179:13, 179:22, 180:2, 180:6, 180:11, 180:18, 180:20, 181:1, 182:6, 182:20 Court's - 4:15, 16:2, 17:9, 21:9, 53:6, 54:4, 54:22, 56:16, 66:23, 68:12, 85:10, 86:8 Courthouse - 1:21 courtroom - 6:10 courts - 91:6 cover - 94:14 covers - 42:15, 90:2, 104:25 Cpl - 30:3, 30:5, 30:9, 30:10, 32:2, 65:17, 139:16, 139:17, 155:14 cramps - 6:11 create - 88:10 created - 159:18, 171:6, 171:7 creating - 170:9 creation - 88:3 Crime - 90:17 crime - 89:11 Criminal - 1:2, 8:14, 78:23 criminal - 14:11, 14:14 Crohn's - 6:10 Cross - 3:9, 3:12, 76:23, 122:22 current - 97:2 curriculum - 88:10 custodian - 88:20 cut - 46:21 cutting - 77:11 Cv - 12:2, 13:4 cycle - 162:13</p> |
| D | | | | |
| <p>Dade - 9:7 Date - 1:19 date - 97:2, 109:25, 111:7, 165:15, 179:25 dated - 27:16, 28:15, 65:12, 66:16 Dated - 182:13 daughter - 77:10 days - 130:10, 179:24, 181:2 Dca - 175:4 deactivate - 117:18</p> | | | | |

| | | | | |
|---|---|---|---|--|
| <p>dead - 19:12, 38:3 deal - 56:25, 118:3, 141:14 dealing - 14:22, 45:12, 45:18, 52:2, 59:18, 60:18, 60:20, 73:10, 121:1, 121:3, 146:9, 152:4, 175:7 deals - 43:12, 55:5, 78:9, 134:10 dealt - 34:8, 117:13, 141:17 Dean - 4:17 debugging - 36:22, 84:8, 84:12, 84:20 December - 1:19, 49:19, 89:9, 99:12, 99:13, 105:8, 122:5, 128:7, 164:16, 165:1 decided - 77:12 decides - 113:8 decipher - 123:23 decision - 68:22, 71:21, 175:14 declare - 13:23 deemed - 56:15, 61:22 defect - 42:20, 42:22 Defendant - 1:11, 2:9, 7:2, 120:5, 179:18 Defendant's - 171:15 defendants - 14:13 Defense - 78:23, 114:24, 115:1 defense - 14:11, 14:12, 14:14, 64:23, 81:21, 104:16, 105:9, 115:12, 158:3, 168:7, 170:13, 177:14 defense's - 166:10, 178:3 define - 45:19 degree - 22:17, 31:25, 173:9 delegate - 111:21 deleted - 48:9 delivered - 92:17 demonstrate - 177:20 depart - 77:12 Department - 7:17, 7:19, 7:20, 8:5, 8:9, 8:25, 10:14, 10:20, 11:11, 14:4, 19:7, 21:1, 21:13, 22:6, 25:5, 26:5, 26:16, 28:15, 29:23, 32:3, 43:5, 44:11, 47:15, 52:3, 62:22, 64:11, 64:12, 66:4, 66:15, 73:15, 81:16, 81:20, 87:22, 89:21, 89:22, 101:6, 101:9, 101:14, 102:14, 110:7, 114:2, 114:10, 114:22, 132:7, 132:14, 133:7, 134:14, 134:22, 135:21, 136:4, 137:24, 138:2, 138:14, 139:12, 139:23, 140:9, 140:25, 142:2, 142:3, 158:16, 159:5, 159:21, 172:4, 174:4 department - 7:25, 8:13, 8:24, 9:15, 9:16, 9:19, 9:20, 11:10,</p> | <p>36:8, 36:9, 39:3, 39:5, 39:20, 39:21, 43:21, 44:2, 45:2, 49:23, 50:8, 95:7, 104:20, 108:6, 109:16, 109:17, 117:25, 134:16, 143:4, 143:12, 143:13, 147:12, 147:25, 150:2, 151:19, 166:15, 166:24, 167:23, 168:3 departure - 83:7 dependent - 9:10 describe - 61:10 described - 169:23 design - 42:20, 42:21, 42:24, 71:3 designated - 111:16 despite - 95:4 detailed - 152:10, 152:14 details - 36:19 detected - 63:2 detector - 113:4 detectors - 15:8 determination - 41:2, 41:14, 42:1, 71:18 determine - 40:12, 45:6, 63:4, 72:1, 80:10, 83:10, 143:6, 144:7, 147:18, 147:21, 172:21 determined - 38:21, 176:6 developed - 15:4 development - 15:19, 21:16, 51:10, 84:25, 85:1, 85:2 device - 63:12, 63:18, 65:17, 74:9, 160:20, 174:20, 175:10 devices - 73:17, 102:3, 102:16, 112:7 diagnostic - 120:12 diagram - 41:4 differ - 150:1, 150:5, 150:7, 150:10, 150:16 difference - 95:22, 97:9, 97:25 differences - 63:1, 84:2, 84:3, 84:14 Differences - 129:3 different - 8:18, 10:8, 10:16, 11:4, 11:13, 15:9, 15:13, 15:16, 20:8, 20:9, 24:13, 25:21, 27:1, 27:5, 32:11, 37:16, 39:13, 56:10, 59:9, 59:13, 59:16, 60:1, 61:12, 61:13, 61:15, 62:15, 63:7, 63:9, 65:25, 68:3, 75:3, 78:18, 83:13, 96:14, 98:8, 99:23, 104:15, 117:12, 127:21, 129:17, 138:21, 140:10, 143:18, 145:10, 146:4, 149:10, 157:17, 163:1, 164:5, 164:6, 168:13, 168:24, 169:3, 172:17, 174:18, 174:23, 174:24, 175:10 Different - 10:3 digital - 103:19,</p> | <p>112:21, 182:9, 182:10 Direct - 3:8, 3:12, 7:5, 87:17 direct - 8:7, 31:13, 58:17, 128:22, 152:12, 165:17 directed - 9:16, 36:17, 138:4 directly - 102:7, 168:22 director - 8:6 Directors - 90:18 disapproval - 134:11 disapprove - 107:12, 126:3, 135:5 disapproved - 107:18, 134:19, 134:20 disassemble - 94:18 disclose - 138:14 disclosure - 33:8 disconnect - 148:21 disconnects - 104:8, 148:8 discussed - 41:4 discusses - 109:8 discussion - 47:13 Disease - 6:10 dispute - 24:22, 27:8, 27:11, 32:25, 33:1, 151:16, 166:18 disputes - 169:8 disputing - 29:3, 52:20, 168:9, 169:10 distinction - 27:21 distinguish - 155:18 distinguishing - 155:5 distracting - 19:24 distribute - 88:18 divide - 124:9 Division - 1:2 division - 36:21, 39:12 divorced - 77:10 Doah - 136:4 docket - 179:12, 179:17, 179:20 document - 31:14, 66:25, 108:22, 146:18, 153:23 documentation - 24:18, 29:11, 55:18, 63:16 documented - 146:1, 153:19, 153:25, 154:1, 171:9 documents - 21:25, 110:13, 139:2, 167:19 done - 14:12, 16:1, 16:13, 19:4, 20:9, 22:1, 23:6, 23:18, 26:1, 26:16, 29:20, 32:11, 32:15, 32:19, 32:23, 37:8, 37:14, 44:18, 44:19, 46:13, 48:8, 56:7, 56:13, 59:1, 59:8, 59:10, 62:3, 62:6, 62:21, 62:25, 74:20, 74:21, 75:19, 80:7, 83:6, 83:9, 84:18, 92:13, 95:17, 97:4, 97:5, 97:11, 98:17, 99:9, 101:14, 123:6, 127:7, 132:16, 133:3, 137:20, 143:20,</p> | <p>144:3, 145:4, 146:3, 146:8, 146:18, 146:19, 146:20, 147:14, 151:2, 151:4, 153:25, 173:22 Done - 24:6 Donna - 182:6, 182:19 door - 136:12 dosed - 103:8 Dot - 16:18, 16:20, 18:15, 19:4, 20:21, 31:21, 62:13, 63:5, 63:7, 65:8, 66:17, 85:21, 101:19, 111:12, 111:14, 111:17, 111:19, 112:9, 113:8, 138:23, 140:2, 140:3, 140:15, 141:12, 153:2, 153:17, 167:10, 169:2, 173:4, 173:25, 174:11, 175:20, 176:9, 177:11 Dot's - 20:10, 32:1 down - 8:3, 35:15, 39:17, 86:10, 116:16, 116:20, 161:11, 163:24, 166:3, 173:19, 177:16 dozens - 20:13 drafting - 130:14, 130:18 drawn - 103:10 drill - 35:12, 41:18, 42:1, 42:10, 44:13, 71:9, 170:3, 170:5, 175:3, 175:5 drilled - 34:20, 42:18, 48:1, 48:5, 49:16, 49:19, 50:18, 64:24, 79:5, 80:20, 81:13, 83:17, 83:20, 85:15, 92:21, 96:17, 106:6, 137:9, 173:1, 175:12 drilling - 46:6, 46:14, 53:2, 59:5, 59:11, 60:21, 60:24, 64:14, 69:19, 83:8, 83:15, 84:14, 117:16, 138:22, 167:4, 175:5 driver - 53:15 driver's - 46:21 drivers - 54:3 drug - 11:14 Drug - 101:11, 102:18 drugs - 90:8 dry - 19:10, 19:11, 81:8, 93:14, 94:8 dual - 15:6, 15:7, 117:14 due - 26:6, 31:10, 136:24 Dui - 78:4, 90:13 duly - 7:3, 87:15 During - 9:7, 10:12, 125:6, 146:23, 146:24 during - 8:4, 8:8, 37:8, 38:15, 151:18 duties - 9:1, 43:6, 88:1, 88:8, 89:6</p> | <p>69:3 early - 15:17, 15:25, 47:21, 47:22, 164:13 earth - 12:23 easier - 18:12 easily - 94:9 easy - 132:17 Ebt - 16:9 Ebts - 71:3 Ed - 138:23 education - 10:23, 10:24, 90:4, 90:23 educational - 12:4, 89:14 effect - 43:4, 45:6, 45:9, 48:18, 49:9, 49:14, 103:12, 111:17, 111:22, 158:12, 159:15, 170:17 effective - 97:1, 165:1, 165:15 Eight - 77:2, 77:3 eight - 128:11, 128:12, 171:9, 174:3, 174:17, 174:23 eighty - 57:1 eighty-one - 57:1 either - 23:20, 33:2, 38:22, 95:2, 97:6, 104:9, 107:14, 119:21, 126:13, 132:5, 150:18, 161:10, 170:7 electrical - 30:25, 54:12 electrochemical - 117:16 electronic - 19:21, 41:23 element - 78:5 Ellis - 1:9, 4:5, 120:24 Ellis' - 121:2 emergency - 131:9, 131:13 emphasis - 50:16 employed - 7:7, 8:9, 21:17, 58:3, 77:24, 79:9, 81:16, 89:10 employee - 138:9, 174:3 employees - 36:12, 169:25 enact - 134:9 enclosed - 171:17 end - 29:19, 68:2, 70:24, 73:17 Enforcement - 7:18, 7:20, 8:10, 8:25, 10:20, 11:12, 14:4, 21:13, 22:7, 25:6, 26:5, 26:16, 29:24, 43:5, 44:11, 47:15, 52:4, 64:11, 66:16, 81:17, 81:20, 87:23, 89:21, 89:23, 101:7, 110:7, 132:8, 132:15, 133:8, 134:14, 134:22, 135:21, 138:14, 139:24, 142:2, 158:16, 159:6, 159:22 enforcement - 7:13, 10:12, 10:17, 10:25, 11:14, 90:14, 176:4 engineer - 85:7 engineering - 15:19, 34:17, 36:21, 39:12, 40:22, 40:25,</p> |
| E | | | | |
| <p>E-mail - 152:9, 179:17 E-mailed - 173:5 E-mails - 68:25,</p> | | | | |

| | | | | |
|--|--|--|--|--|
| <p>41:6, 42:23, 51:8, 52:8, 92:20 engineers - 84:9 entail - 59:24 Enters - 162:5 entire - 9:8, 39:10, 42:16, 98:21, 98:23, 99:3, 162:22 eraser - 19:11, 19:12 error - 80:23, 103:20, 112:22 errors - 80:24 Esquire - 2:13 essence - 37:13, 146:14 essentially - 101:2 establish - 51:24 Estimate - 23:10 ethereal - 96:10 Ethics - 90:12 Eubicki - 179:13, 179:15 evaluate - 45:3, 50:8, 56:5, 57:11, 62:3, 63:1, 84:7, 104:13, 104:15, 112:2, 112:5, 117:25, 118:2, 126:25, 137:17, 143:4, 145:18, 147:13, 147:15, 147:20, 157:14 evaluated - 59:24, 72:2, 72:7, 72:15, 72:20, 73:1, 73:17, 74:10, 74:15, 96:7, 107:25, 115:10, 116:21, 116:25, 118:2, 122:6, 122:7, 137:15, 137:18, 144:25, 174:6 evaluating - 57:1, 61:13, 100:7, 114:9, 117:3 evaluation - 19:6, 21:21, 23:8, 25:19, 26:1, 26:23, 27:19, 27:22, 28:1, 28:7, 28:16, 28:21, 28:22, 29:12, 30:2, 31:9, 31:19, 32:22, 43:13, 44:18, 50:1, 50:10, 56:4, 56:7, 56:21, 56:23, 57:22, 58:9, 60:4, 60:12, 60:16, 61:10, 61:17, 68:9, 69:15, 72:18, 72:21, 74:17, 74:20, 74:21, 75:1, 82:13, 83:1, 83:24, 95:21, 95:23, 95:24, 96:1, 96:4, 96:12, 97:7, 97:12, 97:18, 97:21, 98:17, 98:20, 99:10, 99:12, 99:15, 99:16, 99:17, 99:18, 99:19, 100:13, 100:19, 102:19, 105:4, 107:22, 113:19, 116:1, 116:22, 126:12, 126:19, 131:6, 132:3, 133:3, 140:3, 140:10, 140:14, 144:2, 146:7, 147:1, 147:9, 147:13, 147:16, 148:2, 152:17, 152:24, 159:9, 168:3, 168:12, 168:15, 168:18, 173:16, 175:20,</p> | <p>175:25, 176:11 evaluations - 21:15, 49:24, 56:18, 58:13, 59:1, 59:8, 59:10, 59:12, 59:25, 60:11, 61:5, 61:9, 61:11, 61:15, 62:1, 64:2, 74:22, 75:2, 82:21, 82:23, 82:24, 83:9, 96:13, 99:9, 99:23, 99:24, 100:6, 105:4, 115:21, 125:25, 126:18, 143:19, 147:25, 148:19, 165:18, 165:20, 168:17, 173:8 Evaluations - 95:24, 97:11 events - 172:16 Eventually - 41:14, 62:11, 129:16, 169:23 eventually - 14:3, 21:2, 33:25, 34:8, 41:1, 170:1 everyday - 94:19 evidence - 5:5, 13:7, 17:20, 24:25, 35:4, 55:11, 73:8, 75:6, 88:19, 92:18, 95:6, 96:6, 96:20, 96:23, 96:25, 101:21, 104:25, 105:20, 105:25, 106:8, 110:10, 119:7, 119:11, 122:14, 124:7, 124:22, 125:13, 136:19, 137:4, 137:7, 137:18, 154:9, 154:12, 154:14, 154:16, 154:18, 154:20, 154:21, 156:3, 157:15, 158:11, 158:12, 158:13, 159:17, 168:9 evidential - 16:10, 48:7, 73:16, 78:20 evidentiary - 57:25, 65:16, 70:20, 72:10, 74:9, 88:17, 95:12, 102:2, 108:11, 109:22, 110:3, 110:23, 115:11, 121:25, 122:1, 123:8, 123:10, 123:13, 123:15, 124:11, 124:14, 125:1, 136:25, 155:7, 155:8, 155:10, 155:11, 155:13, 155:15, 155:19, 155:22, 156:6, 156:15, 156:21, 157:6, 157:16, 167:25, 177:3, 177:4, 178:8 evolution - 15:11 exact - 23:16, 59:1, 59:3, 173:13, 179:21 exactly - 75:21, 114:13, 115:20, 127:22, 166:19, 172:22, 174:11, 175:4 exam - 149:4 Examination - 3:8, 3:9, 3:12, 7:5, 76:23, 85:12, 87:17, 122:22 examination - 101:19 examined - 7:4, 87:15, 115:5</p> | <p>example - 148:7, 171:8, 174:13 examples - 75:9, 75:21, 172:17 exams - 40:16, 101:7 except - 59:2 Except - 150:19 excuse - 24:11, 57:11, 63:10, 66:24, 140:8, 144:3, 146:24, 152:24, 167:15, 169:11, 172:15 Excuse - 174:11 exhaust - 35:12, 42:16, 58:6, 92:18, 93:11, 93:16, 101:4, 116:7, 118:9 exhibit - 13:16, 17:1, 19:1, 24:25, 34:13, 35:2, 35:6, 54:9, 66:24, 110:15, 128:18 Exhibit - 17:24, 17:25, 19:1, 19:19, 20:3, 21:9, 26:13, 27:15, 29:15, 30:13, 30:16, 31:14, 31:24, 32:1, 33:3, 42:3, 43:9, 48:15, 49:6, 53:6, 53:19, 54:23, 54:25, 55:5, 56:17, 61:5, 62:20, 65:8, 66:21, 67:19, 67:21, 70:2, 70:11, 108:19, 109:6, 110:20, 114:24, 115:2, 115:6, 120:23, 128:1, 152:9, 171:18 exhibits - 16:22, 18:7, 80:8, 80:10 Exhibits - 17:13, 62:16, 172:14 existed - 152:5 existence - 152:17 existing - 119:22 exit - 160:24, 161:9 expect - 151:19, 151:21 expenses - 77:20 expert - 13:21, 13:24, 13:25, 73:21, 73:22, 74:2, 78:3, 91:6, 91:9, 91:16 expertise - 94:21 explain - 33:14, 95:22, 97:9, 111:24, 115:14, 116:5, 164:23 explained - 169:1 express - 174:20 extensive - 82:12, 178:16 external - 54:2 extra - 104:14, 131:6 extrapolations - 89:5 eyewitness - 169:11 eyewitnesses - 169:11</p> | <p>44:23, 44:24, 47:21, 50:22, 54:10, 64:9, 71:15, 135:9, 136:24, 145:1, 146:17, 153:13, 155:5, 166:19, 168:10, 168:17, 169:3, 171:23, 175:19, 176:5 factor - 14:10 facts - 177:20 fail - 148:24 failing - 40:2 failure - 26:5, 26:20, 151:23 failures - 26:23 fair - 10:21, 11:12, 22:21, 24:21, 40:1, 47:3, 47:20, 48:3, 64:22, 64:25, 126:1, 146:7, 158:22, 159:25 fairness - 131:17 familiar - 18:13, 18:16, 22:6, 43:16, 51:2, 53:8, 56:18, 68:25, 74:5, 75:24, 117:7, 117:9, 120:1, 127:9, 128:14, 139:13, 141:22, 142:25 far - 55:9, 90:4, 102:15, 140:18, 144:2 Faraldo - 2:7, 3:9, 3:12, 4:7, 4:10, 4:14, 13:8, 13:18, 17:22, 18:1, 25:3, 31:1, 35:8, 38:17, 51:15, 51:16, 51:17, 52:5, 52:22, 53:3, 67:2, 73:18, 73:23, 74:1, 75:12, 76:7, 76:8, 76:12, 76:15, 76:22, 76:24, 82:5, 86:7, 86:9, 86:17, 86:23, 87:18, 91:15, 91:18, 91:19, 104:1, 106:19, 106:22, 106:23, 108:18, 108:25, 109:2, 109:4, 110:8, 110:17, 110:19, 110:22, 113:7, 114:3, 118:12, 118:13, 118:17, 119:23, 120:2, 120:22, 121:15, 121:18, 122:19, 126:7, 127:17, 127:25, 128:2, 132:9, 133:10, 135:22, 135:24, 136:7, 138:17, 139:7, 153:7, 154:5, 154:22, 156:7, 157:3, 159:12, 163:21, 164:1, 176:23, 177:2, 177:21, 177:25, 180:5, 180:8, 180:12, 180:16 fashion - 174:22 Faulkner - 51:5, 51:18, 51:21, 52:7, 85:7 Fdle - 18:17, 21:11, 21:22, 23:18, 26:1, 26:3, 29:2, 36:12, 38:1, 43:4, 44:25, 48:4, 49:7, 49:8, 52:18, 53:24, 54:1, 54:20, 55:12, 55:20, 57:7, 57:23, 63:7, 64:1, 64:3, 64:5, 64:6, 64:8, 64:17, 65:4,</p> | <p>68:14, 68:21, 72:5, 72:7, 72:18, 72:19, 77:1, 77:4, 77:9, 77:13, 77:14, 79:10, 82:19, 83:2, 85:19, 85:24, 85:25, 89:9, 93:5, 96:17, 100:4, 105:10, 107:5, 111:15, 111:20, 118:25, 129:19, 129:20, 130:3, 131:2, 132:22, 139:5, 139:18, 143:20, 145:3, 151:13, 158:7, 158:9, 166:24, 167:11, 167:12, 170:1, 172:6, 172:7, 172:20, 173:2, 174:1, 174:11, 176:4, 178:7 Fdle's - 32:10, 57:20, 69:12, 89:3, 133:1, 171:5, 174:14 features - 71:3 February - 27:16, 28:15 Federal - 10:9, 16:5, 25:24, 65:11, 65:12, 65:15, 65:16, 65:25, 66:11, 67:3, 68:4, 68:8, 70:12, 85:20, 102:1, 102:9, 113:14, 114:7, 128:6, 139:17, 172:8, 175:23, 176:2, 177:12 Female - 29:9 few - 76:9, 76:10, 86:19 field - 10:13, 21:22, 22:9 fifty - 18:9, 27:2, 27:4, 61:14 fight - 6:11 figure - 40:2, 40:4, 40:23 file - 135:15, 135:16 filed - 135:20 finalization - 84:8 finalizing - 36:18, 84:23 finally - 36:18, 96:24 fine - 13:19, 138:12, 167:18 finish - 98:24, 125:5 finished - 144:12, 144:15 firm - 14:5, 77:25, 78:1, 78:2, 78:8, 78:13, 134:3 First - 149:9 first - 5:6, 15:5, 15:7, 15:8, 15:12, 15:20, 15:22, 21:16, 25:1, 30:11, 32:2, 37:13, 38:6, 42:9, 44:16, 72:24, 87:15, 101:13, 107:9, 111:21, 123:3, 130:9, 141:2, 143:10, 149:3, 163:4, 169:15, 172:2 fittings - 81:4 five - 7:25, 9:13, 39:23, 69:24, 99:14, 116:17, 152:15 fix - 39:1, 40:20, 41:2, 41:15, 41:17 fixed - 38:23, 149:23, 149:25 Fl - 2:4 Fleming - 1:21</p> |
| F | | | | |
| <p>face - 6:2 faces - 6:6, 6:13 Facilitator - 10:15 facilities - 94:25 facility - 35:22, 95:3 fact - 21:14, 22:10, 27:8, 29:3, 42:17,</p> | | | | |

| | | | | |
|---|--|---|---|--|
| <p>Flood- 117:8, 175:6 Flores- 17:14, 17:15 Florida- 1:1, 1:6, 1:22, 2:7, 2:12, 7:17, 7:20, 8:9, 8:25, 9:6, 10:20, 11:2, 11:11, 11:15, 11:22, 13:1, 14:3, 14:15, 14:17, 15:16, 15:17, 21:13, 22:6, 25:5, 26:4, 26:16, 29:23, 36:20, 43:5, 44:11, 47:14, 52:3, 54:18, 63:11, 64:11, 64:12, 66:15, 67:4, 72:10, 78:23, 81:16, 81:19, 84:24, 85:5, 87:14, 87:22, 88:9, 88:18, 88:20, 88:24, 89:17, 89:21, 92:10, 92:16, 92:21, 93:1, 96:7, 96:23, 101:6, 101:8, 102:10, 102:17, 105:14, 110:4, 111:3, 111:16, 111:25, 113:10, 113:13, 115:5, 115:11, 119:2, 119:7, 119:15, 127:11, 127:13, 129:7, 129:9, 132:7, 132:14, 133:7, 134:8, 134:14, 134:22, 134:23, 135:20, 138:13, 139:23, 140:6, 140:8, 140:19, 141:10, 150:15, 150:19, 150:20, 155:21, 157:22, 158:16, 159:5, 159:21, 169:20, 171:13, 177:12, 178:14, 182:3 Florida's- 51:10 flow- 33:17, 33:20, 41:4, 41:7, 41:12, 41:13, 47:1, 93:12, 102:25, 103:5, 103:6, 103:12 flowed- 146:15 follow- 97:25, 102:15, 120:9, 158:12 followed- 25:22, 83:23, 97:17, 97:22, 98:5, 100:17, 100:20, 102:13, 154:10, 154:12 Following- 20:10 following- 4:2, 70:1, 76:21, 87:1, 103:20, 112:22, 142:19, 147:5, 148:6, 167:24 follows- 7:4, 87:16 Force- 7:14, 21:19 foregoing- 182:8 forensic- 11:5, 89:19, 89:22 Forensic- 7:8 forgetfulness- 139:6 forgot- 40:6, 137:13, 138:7, 152:1, 152:5, 152:6, 173:12 forgotten- 139:3 Form- 56:8, 56:14, 62:7, 72:25, 73:7, 73:25, 74:5, 83:21, 83:25, 84:3, 84:15, 84:20, 85:19, 96:8, 96:13, 97:12, 97:13, 97:16, 98:1, 98:2,</p> | <p>98:17, 99:13, 100:18, 100:25, 126:18, 127:1, 137:19, 144:4, 147:16, 148:2, 148:6, 152:25, 157:9, 168:4, 168:21, 169:21, 172:21, 174:6 form- 34:25, 59:11, 68:8, 74:16, 75:1, 100:19, 112:3 formal- 105:4, 129:23, 132:3, 133:19, 177:16 former- 36:9, 138:9, 174:3 formerly- 90:11, 90:14 forms- 85:1 forth- 52:1, 85:6 Forward- 61:21 forward- 179:5 four- 8:3, 57:2, 94:16, 106:20 fourth- 66:25 Fowler- 178:25 Fowler's- 179:5 frankly- 131:19 front- 5:23, 6:2, 28:13, 171:11 fuel- 117:15, 117:17, 175:11 full- 32:18, 106:16, 115:6, 175:22 functioning- 99:3 functions- 18:17 Fund- 140:1 funds- 139:17 future- 145:7</p> | <p>60:18, 60:25, 61:3, 61:7, 62:10, 62:18, 62:19, 67:9, 67:12, 67:15, 67:20, 67:23, 68:1, 68:6, 69:22, 70:4, 70:7, 70:10, 73:4, 73:6, 73:9, 73:25, 74:4, 75:14, 76:4, 76:17, 82:7, 82:8, 85:9, 85:11, 85:13, 86:5, 86:12, 86:14, 108:22, 108:23, 109:1, 110:11, 120:25, 121:13, 122:21, 122:23, 126:16, 127:23, 128:1, 128:3, 128:6, 128:8, 128:21, 128:24, 132:13, 132:19, 132:25, 133:14, 136:1, 136:9, 136:11, 136:17, 138:19, 139:10, 142:1, 142:14, 142:21, 142:22, 142:23, 153:11, 154:13, 155:3, 156:9, 156:16, 157:5, 159:19, 163:15, 163:18, 164:13, 164:22, 165:4, 165:8, 166:2, 166:5, 166:7, 166:9, 166:21, 166:25, 167:6, 167:12, 167:22, 168:7, 178:9, 178:11, 178:18, 178:23, 179:1, 179:6, 180:1, 180:14, 180:17, 180:19, 180:25 gas- 81:8, 89:1, 93:15, 94:8 gate- 41:23 gather- 139:24 gauntlet- 14:13 gears- 160:22 general- 95:16, 119:9, 119:11 generally- 9:4 Generally- 9:5 generational- 15:10 generic- 85:3 Georgia- 7:10 given- 66:8, 70:8, 71:21, 123:14, 136:21 glad- 13:24 global- 157:12 glue- 79:22 God- 5:14, 87:8 Gotcha- 50:15 govern- 118:18 governing- 71:20, 88:5, 122:13 government- 70:19, 75:16, 102:1, 102:9 governor- 77:11 graduate- 12:9 graduated- 77:11 grant- 139:24 Grant- 140:1 Grounds- 135:23 Group- 36:16 groups- 11:16 guess- 59:25, 95:22, 110:19, 164:8, 167:21 Guidance- 71:19 guideline- 66:18</p> | <p>guidelines- 66:12, 67:1, 139:12, 139:13, 169:5 Guth- 9:25, 10:7, 76:1 guys- 104:5</p> | <p>93:6, 93:9, 94:11, 95:17, 96:17, 100:2, 100:10, 100:21, 100:24, 101:3, 101:16, 101:17, 103:5, 103:16, 104:6, 105:15, 106:6, 106:17, 115:18, 115:19, 115:22, 116:10, 117:17, 118:9, 121:7, 121:22, 125:8, 137:9, 137:12, 137:14, 138:5, 138:22, 139:1, 139:3, 144:4, 144:7, 144:13, 146:9, 146:13, 149:7, 149:24, 150:14, 150:17, 150:20, 152:4, 152:25, 153:16, 153:18, 153:23, 160:23, 163:4, 167:4, 168:21, 168:25, 170:5, 173:1, 173:11, 173:22, 175:5, 175:12, 177:18 holes- 59:5, 93:2 Honestly- 163:9 Honor- 4:10, 4:14, 6:24, 25:3, 28:11, 28:19, 29:9, 29:16, 30:17, 34:1, 34:5, 34:10, 36:2, 38:17, 43:1, 48:13, 48:24, 51:22, 52:5, 52:22, 53:3, 58:20, 73:18, 76:15, 82:6, 82:11, 82:14, 82:16, 82:20, 82:25, 83:4, 86:9, 86:11, 86:17, 86:24, 91:18, 106:22, 110:17, 115:1, 119:23, 121:15, 127:17, 132:9, 139:7, 154:5, 159:13, 163:22, 164:1, 164:20, 168:22, 171:11, 176:23, 179:15, 180:5 Honorable- 1:14 hook- 38:7 hooked- 33:16 hooking- 60:19 hooks- 169:16 hopefully- 19:21 hoses- 39:11, 39:14, 81:5 hosted- 11:23 hour- 40:9, 77:19 hours- 10:22, 40:10 house- 125:25, 131:6, 132:17 Hrs- 129:21 human- 34:2 hundred- 9:13, 23:14 Hundreds- 23:11, 27:6 hundreds- 20:11, 20:12, 23:12, 23:13, 23:16, 27:6, 32:23 hundredths- 37:21, 46:3, 46:10, 83:16 hypothetical- 153:5</p> |
| G | | H | | |
| <p>Gabriel- 2:11, 2:13, 3:8, 3:9, 3:12, 4:4, 4:6, 4:11, 4:12, 4:13, 5:2, 5:4, 5:8, 5:19, 5:24, 6:4, 6:15, 6:17, 7:6, 12:10, 12:11, 12:20, 12:21, 12:25, 13:5, 13:9, 13:12, 13:19, 14:1, 14:2, 16:4, 16:21, 17:6, 17:13, 18:3, 18:10, 18:11, 18:20, 18:24, 19:9, 19:15, 19:16, 19:20, 20:1, 22:2, 22:4, 23:22, 23:24, 24:24, 25:4, 26:12, 26:14, 27:12, 27:14, 27:17, 27:20, 27:23, 28:3, 28:8, 28:19, 28:25, 29:15, 29:18, 30:17, 30:19, 31:4, 31:16, 31:23, 32:8, 34:12, 35:3, 35:9, 35:11, 35:17, 36:2, 36:5, 38:24, 42:3, 42:5, 43:3, 48:15, 49:5, 49:8, 49:13, 49:18, 49:22, 50:2, 50:7, 50:13, 50:16, 50:21, 51:13, 51:22, 51:25, 52:8, 52:12, 52:17, 53:5, 53:7, 53:16, 53:18, 54:4, 54:6, 54:22, 54:24, 55:2, 55:5, 55:8, 55:10, 55:17, 55:23, 55:25, 58:24, 59:7, 59:14, 59:17, 60:2, 60:5, 60:7, 60:15,</p> | <p>gas- 81:8, 89:1, 93:15, 94:8 gate- 41:23 gather- 139:24 gauntlet- 14:13 gears- 160:22 general- 95:16, 119:9, 119:11 generally- 9:4 Generally- 9:5 generational- 15:10 generic- 85:3 Georgia- 7:10 given- 66:8, 70:8, 71:21, 123:14, 136:21 glad- 13:24 global- 157:12 glue- 79:22 God- 5:14, 87:8 Gotcha- 50:15 govern- 118:18 governing- 71:20, 88:5, 122:13 government- 70:19, 75:16, 102:1, 102:9 governor- 77:11 graduate- 12:9 graduated- 77:11 grant- 139:24 Grant- 140:1 Grounds- 135:23 Group- 36:16 groups- 11:16 guess- 59:25, 95:22, 110:19, 164:8, 167:21 Guidance- 71:19 guideline- 66:18</p> | <p>guidelines- 66:12, 67:1, 139:12, 139:13, 169:5 Guth- 9:25, 10:7, 76:1 guys- 104:5</p> | <p>Hagan- 54:17 hair- 39:8, 40:22 half- 42:15, 89:18, 106:9, 173:1 Hampshire- 12:12, 12:13 hand- 5:10, 70:15 handle- 46:21 handling- 179:10 hard- 19:18 hardware- 36:23, 69:13, 69:19, 80:6, 128:17, 129:1, 137:25, 138:3, 152:11, 152:12, 152:16, 173:7 head- 29:2, 41:6, 44:11, 52:8, 68:21, 69:12, 134:13, 134:22, 172:5 hear- 18:14, 51:16, 123:3, 180:6, 180:7 heard- 143:24, 149:13, 149:14, 149:15, 164:19, 167:3 hearing- 17:3, 17:17, 106:16, 130:16, 130:20, 136:10, 178:18, 178:21, 178:23, 179:1, 179:8, 181:3, 182:9, 182:11 Hearing- 1:14 hearings- 18:17 Hearings- 136:5 hearsay- 133:10 hell- 157:8 help- 5:14, 87:8, 164:13 hence- 156:15 hereby- 110:2 herein- 5:12, 87:6 hide- 105:10 high- 103:7 higher- 47:14 higher-ups- 47:14 Highway- 10:10 himself- 169:24 history- 21:18, 172:1 hold- 8:10, 8:11, 19:13, 116:12 holder- 11:6, 116:8 holds- 116:7, 176:13 hole- 34:20, 35:12, 41:18, 42:1, 42:7, 42:11, 42:18, 45:23, 46:6, 46:14, 47:16, 48:1, 48:4, 49:15, 49:18, 50:18, 53:2, 58:6, 59:2, 59:10, 60:22, 63:16, 64:14, 64:24, 65:3, 68:9, 68:23, 69:19, 71:9, 79:3, 79:4, 79:18, 80:20, 81:13, 83:9, 83:15, 83:17, 83:20, 84:15, 85:15, 91:24, 92:3, 92:15, 92:18, 92:21, 92:24, 92:25,</p> | <p>idea- 128:19, 170:9, 180:11 identify- 20:18</p> |

| | | | | |
|---|--|---|--|--|
| <p>ignore - 64:16 Illinois - 12:9 Immediately - 37:11 immediately - 37:17, 37:19, 40:11 impact - 92:6 implement - 145:12 implemented - 145:8, 158:19 importance - 172:1 important - 66:19, 122:1, 122:3, 123:1, 123:7, 123:9, 123:11, 123:12, 123:13, 123:24, 125:14, 137:3, 154:4, 175:22 in-house - 125:25, 131:6, 132:17 inaudible - 13:11, 17:23, 25:18, 32:13, 50:19, 52:23, 55:6, 73:11, 73:20, 73:25, 80:8, 81:10, 82:3, 89:15, 98:19, 102:1, 102:8, 104:4, 105:13, 105:14, 106:16, 107:19, 109:6, 111:24, 113:9, 114:24, 119:18, 121:4, 121:21, 128:3, 129:24, 133:18, 135:24, 136:13, 152:19, 152:20, 153:7, 154:6, 159:12, 159:13, 168:4, 177:13, 177:14, 177:15, 180:8 Inaudible - 51:15, 52:6, 54:7, 54:15, 70:21, 72:4, 72:6, 73:19, 74:3, 76:7, 76:12, 77:22, 80:11, 100:6, 106:12, 108:25, 109:1, 111:18, 113:14, 113:18, 115:14, 119:24, 119:25, 122:13, 126:8, 127:18, 132:10, 136:7, 177:7, 177:19, 178:6, 180:5, 180:13, 180:15, 180:16 Inc - 109:23 inch - 42:14 include - 60:1, 69:18 included - 25:1 including - 11:14, 15:16, 66:1, 89:19, 168:1 income - 78:12 incorporate - 60:3 Incorporated - 8:17 incorporated - 120:11, 126:14 incorporating - 104:10, 144:24 incorporation - 126:13 incorrect - 140:12, 142:5, 147:4, 161:6 independent - 101:10 indicated - 115:20 indication - 20:15, 20:16, 115:3 indicator - 171:21 individual - 58:14 information - 21:9, 24:4, 31:20, 52:15,</p> | <p>104:10, 115:10, 120:7, 120:20, 138:3, 180:12 infrared - 15:6, 15:11, 45:14, 89:1, 89:2, 117:15, 118:7, 118:8, 170:20, 175:11 initial - 69:15 input - 85:2 inquiry - 176:15 inside - 46:23, 98:25 insignificant - 51:4 inspected - 108:5, 108:11 inspection - 95:7, 95:11, 104:20, 108:7, 110:6 inspections - 109:16, 109:18 inspector - 4:17, 7:15, 8:12, 8:13, 8:24, 9:15, 9:17, 11:7, 11:11, 36:9, 39:4, 39:21 Inspector - 7:19 Inspectors - 28:15 inspectors - 7:25, 8:5, 9:1, 9:12, 9:16, 39:5, 88:7, 88:11, 150:2, 151:19 instances - 71:2 instead - 105:2 Institute - 11:23 institutes - 12:3, 12:4 instructor - 8:13, 8:15, 8:21, 10:14 Instructor - 10:15 instructors - 88:7, 88:12 instrument - 14:18, 14:20, 14:23, 15:3, 15:6, 15:8, 15:12, 15:15, 15:20, 15:23, 16:8, 16:10, 16:12, 16:20, 20:17, 20:19, 21:3, 22:24, 24:9, 24:17, 27:9, 27:10, 27:19, 29:23, 30:2, 31:7, 31:8, 32:16, 32:19, 33:6, 33:17, 33:18, 33:19, 33:21, 37:14, 40:15, 42:19, 43:7, 43:13, 43:20, 44:4, 45:7, 45:24, 46:12, 46:16, 46:18, 46:23, 47:6, 48:6, 48:9, 49:25, 50:10, 52:10, 53:9, 53:15, 54:3, 54:11, 55:13, 57:5, 58:15, 59:20, 59:21, 60:20, 63:22, 65:22, 72:9, 72:16, 73:1, 74:15, 80:7, 80:25, 82:18, 85:3, 85:4, 92:9, 93:10, 93:13, 93:21, 94:13, 94:17, 94:18, 94:23, 94:25, 95:1, 95:3, 95:4, 95:12, 96:2, 96:10, 96:19, 97:12, 98:22, 98:23, 100:21, 100:23, 101:2, 101:3, 104:16, 104:21, 104:24, 105:1, 107:16, 108:3, 108:8, 108:9, 108:16, 109:23, 110:2, 110:5, 110:24, 111:2, 111:4,</p> | <p>111:25, 112:2, 113:21, 115:18, 115:22, 115:23, 116:11, 117:14, 117:24, 120:12, 121:1, 121:3, 121:24, 122:5, 123:10, 123:15, 124:5, 124:6, 124:25, 125:13, 125:24, 126:12, 127:1, 129:7, 129:9, 131:13, 132:1, 133:4, 133:22, 134:17, 137:4, 137:9, 137:10, 137:12, 137:14, 139:15, 139:20, 142:10, 143:5, 143:11, 143:15, 148:2, 148:8, 148:9, 148:13, 149:12, 149:21, 149:22, 154:11, 154:15, 155:9, 155:11, 155:14, 155:16, 155:18, 155:22, 156:2, 156:15, 157:16, 157:21, 159:7, 159:17, 160:24, 161:3, 161:9, 161:20, 162:2, 162:16, 162:24, 163:1, 165:23, 166:14, 166:17, 166:23, 167:2, 167:5, 167:8, 167:9, 167:15, 168:3, 168:21, 170:4, 170:15, 170:22, 171:1, 171:24, 172:10, 172:19, 174:6, 175:3, 175:6, 175:10, 175:14, 175:25, 176:5, 176:10, 176:15, 176:18, 178:13 Instrument - 20:5, 57:16, 64:2 instrument's - 41:20, 45:9, 45:21, 117:19, 143:6 Instrumentation - 90:15 instrumentation - 36:22, 50:9, 62:5, 74:13, 74:16, 74:25 instruments - 10:5, 16:6, 26:4, 26:6, 26:22, 26:25, 30:20, 37:18, 37:20, 45:8, 49:24, 57:19, 57:20, 57:21, 57:24, 57:25, 59:23, 62:14, 63:21, 64:1, 64:3, 64:5, 64:7, 64:9, 66:13, 73:14, 81:2, 82:18, 88:17, 88:19, 92:16, 92:22, 92:23, 92:25, 100:1, 100:7, 100:10, 101:17, 103:9, 109:13, 109:14, 109:17, 112:6, 112:8, 117:3, 122:6, 124:9, 124:10, 124:11, 124:14, 127:10, 127:13, 134:11, 137:15, 140:25, 156:23, 167:24 Instruments - 25:17, 100:8 insure - 84:10, 88:1, 88:14, 98:13, 98:14,</p> | <p>108:14, 118:23 insuring - 88:21 intend - 32:5 intended - 28:8, 33:3, 58:13, 170:3 intent - 171:21 interest - 78:16 interested - 130:10, 130:21, 135:14 interference - 24:12, 24:14, 26:15, 32:12 internal - 120:13, 145:11, 160:2 International - 11:16, 90:10 interpretation - 89:4, 135:4, 135:7 intervals - 138:21 intimately - 52:19 Intoxilyzer - 7:16, 8:19, 8:23, 9:14, 10:24, 11:15, 13:21, 14:19, 14:23, 15:3, 16:18, 19:5, 20:6, 20:17, 21:3, 21:12, 21:15, 21:20, 22:24, 23:6, 23:19, 24:8, 24:17, 25:7, 29:12, 31:20, 33:5, 36:16, 36:19, 40:15, 42:19, 43:7, 43:23, 45:23, 46:12, 48:25, 50:24, 51:10, 52:10, 62:12, 71:8, 71:11, 78:9, 78:12, 81:24, 82:2, 88:24, 88:25, 89:25, 90:1, 90:25, 91:3, 91:21, 96:22, 97:5, 101:8, 101:12, 102:20, 103:1, 103:4, 106:24, 109:8, 109:13, 109:23, 111:1, 113:9, 113:16, 113:21, 114:10, 114:17, 114:21, 115:3, 115:7, 115:11, 115:17, 117:2, 118:6, 118:7, 118:19, 120:6, 122:12, 122:16, 127:21, 128:9, 129:6, 129:8, 133:2, 137:22, 140:10, 140:20, 150:14, 155:12, 155:20, 155:22, 167:25, 168:2, 174:18, 175:8, 177:17, 178:4, 178:13 Intoxilyzers - 67:5, 92:10, 113:13, 119:6, 127:9 Intoximeter - 117:13, 175:8 introduce - 16:25 introduced - 16:24, 17:19 introducing - 17:4 invited - 11:21 involved - 7:11, 15:1, 26:8, 52:19, 85:24, 149:18, 179:7 involves - 78:4 lptm - 22:11 issuance - 88:14 issue - 4:22, 9:14, 26:20, 58:5, 64:14, 68:23, 76:3, 78:18, 79:3, 114:4, 117:12, 119:10, 121:3, 121:19, 136:16,</p> | <p>141:6, 142:25, 144:4, 144:19, 146:6, 149:8, 149:23, 151:7, 152:4, 152:25, 154:6, 158:8, 158:15, 158:17, 163:4, 166:22, 168:25, 169:1, 169:7, 169:10, 171:10, 172:22, 173:22, 177:16 issues - 14:9, 52:2, 90:8, 121:9, 121:12, 135:10, 141:9, 141:11, 141:14, 141:16, 141:18, 148:20, 158:20, 171:6 item - 98:2 itself - 35:5, 65:15, 108:15</p> |
| J | | | | |
| <p>Jacksonville - 9:6 January - 7:19, 19:4, 21:23, 99:15, 99:20, 110:1, 111:9 job - 7:17, 89:6 Judge - 1:15, 4:12, 5:4, 5:25, 13:9, 13:13, 13:20, 16:21, 17:6, 18:10, 18:21, 19:9, 24:24, 28:25, 31:23, 35:3, 42:3, 43:10, 49:5, 49:15, 51:13, 51:15, 51:25, 53:5, 55:5, 55:10, 58:24, 59:17, 60:7, 60:16, 66:21, 67:2, 67:9, 73:4, 75:14, 76:4, 82:9, 85:11, 86:6, 86:14, 110:11, 120:25, 127:23, 128:21, 136:11, 156:10, 163:16, 166:2, 166:7, 166:10, 167:6, 168:8, 168:19, 169:8, 169:14, 171:19, 172:11, 173:1, 174:5, 175:7, 176:19, 178:11, 178:14, 178:24, 178:25, 179:4, 180:1, 180:25 judge - 135:8, 141:22 judges - 104:17, 134:2, 171:12 Judicial - 1:1, 2:6 July - 89:13, 99:16, 99:22, 100:12, 116:22, 116:24 June - 19:5 Jupiter - 2:12 Justice - 8:14</p> | | | | |
| K | | | | |
| <p>keep - 145:9 keeping - 146:4 keeps - 108:15 Kentucky - 35:20, 163:8 kept - 153:13 Key - 1:22, 2:7 kidding - 113:6 kind - 19:18, 19:23, 19:24, 24:19, 61:24, 83:9, 95:20, 102:19, 104:5, 120:3, 120:7 knowing - 71:10</p> | | | | |

| | | | | |
|--|---|--|---|--|
| <p>knowledge - 44:10, 46:11, 47:19, 62:25, 64:10, 64:24, 66:10, 66:20, 68:11, 71:23, 94:23, 98:16, 122:16</p> <p>known - 16:9, 31:10, 71:24</p> <p>knows - 98:6, 132:11, 153:10</p> | <p>leave - 47:10, 52:22, 64:11, 64:13, 68:22, 138:1, 175:21</p> <p>leaves - 162:19</p> <p>leaving - 67:17, 77:9, 77:15</p> <p>left - 7:22, 14:3, 64:5, 66:18, 160:11</p> <p>legal - 10:23, 12:3, 14:9, 14:13, 78:6, 114:20, 118:21, 131:3, 135:3, 135:7, 141:9, 141:11</p> <p>Legislature- 111:16</p> <p>length - 116:15</p> <p>less - 116:18</p> <p>letter - 28:12, 32:3, 52:21, 114:10</p> <p>level - 169:19</p> <p>levels - 24:11, 26:15, 32:11, 56:11</p> <p>liability - 7:9</p> <p>license - 46:22</p> <p>lie - 113:4</p> <p>light - 45:15, 89:2, 118:7, 179:14</p> <p>lightly - 172:11</p> <p>limitation - 74:23</p> <p>limited - 7:9</p> <p>Lindsay- 1:9, 120:24</p> <p>Lindsay's- 121:5</p> <p>line - 28:12, 38:14, 49:1, 154:23</p> <p>lip - 116:10, 116:13, 116:18</p> <p>list - 15:24, 16:7, 16:12, 21:4, 21:6, 31:18, 31:21, 32:5, 72:12, 72:17, 73:2, 73:16, 74:11, 74:24, 101:25, 102:2, 102:5, 111:13, 112:1, 112:6, 112:7, 112:19, 113:1, 113:17, 113:23, 113:24, 114:1, 114:8, 114:18, 114:23, 115:4, 115:9, 127:14, 128:10, 139:16, 140:21, 140:23, 140:24, 142:11, 152:10, 152:15, 152:16, 153:14, 167:9, 173:8, 174:7, 174:8, 174:10, 174:19, 176:13</p> <p>listed - 31:21, 58:9, 73:14, 103:16, 104:6, 104:8, 104:9, 107:15, 107:16, 107:17, 112:6, 116:24, 119:4, 127:21, 173:19</p> <p>literally - 39:8, 40:21</p> <p>liters - 33:25, 34:1</p> <p>litigation - 64:20, 139:1, 140:18</p> <p>litigators - 14:11</p> <p>living - 87:20</p> <p>Llc- 2:11</p> <p>local - 172:7</p> <p>located - 94:1</p> <p>Look- 174:16</p> <p>look - 19:2, 20:2, 22:5, 23:15, 23:25, 26:25, 42:6, 56:1, 75:18, 96:5, 96:9, 114:9, 116:9, 125:12, 141:2, 145:16, 146:12, 147:17,</p> | <p>148:10, 157:13, 164:11, 171:20, 174:13</p> <p>looked - 72:14, 112:9, 112:15, 140:25, 144:23, 173:16</p> <p>looking - 15:17, 16:20, 41:11, 49:11, 50:4, 129:15, 141:3, 141:5, 164:4, 164:14</p> <p>looks - 18:1, 55:15, 70:24</p> <p>loop - 162:1, 162:9</p> <p>loosely - 47:22</p> <p>low - 37:21, 37:22, 46:4, 62:4, 83:16, 103:6, 169:17, 169:19</p> <p>lunch - 142:18</p> <p>lunchtime - 180:14</p> | <p>150:5, 150:8, 150:10, 150:13, 150:17, 159:23, 166:13, 166:23, 169:9, 171:24, 172:9, 172:12</p> <p>manufacturers - 71:20</p> <p>Marathon - 180:9</p> <p>March - 23:20, 25:8, 49:2, 49:4, 82:20, 97:1, 137:22, 164:24, 165:14, 168:4</p> <p>Marisa - 2:7, 4:7</p> <p>mark - 108:18, 120:23</p> <p>marked - 18:25, 53:19, 56:21, 110:20</p> <p>massive - 64:19</p> <p>math - 24:20, 27:9, 32:25</p> <p>Matt - 7:7, 14:3, 18:25, 20:2, 32:9, 50:22, 51:5, 53:8, 56:1, 68:14, 85:14</p> <p>matter - 99:1, 154:20, 157:1, 172:25, 175:1</p> <p>Matthew - 3:6, 5:8, 6:21, 7:1, 133:15</p> <p>mean - 12:4, 52:20, 83:23, 129:10, 141:8, 147:15, 152:21</p> <p>meaning - 84:25, 100:18, 114:20, 116:8, 116:17</p> <p>means - 72:5, 103:23</p> <p>measure - 15:13, 45:21, 112:7</p> <p>measurement - 73:16</p> <p>medical - 89:5</p> <p>meet - 16:9, 71:2, 84:24</p> <p>meeting - 22:10, 90:20</p> <p>meets - 112:15, 157:23</p> <p>member - 78:25, 90:10, 90:13</p> <p>members - 88:1</p> <p>memo - 28:2, 28:12, 28:14</p> <p>memorialized - 54:19</p> <p>mention - 20:24, 33:4, 33:11, 58:5, 173:10</p> <p>mentioned - 26:19, 50:22</p> <p>message - 141:17</p> <p>met - 100:25, 101:22, 114:11, 141:21, 156:14</p> <p>metal - 42:15, 94:15</p> <p>method - 45:9, 117:19, 117:23, 118:5, 118:10, 143:6, 148:14, 148:19, 170:19</p> <p>Method - 45:14</p> <p>methodology - 117:15, 117:17</p> <p>methods - 97:15, 175:13</p> <p>Miami - 103:11</p> <p>middle - 68:2, 70:15</p> <p>might - 19:12, 52:15, 119:10</p> <p>Mihalko - 182:6,</p> | <p>182:19</p> <p>miles - 6:3</p> <p>Military - 2:11</p> <p>Miller - 1:15</p> <p>millimeter - 116:14, 116:17, 116:18</p> <p>mind - 76:10</p> <p>minimum - 56:12</p> <p>minute - 40:8, 59:22, 69:23, 174:16</p> <p>minutes - 76:9, 76:11, 76:16, 76:18, 76:19, 86:23, 120:17</p> <p>missing - 68:4, 168:13</p> <p>misunderstanding - 167:7</p> <p>model - 10:3, 111:14, 111:17, 111:19, 111:23, 112:9, 112:19, 112:25, 113:1, 114:11, 157:13, 157:25</p> <p>Model - 31:20</p> <p>models - 10:8</p> <p>Modification - 129:1</p> <p>modification - 44:3, 44:18, 44:25, 45:3, 48:7, 56:3, 56:6, 57:23, 65:21, 70:23, 72:21, 79:19, 79:22, 94:20, 94:21, 117:20, 124:24, 143:14, 172:19, 174:10, 176:14, 176:17, 178:1</p> <p>modifications - 48:9, 50:23, 74:18, 80:3, 80:6, 80:14, 102:9, 106:13, 129:18, 132:1, 143:4, 147:13, 166:16, 174:25</p> <p>modified - 45:7, 66:12, 70:22, 134:16, 174:21, 176:1, 176:6, 176:15, 177:17</p> <p>modify - 43:6, 57:10, 170:3, 170:23, 171:24, 175:15, 176:19</p> <p>modifying - 67:1, 173:2</p> <p>moment - 118:12, 121:16</p> <p>moments - 80:11, 86:19</p> <p>Monday - 37:11, 38:7, 178:24</p> <p>money - 139:24, 140:8, 176:11, 178:22</p> <p>Monroe - 1:1, 1:21, 9:7, 91:12, 109:13, 109:24</p> <p>Montana - 7:15</p> <p>month - 30:21, 108:12</p> <p>monthly - 37:3, 107:3, 169:22</p> <p>months - 23:9, 49:16, 50:17, 173:1</p> <p>morning - 37:12, 40:11, 50:5, 76:25, 91:25, 164:10, 169:16, 179:4</p> <p>Most - 51:3, 80:6</p> <p>most - 12:22, 46:25, 56:19, 89:6, 90:2, 97:2, 128:25, 170:14</p> |
| L | | | | |
| <p>lab - 16:13, 35:22, 37:1, 149:3</p> <p>Lab- 16:14, 16:15</p> <p>laboratories - 90:20</p> <p>Laboratories- 9:25, 10:7</p> <p>Laboratory- 90:17, 90:18</p> <p>laboratory - 9:24, 89:11</p> <p>Labs- 20:4, 62:22, 63:4, 64:13, 68:15, 68:23, 69:6, 69:10, 142:3</p> <p>lack - 85:4, 122:25</p> <p>language - 50:12, 50:13, 59:3, 119:4, 131:21</p> <p>large - 41:3, 64:23</p> <p>last - 5:18, 6:19, 58:20, 58:23, 67:17, 68:4, 83:1, 122:24, 123:5, 141:23, 164:25, 165:5</p> <p>late - 177:6</p> <p>latest - 164:15</p> <p>Laura- 3:11, 28:14, 44:17, 79:12, 79:17, 87:13</p> <p>law - 7:13, 10:12, 10:16, 10:22, 10:25, 12:5, 176:4</p> <p>Law- 7:18, 7:20, 8:10, 8:25, 10:20, 11:11, 12:6, 14:4, 21:13, 22:7, 25:5, 26:5, 26:16, 29:23, 43:5, 44:11, 47:15, 52:3, 64:11, 66:16, 81:16, 81:20, 87:22, 89:21, 89:23, 101:6, 110:7, 132:8, 132:14, 133:8, 134:14, 134:22, 135:21, 138:14, 139:23, 142:2, 158:16, 159:6, 159:22</p> <p>lawyer - 135:8</p> <p>lay - 136:13, 171:3, 172:14</p> <p>lead - 90:16</p> <p>leading - 31:2, 38:18</p> <p>leak - 20:18, 33:5, 34:7, 71:8, 92:7, 170:9</p> <p>leaking - 137:10</p> <p>leaks - 20:17, 20:22, 22:23, 23:2, 24:16, 24:18, 33:10, 33:12, 34:21, 35:14, 46:15, 58:6, 59:5, 63:17, 64:15, 92:6, 150:8, 150:24, 170:10</p> <p>learn - 145:24</p> <p>least - 41:22, 41:23, 108:12, 120:17, 149:10, 167:2</p> | <p>liability - 7:9</p> <p>license - 46:22</p> <p>lie - 113:4</p> <p>light - 45:15, 89:2, 118:7, 179:14</p> <p>lightly - 172:11</p> <p>limitation - 74:23</p> <p>limited - 7:9</p> <p>Lindsay- 1:9, 120:24</p> <p>Lindsay's- 121:5</p> <p>line - 28:12, 38:14, 49:1, 154:23</p> <p>lip - 116:10, 116:13, 116:18</p> <p>list - 15:24, 16:7, 16:12, 21:4, 21:6, 31:18, 31:21, 32:5, 72:12, 72:17, 73:2, 73:16, 74:11, 74:24, 101:25, 102:2, 102:5, 111:13, 112:1, 112:6, 112:7, 112:19, 113:1, 113:17, 113:23, 113:24, 114:1, 114:8, 114:18, 114:23, 115:4, 115:9, 127:14, 128:10, 139:16, 140:21, 140:23, 140:24, 142:11, 152:10, 152:15, 152:16, 153:14, 167:9, 173:8, 174:7, 174:8, 174:10, 174:19, 176:13</p> <p>listed - 31:21, 58:9, 73:14, 103:16, 104:6, 104:8, 104:9, 107:15, 107:16, 107:17, 112:6, 116:24, 119:4, 127:21, 173:19</p> <p>literally - 39:8, 40:21</p> <p>liters - 33:25, 34:1</p> <p>litigation - 64:20, 139:1, 140:18</p> <p>litigators - 14:11</p> <p>living - 87:20</p> <p>Llc- 2:11</p> <p>local - 172:7</p> <p>located - 94:1</p> <p>Look- 174:16</p> <p>look - 19:2, 20:2, 22:5, 23:15, 23:25, 26:25, 42:6, 56:1, 75:18, 96:5, 96:9, 114:9, 116:9, 125:12, 141:2, 145:16, 146:12, 147:17,</p> | <p>M</p> <p>ma'am - 87:11</p> <p>machine - 38:14, 40:2, 47:10, 78:12, 82:2, 93:9, 94:10, 94:12, 95:6, 95:13, 99:3, 101:15, 101:20, 106:6, 106:7, 106:24, 109:21, 110:25, 111:7, 123:2, 123:7, 136:18, 155:6, 155:7, 169:17, 169:19, 177:3</p> <p>machines - 67:6, 78:9, 78:16, 93:3, 105:14, 106:1, 106:12, 111:15, 111:18, 148:24, 156:25</p> <p>Madrigul - 179:19</p> <p>magnetic - 55:18, 55:21</p> <p>mail - 152:9, 179:17</p> <p>mailed - 173:5</p> <p>mails - 68:25, 69:3</p> <p>maintenance - 8:19, 8:20, 37:2, 38:12, 38:16, 89:25, 149:4, 169:21, 169:22</p> <p>major - 46:16</p> <p>majority - 50:24</p> <p>Malhiot - 3:6, 5:8, 5:15, 6:21, 6:22, 7:1, 31:17, 48:17, 48:23, 52:15, 61:4, 68:7, 72:4, 75:3, 133:24, 133:25, 143:25, 149:1, 149:16, 151:7, 151:12, 168:23, 169:2, 169:15, 170:10, 180:21</p> <p>Malhiot's - 13:4, 86:19</p> <p>Management - 11:24</p> <p>manager - 21:15, 44:20, 79:14, 87:21, 89:12, 123:23</p> <p>manner - 60:23</p> <p>manufacture - 112:8</p> <p>manufactured - 92:14, 113:22</p> <p>manufacturer - 8:17, 8:22, 10:6, 24:3, 32:4, 41:7, 43:20, 51:25, 52:9, 65:21, 71:16, 89:23, 93:4, 94:24, 113:1, 143:11,</p> | <p>150:5, 150:8, 150:10, 150:13, 150:17, 159:23, 166:13, 166:23, 169:9, 171:24, 172:9, 172:12</p> <p>manufacturers - 71:20</p> <p>Marathon - 180:9</p> <p>March - 23:20, 25:8, 49:2, 49:4, 82:20, 97:1, 137:22, 164:24, 165:14, 168:4</p> <p>Marisa - 2:7, 4:7</p> <p>mark - 108:18, 120:23</p> <p>marked - 18:25, 53:19, 56:21, 110:20</p> <p>massive - 64:19</p> <p>math - 24:20, 27:9, 32:25</p> <p>Matt - 7:7, 14:3, 18:25, 20:2, 32:9, 50:22, 51:5, 53:8, 56:1, 68:14, 85:14</p> <p>matter - 99:1, 154:20, 157:1, 172:25, 175:1</p> <p>Matthew - 3:6, 5:8, 6:21, 7:1, 133:15</p> <p>mean - 12:4, 52:20, 83:23, 129:10, 141:8, 147:15, 152:21</p> <p>meaning - 84:25, 100:18, 114:20, 116:8, 116:17</p> <p>means - 72:5, 103:23</p> <p>measure - 15:13, 45:21, 112:7</p> <p>measurement - 73:16</p> <p>medical - 89:5</p> <p>meet - 16:9, 71:2, 84:24</p> <p>meeting - 22:10, 90:20</p> <p>meets - 112:15, 157:23</p> <p>member - 78:25, 90:10, 90:13</p> <p>members - 88:1</p> <p>memo - 28:2, 28:12, 28:14</p> <p>memorialized - 54:19</p> <p>mention - 20:24, 33:4, 33:11, 58:5, 173:10</p> <p>mentioned - 26:19, 50:22</p> <p>message - 141:17</p> <p>met - 100:25, 101:22, 114:11, 141:21, 156:14</p> <p>metal - 42:15, 94:15</p> <p>method - 45:9, 117:19, 117:23, 118:5, 118:10, 143:6, 148:14, 148:19, 170:19</p> <p>Method - 45:14</p> <p>methodology - 117:15, 117:17</p> <p>methods - 97:15, 175:13</p> <p>Miami - 103:11</p> <p>middle - 68:2, 70:15</p> <p>might - 19:12, 52:15, 119:10</p> <p>Mihalko - 182:6,</p> | <p>182:19</p> <p>miles - 6:3</p> <p>Military - 2:11</p> <p>Miller - 1:15</p> <p>millimeter - 116:14, 116:17, 116:18</p> <p>mind - 76:10</p> <p>minimum - 56:12</p> <p>minute - 40:8, 59:22, 69:23, 174:16</p> <p>minutes - 76:9, 76:11, 76:16, 76:18, 76:19, 86:23, 120:17</p> <p>missing - 68:4, 168:13</p> <p>misunderstanding - 167:7</p> <p>model - 10:3, 111:14, 111:17, 111:19, 111:23, 112:9, 112:19, 112:25, 113:1, 114:11, 157:13, 157:25</p> <p>Model - 31:20</p> <p>models - 10:8</p> <p>Modification - 129:1</p> <p>modification - 44:3, 44:18, 44:25, 45:3, 48:7, 56:3, 56:6, 57:23, 65:21, 70:23, 72:21, 79:19, 79:22, 94:20, 94:21, 117:20, 124:24, 143:14, 172:19, 174:10, 176:14, 176:17, 178:1</p> <p>modifications - 48:9, 50:23, 74:18, 80:3, 80:6, 80:14, 102:9, 106:13, 129:18, 132:1, 143:4, 147:13, 166:16, 174:25</p> <p>modified - 45:7, 66:12, 70:22, 134:16, 174:21, 176:1, 176:6, 176:15, 177:17</p> <p>modify - 43:6, 57:10, 170:3, 170:23, 171:24, 175:15, 176:19</p> <p>modifying - 67:1, 173:2</p> <p>moment - 118:12, 121:16</p> <p>moments - 80:11, 86:19</p> <p>Monday - 37:11, 38:7, 178:24</p> <p>money - 139:24, 140:8, 176:11, 178:22</p> <p>Monroe - 1:1, 1:21, 9:7, 91:12, 109:13, 109:24</p> <p>Montana - 7:15</p> <p>month - 30:21, 108:12</p> <p>monthly - 37:3, 107:3, 169:22</p> <p>months - 23:9, 49:16, 50:17, 173:1</p> <p>morning - 37:12, 40:11, 50:5, 76:25, 91:25, 164:10, 169:16, 179:4</p> <p>Most - 51:3, 80:6</p> <p>most - 12:22, 46:25, 56:19, 89:6, 90:2, 97:2, 128:25, 170:14</p> |
| M | | | | |

| | | | | |
|---|---|---|---|--|
| <p>motion - 33:20, 105:9, 115:12, 116:3, 117:7, 121:1, 179:16, 179:21</p> <p>motive - 132:7, 132:15, 132:22, 132:23, 133:1</p> <p>mount - 16:21</p> <p>move - 24:24, 35:5, 77:12</p> <p>moved - 13:6, 35:3, 73:7, 110:10</p> <p>moves - 116:20</p> <p>moving - 79:3, 116:16, 125:11</p> <p>Moving - 118:14</p> <p>Mpd - 34:18</p> <p>Multiple - 80:24</p> <p>multiple - 66:2, 117:6</p> <p>must - 9:19, 16:9, 107:10, 108:5</p> <p>Myit - 6:22</p> | <p>non - 100:5</p> <p>non-conforming - 100:5</p> <p>none - 106:11</p> <p>normal - 24:12, 37:1</p> <p>northeast - 9:6</p> <p>notation - 20:21, 22:22, 23:1, 33:4, 33:9, 46:14, 73:10</p> <p>notches - 46:21</p> <p>note - 58:13, 71:5</p> <p>noted - 30:24</p> <p>notes - 80:3</p> <p>nothing - 5:13, 6:6, 14:25, 26:20, 78:11, 87:7, 102:16, 118:9, 130:24, 141:11, 142:8, 142:12, 148:13, 149:25, 157:1</p> <p>Nothing - 96:19, 149:25</p> <p>notice - 25:24, 50:18, 52:3, 52:4, 53:24, 60:13, 77:14, 92:20, 121:20, 121:24, 122:3, 122:8, 122:25, 123:6, 123:14, 123:18, 123:19, 123:20, 124:3, 124:4, 124:17, 124:24, 129:25, 130:13, 130:19, 137:8, 144:24, 145:17, 145:23, 145:25, 151:23, 158:22, 158:24, 159:6, 159:7, 160:11, 171:25, 172:9, 173:3</p> <p>Notice - 1:15, 176:2</p> <p>noticed - 122:9, 152:21, 160:13</p> <p>notices - 55:1, 55:6, 55:16, 102:12, 130:10, 159:24</p> <p>notification - 44:3, 44:13, 44:22, 47:16, 53:1, 54:15, 57:7, 63:16, 65:2, 65:21, 65:25, 66:3, 66:8, 69:19, 105:2, 105:6, 136:20, 136:21, 137:1, 138:21, 158:17, 159:10, 160:10, 166:20, 168:10, 168:14, 171:5, 171:22, 172:1, 172:3, 172:12, 173:4, 173:14, 173:24</p> <p>notifications - 65:6, 66:5</p> <p>notified - 4:20, 9:19, 44:17, 66:7, 121:23, 137:5, 151:6, 151:11, 163:12, 173:25</p> <p>notifies - 172:19</p> <p>notify - 44:2, 105:3, 130:21, 143:12, 153:1, 166:15</p> <p>notifying - 54:1, 55:12, 55:20, 176:3</p> <p>noting - 146:5</p> <p>November - 21:2, 167:16, 167:20</p> <p>nowadays - 14:18</p> <p>Nowhere - 134:18</p> <p>number - 23:16, 62:20, 84:16, 84:17, 109:21, 165:18</p> <p>Number - 19:1,</p> | <p>20:3, 20:5, 21:10, 26:13, 32:1, 32:19, 33:3, 42:3, 43:9, 48:15, 49:6, 53:6, 53:19, 54:5, 55:5, 55:11, 56:21, 57:16, 58:25, 62:20, 66:21, 67:20, 68:13, 70:11, 73:12, 92:23, 114:25, 128:1, 171:18</p> <p>numbered - 18:8, 98:2</p> <p>Numbers - 31:24, 100:8</p> <p>numbers - 27:11, 63:22</p> <p>numerous - 11:18, 20:8, 20:13, 22:1, 24:22, 32:11, 37:6, 37:7, 37:8, 46:17, 50:23, 75:21</p> | <p>9:4, 11:25, 12:22, 14:17, 15:22, 15:25, 16:24, 16:25, 18:8, 19:12, 19:13, 20:15, 20:16, 22:22, 27:9, 30:1, 31:10, 39:1, 40:8, 42:14, 47:6, 49:11, 54:1, 55:20, 57:1, 70:8, 72:13, 73:12, 73:20, 74:2, 75:25, 80:5, 83:6, 96:14, 103:5, 103:6, 103:7, 103:23, 106:15, 109:19, 112:4, 116:17, 118:12, 119:10, 121:2, 124:10, 125:21, 125:23, 126:6, 126:11, 132:16, 133:2, 134:10, 142:16, 142:17, 143:19, 149:11, 152:6, 155:4, 157:18, 162:9, 162:12, 164:3, 168:13, 169:11, 171:23, 173:17, 173:18, 173:19, 174:15, 174:23, 175:10, 175:12, 179:2, 180:19</p> <p>One - 95:25</p> <p>ones - 80:10, 80:11, 105:22, 119:11, 143:25</p> <p>ongoing - 106:24, 107:5, 113:12</p> <p>online - 95:14, 96:24, 106:7, 107:20</p> <p>open - 41:25, 54:10, 93:16, 94:14, 95:1, 95:3, 170:2</p> <p>opened - 95:5, 136:11</p> <p>opening - 5:3, 170:8, 175:3</p> <p>operate - 10:7</p> <p>operation - 8:19, 8:21, 89:24, 117:19, 118:6</p> <p>operational - 82:18</p> <p>operator - 7:15, 8:11, 11:6, 120:9</p> <p>operators - 88:6, 88:11</p> <p>opinion - 55:12, 71:10, 149:13, 149:20, 150:1, 150:3, 150:16, 151:5</p> <p>opinions - 91:10, 175:4</p> <p>opportunities - 173:3</p> <p>option - 125:7, 143:14, 166:17</p> <p>options - 44:4, 143:5</p> <p>order - 73:1, 94:16, 95:3, 107:10, 111:5, 131:20, 139:15, 151:1, 156:21, 175:25, 179:24</p> <p>orders - 177:15</p> <p>original - 13:16</p> <p>originally - 4:16, 89:10</p> <p>Osap - 52:4, 66:1</p> <p>otherwise - 134:25</p> <p>Otherwise - 135:2</p> <p>outline - 173:24</p> | <p>outlines - 119:3</p> <p>outside - 38:7, 38:10, 46:2, 46:3, 46:17, 46:23, 46:24, 94:10, 148:8, 148:13, 159:3</p> <p>Overruled - 31:3, 38:19, 67:8, 126:9, 127:19, 132:12, 133:11, 153:9, 154:25</p> <p>overruled - 132:21, 159:14</p> <p>oversee - 9:1</p> <p>own - 7:22, 14:4, 48:22, 57:24, 151:8, 178:3, 178:16</p> <p>owned - 64:5</p> <p>owner - 109:24</p> <p>owns - 64:8</p> |
| <p style="text-align: center;">N</p> <p>name - 5:18, 6:19</p> <p>Naples - 47:22</p> <p>national - 79:1</p> <p>National - 10:10</p> <p>nature - 59:6, 63:19, 71:24, 125:2, 176:17</p> <p>navigator - 125:19, 125:21</p> <p>necessarily - 78:17, 78:21, 131:8</p> <p>necessary - 5:1, 70:17, 71:2, 177:19</p> <p>need - 5:2, 20:22, 23:1, 25:22, 33:9, 46:14, 46:15, 47:15, 54:10, 56:4, 71:12, 72:21, 76:8, 76:14, 86:22, 106:19, 132:23, 134:6, 147:18, 147:19, 147:22, 148:11, 150:17, 150:23, 159:18, 160:16, 166:21, 174:10, 175:16, 176:8, 177:23</p> <p>needed - 57:10, 71:7, 71:9, 125:10</p> <p>needs - 42:18, 150:21, 170:11, 174:12, 176:1</p> <p>negative - 41:24, 156:12</p> <p>never - 5:21, 40:16, 40:18, 44:24, 46:13, 71:25, 118:2, 131:15, 137:12, 162:9</p> <p>new - 44:4, 49:24, 50:8, 50:12, 50:13, 53:14, 57:4, 61:16, 61:18, 74:13, 74:25, 119:21, 143:14, 145:22, 159:21, 166:16</p> <p>New - 12:12, 12:13, 74:15</p> <p>next - 28:16, 56:20, 79:15, 109:20, 114:12, 114:13, 147:23</p> <p>Nhtsa - 52:4, 66:1, 66:5</p> <p>Nineteen - 55:17</p> <p>nomenclatures - 98:8</p> | <p style="text-align: center;">O</p> <p>Oasp - 71:17</p> <p>Object - 133:10</p> <p>object - 51:17, 67:3, 73:19, 75:12</p> <p>objection - 13:6, 13:18, 17:4, 25:3, 35:7, 35:8, 38:17, 73:7, 110:12, 110:13, 120:25, 121:14, 136:15</p> <p>Objection - 31:1, 126:7, 127:17, 132:9, 135:22, 136:7, 138:17, 139:7, 153:7, 154:22, 156:7, 157:3, 159:12</p> <p>objections - 17:7</p> <p>obligation - 138:15</p> <p>observed - 83:8</p> <p>obtain - 44:6</p> <p>obtained - 44:8, 97:17, 98:7, 121:24</p> <p>obviously - 14:10, 56:13, 78:3, 173:23</p> <p>Obviously - 81:12</p> <p>occasion - 11:25, 47:6</p> <p>occasions - 55:19</p> <p>occur - 69:14, 105:5, 123:18, 124:18</p> <p>occurred - 32:5, 60:13, 129:23, 141:20, 147:9, 166:19, 167:5</p> <p>occurring - 129:18</p> <p>occurs - 159:8</p> <p>October - 30:10, 31:18, 66:16, 67:16, 99:18, 99:21, 101:10</p> <p>offense - 78:5</p> <p>Office - 2:5, 109:25, 164:12</p> <p>office - 135:20</p> <p>officer - 21:17, 22:19</p> <p>Officer - 11:1</p> <p>Ohio - 12:17, 150:15</p> <p>old - 61:14</p> <p>older - 171:17</p> <p>Once - 108:3, 137:6, 162:19</p> <p>once - 95:4, 96:17, 107:19, 108:2, 108:12, 114:8, 126:2, 133:5, 149:11</p> <p>one - 4:15, 5:20,</p> | <p>package - 16:25, 17:4, 25:1, 128:22</p> <p>packet - 18:8, 35:5, 128:19, 164:11, 164:22, 171:17, 178:18</p> <p>page - 28:14, 28:16, 28:18, 28:20, 66:25, 68:2, 70:14, 128:23</p> <p>Page - 3:7, 28:11, 58:19, 58:22, 63:11, 63:24, 66:11, 66:24, 68:1, 115:6</p> <p>paid - 77:19</p> <p>pain - 131:19</p> <p>painted - 174:12, 175:19</p> <p>Palm - 182:4</p> <p>Pam - 54:17</p> <p>Panhandle - 9:8</p> <p>Paragraph - 48:11, 63:10, 147:24, 165:2, 165:4, 170:17, 178:12</p> <p>paragraph - 63:24, 67:17, 68:4, 70:15, 70:25, 71:14, 72:25, 112:4, 115:7, 165:9</p> <p>parameters - 156:13, 157:23</p> <p>Pardon - 31:3, 161:16, 163:17, 166:8, 180:18</p> <p>parent - 34:18</p> <p>parenthesis - 70:25</p> <p>part - 4:23, 8:25, 11:10, 13:16, 29:12, 40:22, 47:18, 56:19, 69:10, 112:3, 123:3, 128:21, 143:8, 143:10, 175:23</p> <p>Part - 79:21, 162:25</p> <p>particular - 23:12, 45:20, 48:8, 54:1, 64:7, 91:9, 91:13, 92:11, 93:3, 94:1, 94:3, 98:2, 100:2, 101:15, 105:10, 108:8, 108:16, 109:19, 109:21, 110:25, 112:10, 112:17, 117:11, 120:3, 121:22, 125:7, 159:16</p> <p>parties - 130:10, 130:21</p> <p>parts - 58:14, 74:19, 165:14</p> <p>pass - 149:4,</p> | <p style="text-align: center;">P</p> | |

| | | | | |
|---|---|---|---|--|
| <p>169:21 passed - 4:19 past - 109:9, 113:12 path - 20:23, 23:3, 33:10, 33:14, 34:22, 35:14, 41:22, 41:23, 47:2, 58:7, 60:19, 150:9, 150:24, 162:14, 169:10, 171:4, 173:23 paths - 33:13, 63:17, 64:15 Paul - 4:17 pause - 103:20, 112:22 pay - 77:11 pending - 180:9 people - 6:1, 18:6, 76:9, 105:22, 133:7, 149:18, 170:1, 171:25 People - 105:23 Per - 32:16 per - 27:2, 32:15, 32:16 percent - 78:10, 78:12, 154:19 percentage - 78:8 perfect - 170:24, 171:7, 172:17, 173:5, 174:13 perform - 88:8, 88:15 performed - 82:22, 83:2 performing - 88:1 period - 7:24 permission - 17:9 permit - 8:11, 8:12, 11:6, 88:6 person - 52:18, 94:19, 119:21, 135:14, 135:16, 136:2, 173:10 personal - 44:10, 77:12 personalizing - 85:4 petition - 135:15, 135:19 phone - 44:19, 65:4, 79:12, 79:15, 138:4, 170:1 phoned - 44:17 phonetic - 179:13, 179:19 photographs - 42:4, 42:6, 42:7, 54:20 physical - 46:22 physically - 80:13, 159:23, 159:24 pick - 69:23 picking - 175:3, 175:5 picture - 125:12 piece - 94:1, 116:9 place - 23:8, 43:14, 48:20, 54:11, 111:18, 116:8, 116:12, 154:3, 160:19 Place - 1:21 placed - 21:2, 48:6, 63:3, 115:8 placing - 150:13 plaintiffs - 14:13 plan - 121:25, 145:16 plastic - 116:9 plate - 42:12, 42:15, 94:15</p> | <p>plus - 77:20 Pm - 1:20, 142:19, 181:4 point - 10:21, 12:9, 19:17, 37:9, 50:16, 55:1, 56:16, 64:22, 67:2, 76:2, 100:11, 113:13, 119:23, 123:16, 127:7, 130:22, 134:25, 142:15, 145:17, 145:18, 147:6, 147:8, 151:8, 156:22, 160:20, 167:3, 171:14 points - 163:1 poked - 116:15 Polak - 117:8, 175:7 Police - 11:1, 11:23 police - 12:14 policy - 145:22 port - 92:19, 93:11, 101:4, 116:7, 118:9 portion - 46:18, 46:24, 117:17 portions - 21:20, 62:4 position - 59:8, 134:4, 134:23, 172:10, 174:14, 176:20, 177:20 positive - 5:24, 29:1, 41:24 possible - 4:18, 39:9, 41:5, 67:13, 105:25 possibly - 4:24, 17:7, 116:15 Post - 11:1 poster - 41:3 potentially - 168:23 power - 155:10 practitioner - 10:13 practitioners - 78:6 preceding - 36:16 predominately - 14:17 Prepare - 88:18 prepared - 76:18, 109:7 prerequisite - 72:17 prescribed - 97:12, 108:13, 120:8 presence - 83:10, 93:6 present - 36:6, 36:8, 44:6, 52:9, 79:4, 80:10, 80:13, 90:7, 116:25 presented - 17:18, 18:8, 22:11, 93:13, 104:5 Presently - 51:8 pressure - 170:7 pressures - 41:24 pretty - 18:13, 18:16, 28:25, 82:12, 120:1, 128:19, 162:10, 164:13, 171:20 Pretty - 78:7 previously - 7:3, 43:21, 125:8, 143:12, 153:24, 166:14, 166:23 primarily - 14:7 primary - 91:22, 125:21 principles - 13:22 printer - 53:14, 53:15, 53:25</p> | <p>printers - 53:12, 54:2 problem - 6:5, 6:17, 17:9, 18:4, 20:16, 22:23, 24:16, 26:6, 30:25, 31:5, 37:10, 37:12, 39:7, 40:10, 40:16, 40:17, 41:2, 41:5, 41:8, 41:12, 42:2, 59:18, 60:20, 60:22, 76:11, 83:11, 163:13, 170:2, 171:8, 171:9, 171:13, 175:6 problems - 9:22, 20:19, 20:24, 24:19, 40:18, 40:19, 63:2, 63:17, 64:18, 64:21, 133:19, 141:19 procedurally - 145:8 procedure - 25:20, 50:10, 72:8, 83:23, 130:2, 130:8, 135:10, 145:11, 147:3, 160:2, 160:10 procedures - 18:14, 31:8, 50:1, 71:1, 71:7, 78:2, 85:17, 85:19, 85:20, 97:13, 97:14, 97:17, 98:5, 102:13, 108:14, 137:20, 147:17, 148:2, 159:21 Procedures - 25:15, 25:23, 130:7, 131:18, 135:11 proceed - 4:9, 86:20 proceedings - 4:2, 70:1, 76:21, 87:1, 103:20, 112:22, 142:20, 182:8 process - 26:23, 29:13, 31:9, 32:22, 34:9, 43:12, 48:22, 60:4, 61:17, 72:15, 72:16, 72:20, 84:12, 95:5, 95:21, 104:10, 106:25, 107:6, 107:7, 107:9, 119:25, 129:24, 131:3, 132:3, 132:4, 133:3, 157:12, 157:20, 158:5, 175:17, 177:17 processes - 43:13 produced - 34:17, 117:5 product - 72:17, 101:25 products - 15:24, 16:7, 21:4, 31:18, 31:21, 72:11, 73:2, 73:16, 74:10, 74:24, 101:25, 102:2, 102:5, 111:12, 112:1, 112:6, 112:19, 113:17, 113:23, 114:8, 114:18, 114:22, 115:4, 115:9, 127:14, 128:10, 139:16, 140:21, 140:22, 140:24, 142:11, 167:9, 174:7, 174:8, 174:19, 176:13 proficiency - 88:13 Program - 7:18, 7:21, 12:14, 28:15, 44:12, 68:21, 69:13, 87:22, 87:25, 88:21, 89:12, 91:23, 107:11, 111:23, 112:13, 112:14, 118:21,</p> | <p>134:15 program - 8:6, 79:14, 87:21, 89:12, 123:22, 123:24, 124:1, 124:2 Program's - 134:23 programs - 12:14 project - 21:15, 44:20 promulgation - 48:19, 125:7 pronounced - 6:22 proper - 31:7, 71:25, 73:20, 77:14, 92:8, 170:11, 172:8 properly - 103:7, 120:15, 170:12, 171:8 proposed - 71:16 proprietor - 7:8 prosecution - 90:14 prosecutors - 14:12 protocols - 63:9 prototypes - 15:21 prove - 176:17 provided - 122:9 provision - 134:10 public - 25:25, 64:23, 88:21, 104:16, 129:24, 130:20, 137:8, 145:23, 145:25, 146:2, 160:10, 160:19, 176:3 publication - 25:24, 114:4, 114:13, 127:3, 129:25 publish - 130:9 published - 30:11, 68:8, 113:23, 114:7, 175:20, 176:1 pull - 16:23 pulled - 105:24, 164:10, 164:14, 173:16 pulling - 39:8, 40:22 pump - 33:18 pumps - 33:18 purchase - 64:7, 64:9, 139:20 purchased - 92:17 purge - 35:12, 41:18, 144:7 purged - 177:17 purported - 92:4, 92:9, 141:4, 149:5 purpose - 25:20, 28:3, 29:22, 36:14, 58:9, 58:19, 58:22, 84:7, 84:21, 92:3, 92:4, 92:9, 95:25, 96:4, 96:8, 96:9, 96:11, 96:14, 100:15, 107:13, 112:9, 113:20, 118:22, 126:21, 140:23, 144:7, 146:9, 153:23, 168:19, 170:4, 171:16, 171:19, 172:23, 174:20, 176:12 purposely - 68:22 purposes - 17:2, 17:17, 36:15, 36:24, 48:22, 95:25, 98:3, 98:4 pursuant - 1:15, 38:12, 110:4, 123:6, 147:2 put - 32:5, 44:13, 44:24, 49:1, 53:15, 57:4, 66:17, 71:25,</p> | <p>106:7, 115:22, 115:23, 137:7, 137:12, 137:13, 139:4, 145:19, 145:23, 146:16, 159:6, 159:21, 160:14, 171:25 puts - 93:2 putting - 47:16, 52:1, 53:24, 95:11, 118:8, 145:24, 145:25, 149:12, 160:11</p> |
| Q | | | | |
| <p>qualified - 91:5, 91:13 quality - 90:21, 98:3, 98:13, 104:14, 106:25, 107:5, 112:10, 112:11 questioned - 169:2 questioning - 154:24 questions - 71:6, 76:5, 82:5, 82:8, 82:10, 85:2, 85:9, 85:10, 86:5, 86:8, 106:21, 122:19, 139:11, 143:24, 163:15, 163:18, 163:21, 165:25, 166:1, 168:22, 173:6 quick - 55:3, 104:8, 148:7 quit - 77:6 quite - 106:9, 178:17 Quote - 73:14 quote - 73:17, 75:4</p> | | | | |
| R | | | | |
| <p>raise - 5:9, 46:7 raised - 46:9, 115:13, 169:7 raising - 121:13 ran - 83:20, 84:16 range - 37:25, 38:8, 45:22, 46:3 ranges - 37:19, 46:4 rate - 77:19 rather - 152:10, 175:22 re - 57:1, 68:9, 72:2, 72:20, 72:21, 149:12, 175:25 re-evaluated - 72:2, 72:20 re-evaluating - 57:1 re-evaluation - 68:9, 72:21, 175:25 re-putting - 149:12 read - 6:3, 17:16, 19:17, 19:18, 112:5, 177:21, 177:22, 177:23 reader - 55:18, 55:21 reading - 178:17 ready - 4:8, 23:18, 76:14 real - 19:11, 55:3 really - 12:8, 12:23, 13:2, 105:2, 140:3, 148:11, 157:1, 158:2 reapproval - 107:7, 107:9, 117:21, 117:22, 133:9,</p> | | | | |

| | | | | |
|---|--|--|---|---|
| <p>133:19, 133:20, 134:16, 174:12, 176:8 reapprove - 107:13, 175:17 reapproved - 134:19, 134:20, 174:22 reapproving - 107:13, 133:22 reason - 12:25, 27:11, 33:1, 34:22, 34:23, 34:24, 34:25, 35:13, 35:15, 70:19, 95:5, 103:17, 113:8, 122:8, 131:25, 136:19, 136:25, 137:11, 138:20, 140:17, 151:22, 160:9, 173:13 reasoning - 146:16 reasons - 59:9, 60:8, 60:11, 60:25, 134:5, 140:16, 141:3 rebuttal - 4:19, 4:23 received - 8:16, 44:12, 57:7, 89:15, 89:17, 89:20, 121:20, 121:21 receiving - 12:2 recently - 77:10 recess - 142:17, 180:3 recirculated - 47:4, 93:17 recirculates - 47:7 recirculating - 33:22, 161:14, 161:20, 162:15, 162:17 recirculation - 20:23, 20:25, 23:2, 24:19, 33:10, 33:12, 33:13, 33:14, 33:23, 34:20, 34:21, 35:14, 41:21, 47:2, 58:7, 59:19, 63:17, 64:15, 69:20, 92:5, 129:11, 129:12, 150:9, 150:24, 160:24, 161:10, 161:14, 162:1, 162:8, 162:14, 169:10, 173:23 recognize - 19:2, 34:14, 53:22, 54:7, 56:23 recollection - 53:11, 133:15, 133:20, 163:3, 163:11 recommended - 46:25 record - 4:3, 26:12, 31:24, 47:17, 49:6, 58:25, 86:2, 97:16, 98:5, 111:7, 111:13, 167:6, 173:14, 182:10 recording - 103:19, 112:21, 182:9, 182:11 recordkeeping - 173:24 records - 88:20, 88:22, 110:6, 159:24, 174:1 redirect - 163:20 Redirect - 3:9, 85:12 redirected - 162:7 reduce - 39:18 reduced - 61:16 refer - 63:23, 66:21, 66:23, 68:12, 70:14 reference - 58:5,</p> | <p>59:4, 71:15, 88:16, 89:3, 117:6, 126:13, 126:14, 147:7 referenced - 109:11 referred - 102:4 referring - 25:14, 71:15, 178:11 Referring- 70:11 refers - 108:20 reflected - 98:7 reflects - 104:11 refresher - 11:3, 11:7 regard - 122:25, 131:12 regarding - 9:14, 13:21, 22:23, 65:2, 68:9, 71:18, 77:8, 146:21, 179:18 region - 9:2, 9:4 regions - 9:10 Register- 16:6, 25:24, 65:12, 65:13, 65:15, 66:12, 68:4, 68:8, 70:12, 114:7, 128:6, 176:2 registered - 104:22, 108:9, 111:4, 155:20, 156:3, 156:14, 156:22, 156:23, 156:25 registration - 109:12, 109:22, 109:25, 110:23 regular - 60:19, 90:5 regularly - 6:2 regulation - 85:21, 172:8, 175:23, 175:24 regulations - 65:16, 122:13, 172:4, 172:5, 172:6, 174:5, 174:11, 177:11 relate - 106:17 related - 110:6 relates - 27:18 relation - 93:9, 106:17, 121:21 Relevance- 135:24 relevance - 74:21, 75:12, 126:7, 132:10, 136:8 relevancy - 75:15, 121:1, 121:5, 121:8 relevant - 75:15, 76:3, 121:12, 140:3, 173:5 reliability - 37:19, 45:10, 45:13, 45:19, 45:20, 59:21, 63:5, 70:23, 91:20, 98:14, 104:24, 108:8, 108:14, 117:2, 118:23, 143:7, 148:15, 148:16, 148:20, 148:21, 159:16, 160:18, 170:15, 170:22, 170:25 reliable - 46:1, 75:5, 75:18, 99:6, 107:4, 108:17, 112:16, 117:5, 121:11, 122:17, 157:23, 160:21, 178:5 remain - 93:19, 93:20 remained - 81:15 remains - 126:2 remarkably - 169:17</p> | <p>remedy - 145:7, 145:10 remedying - 170:2 remember - 5:22, 51:4, 70:3, 103:25, 104:2, 133:13, 151:11, 151:13, 151:17, 153:13, 163:9, 163:10, 173:12 remembered - 153:17 removal - 177:8 remove - 17:10, 94:14, 94:15, 113:9, 125:7, 165:10, 173:2 removed - 38:20, 42:12, 125:10, 158:16 removing - 18:4, 171:5 render - 91:10 rendering - 175:23 renewal - 11:8 repair - 10:6, 38:22, 89:24, 94:24, 95:2, 104:21 repaired - 34:19 repeated - 83:16 repetitive - 27:4, 61:15, 84:4 rephrase - 132:20, 132:24, 146:10 report - 20:2, 20:11, 20:14, 20:16, 20:21, 22:6, 22:9, 22:14, 22:22, 24:2, 30:24, 63:15, 63:20, 65:7, 66:16, 66:17, 67:16, 67:18, 101:21, 101:22, 138:25, 144:12, 144:21, 150:25, 160:14, 168:18, 175:20, 175:21 Reporter- 182:6, 182:20 reporting - 141:16, 141:19, 169:17 reports - 78:19, 103:15, 103:16, 104:11, 144:18, 144:22, 144:25, 145:4, 146:17, 152:17 representative - 54:18 request - 34:17, 35:10, 35:11, 35:25, 88:22, 110:9, 141:12 requested - 140:24 require - 45:2, 65:16, 65:20, 84:20, 104:13, 104:19, 107:2, 107:22, 125:10, 154:3, 159:3 required - 37:2, 50:18, 52:24, 67:5, 67:6, 71:19, 84:4, 84:15, 96:1, 96:5, 96:11, 96:16, 97:16, 98:11, 100:19, 100:25, 103:8, 108:1, 108:17, 117:21, 117:24, 124:16, 127:8, 132:5, 132:6, 132:10, 147:9, 160:3, 160:4, 177:7 Required- 74:9 requirement - 11:7, 27:3, 48:8, 72:25, 74:14, 111:18,</p> | <p>112:17, 112:18, 113:12, 127:5, 127:6, 127:8, 137:16, 166:13, 173:3 requirements - 9:19, 11:9, 16:5, 20:25, 30:1, 56:12, 62:7, 83:21, 84:24, 84:25, 85:5, 101:23, 112:15, 120:10, 120:15, 159:11, 172:9 requires - 65:24, 69:12, 98:4, 156:2 requiring - 159:5, 160:16 Research- 97:13, 101:11, 102:19 research - 15:19, 21:21, 83:24, 95:21, 97:6, 97:7, 97:24, 98:3, 98:7, 98:10, 98:20, 99:9, 99:11, 99:14, 99:15, 99:16, 99:17, 99:19, 99:20, 99:21, 99:22, 99:23, 99:24, 100:6, 100:14, 101:11, 102:21, 115:21, 116:1, 116:22, 143:20, 144:17, 145:5, 146:24, 152:24, 165:18, 173:22, 178:16 reseating - 149:21, 149:23 Residual- 140:1 resign - 77:7 resistance - 41:22, 41:24 resolved - 149:7 resources - 112:13 respective - 88:8 respond - 152:11 responded - 9:20, 88:22, 173:20 response - 152:9 responsibility - 9:9, 90:19, 91:22 responsible - 9:10, 54:18, 88:3, 88:13, 88:21, 93:23 rest - 92:25, 133:2 restate - 106:20 result - 26:20, 75:5, 85:10, 86:8, 117:5, 139:16, 160:18, 166:1, 170:23 results - 19:6, 37:24, 38:6, 39:18, 46:1, 46:2, 46:7, 75:18, 97:17, 98:6, 100:25, 101:4, 101:18, 103:2, 103:3, 103:13, 108:15, 115:13, 115:19, 118:24, 120:16, 121:5, 170:24 retained - 14:21, 14:25 retaining - 177:18 retest - 70:20 retesting - 38:23, 66:12, 67:1, 71:19 Retesting- 70:16 retrograde - 89:4 returned - 104:21 review - 20:14, 71:17, 80:9, 159:23 reviewed - 20:10, 22:13, 153:15, 177:14</p> | <p>Reviewing- 24:15 revise - 88:10 revised - 165:14 revising - 104:11 revision - 88:4, 97:2, 144:12, 164:15, 164:18, 164:25 revisions - 144:17, 165:22 right-hand - 70:15 Roger- 21:14, 22:18, 36:9, 39:20, 44:16, 44:19, 79:7, 79:14, 79:25 role - 10:19, 11:10 Rose- 2:7 routing - 93:22 row - 84:7 Rule- 25:16, 97:18, 146:8, 147:1, 147:3, 147:9, 156:2, 165:4, 167:22, 178:12 rule - 9:18, 43:12, 43:16, 45:2, 45:5, 45:6, 45:22, 48:7, 48:10, 48:18, 48:19, 49:7, 49:8, 49:14, 49:22, 50:7, 61:14, 61:16, 61:18, 67:4, 67:15, 75:7, 75:22, 75:24, 84:25, 94:23, 95:2, 95:3, 96:5, 96:18, 97:2, 104:12, 104:19, 105:21, 107:15, 107:16, 107:17, 107:21, 111:3, 112:10, 118:1, 118:14, 119:21, 119:22, 120:10, 122:2, 122:4, 123:7, 124:8, 124:10, 124:16, 124:20, 124:23, 125:6, 125:11, 125:14, 125:15, 125:16, 125:17, 125:20, 127:4, 127:5, 129:15, 129:16, 129:23, 130:3, 130:13, 130:19, 131:9, 132:2, 135:10, 137:16, 143:1, 143:9, 144:3, 147:2, 147:12, 147:24, 148:6, 148:18, 155:24, 155:25, 156:12, 156:19, 157:12, 157:19, 159:25, 160:16, 164:23, 164:25, 165:13, 165:15, 166:11, 168:8, 170:17, 171:20, 171:22, 172:2, 172:23 rule-making - 129:23 ruled - 75:25, 117:19 rules - 37:3, 38:1, 38:13, 38:25, 43:4, 48:4, 49:10, 49:16, 56:1, 57:12, 67:3, 67:4, 72:5, 72:8, 72:19, 72:20, 78:19, 88:4, 91:17, 95:4, 96:17, 102:8, 102:12, 102:13, 105:17, 106:2, 107:2, 107:10, 111:15, 117:24, 118:15, 118:17,</p> |
|---|--|--|---|---|

| | | | | |
|--|---|---|--|--|
| 118:18, 118:22, 119:1, 119:8, 119:12, 119:14, 119:18, 122:13, 123:17, 123:24, 124:1, 124:13, 124:20, 127:6, 130:19, 131:2, 131:20, 131:24, 134:9, 135:12, 135:17, 136:3, 139:5, 147:6, 147:8, 147:9, 151:8, 151:10, 151:20, 154:2, 154:10, 154:12, 154:15, 154:17, 154:19, 154:21, 155:4, 155:6, 155:9, 155:17, 155:19, 156:5, 156:18, 156:19, 157:1, 157:8, 157:17, 158:2, 158:7, 158:9, 158:10, 158:12, 158:18, 159:11, 159:15, 159:18, 160:18, 166:12, 167:16, 168:12, 169:4, 171:6, 171:14, 171:16, 171:18, 173:2, 177:4, 177:8, 177:12, 177:13 ruling - 178:20 run - 28:6, 39:1, 40:15, 84:9 running - 37:1, 37:5, 37:17, 37:22, 37:23, 64:19, 83:15, 162:10 runs - 27:1, 69:9 Runs - 69:8 | seated - 116:11 seats - 116:18 second - 19:13, 70:14, 70:24, 70:25, 73:21, 115:6, 115:7, 123:5, 160:22 Section - 34:24, 157:12 section - 89:11, 112:4, 164:24, 165:13 sections - 119:4 see - 13:5, 17:3, 19:2, 20:3, 22:5, 23:6, 24:16, 51:20, 62:2, 63:15, 63:18, 64:6, 94:10, 94:11, 94:17, 110:14, 120:19, 121:8, 128:21, 147:21, 148:11 seeing - 38:15 seem - 24:21, 40:14 Seminole - 140:19 send - 16:11, 179:17 sending - 54:19 sense - 153:15, 170:11 sensor - 102:25, 103:6, 103:12 sent - 26:4, 38:22, 52:21, 60:13, 62:12, 62:15, 63:4, 63:21, 142:10, 150:2, 152:14 sentence - 58:20, 58:23, 115:7, 123:11 separate - 15:8, 55:19, 66:5 separately - 16:24 September - 21:23, 65:12, 77:5 sequence - 120:8, 120:11 sequential - 172:16 serial - 109:21 Serial - 92:23, 100:8 series - 129:8, 129:10, 129:14, 129:19 Series - 167:25 served - 135:19 service - 38:21, 63:3 set - 37:15, 108:13, 155:4, 157:17, 178:21 seven - 128:10, 174:2 Seventy - 9:13 Seventy-five - 9:13 several - 23:7, 104:7, 124:13, 127:20, 130:23, 133:23, 134:1, 152:22, 153:21, 153:25 Several - 133:25 shall - 5:12, 44:2, 49:23, 50:8, 71:16, 87:7, 143:4, 143:12, 147:12, 147:25, 166:15 shed - 179:14 sheet - 42:15 sheets - 24:4 Sheriff's - 109:25 short - 30:25, 31:10, 69:25, 76:20, 86:25 shorted - 31:11, 32:19 shortens - 18:18 shorter - 18:12, | 116:25, 117:4, 177:18 shortly - 48:4 shot - 38:21, 177:16 show - 18:25, 34:13, 53:19, 56:20, 75:20, 102:25, 104:16, 105:1, 107:4, 108:16, 120:14, 121:10, 153:22, 155:17, 155:24, 160:19 showed - 100:21, 103:12, 174:17 shows - 101:22 shutting - 170:8 sic - 69:12 sides - 81:22 signed - 110:1 significance - 175:2, 176:7 significant - 40:20, 50:25, 174:21, 176:17, 176:19, 178:1 significantly - 46:9, 174:9, 175:15 Significantly - 38:10 silicone - 54:11 similar - 37:4, 83:14, 83:22, 119:4 simple - 159:9 Simple - 46:20 simply - 104:14, 104:16, 113:1 simulated - 62:5 simulator - 27:4, 33:16, 33:19, 33:21, 34:9, 37:6, 38:3, 39:14, 47:4, 56:10, 60:1, 60:19, 61:12, 61:13, 80:22, 80:24, 83:12, 83:17, 84:1, 92:7, 93:17, 93:18, 94:4, 146:15, 148:9, 160:25, 161:2, 161:17, 161:25, 162:2, 162:7, 162:18, 162:19, 162:22 Simulator - 34:4, 94:8, 161:15 simulators - 10:3, 10:7, 10:8, 37:5, 37:16, 37:17, 39:11, 81:4, 92:5, 92:6, 93:22, 169:16 single - 14:20, 66:3, 106:15, 119:10, 150:14 sit - 120:5 sits - 116:11 situation - 71:11, 74:3, 148:23, 148:25, 169:6, 177:12 situations - 75:4 six - 8:3, 39:23, 75:25, 116:14, 127:15, 127:22, 128:12, 174:2, 174:16 size - 41:3 Skipper - 21:14, 21:16, 21:18, 22:18, 36:10, 36:20, 39:20, 44:17, 44:19, 47:14, 79:7, 79:14, 79:25, 149:18, 151:6, 151:12, 169:25 slightly - 116:15 small - 41:18 sobriety - 10:13 Society - 90:17 software - 26:6, | 26:19, 36:22, 51:9, 56:25, 57:1, 57:4, 61:8, 62:4, 62:12, 62:15, 62:17, 63:2, 63:6, 63:13, 64:18, 64:21, 69:14, 72:22, 84:8, 84:10, 84:23, 85:7, 96:5, 96:6, 126:25, 128:13, 128:16, 133:17, 137:19, 137:22, 140:11, 140:22, 141:9, 141:15, 152:10, 152:13, 152:15, 157:14, 165:21, 168:2, 169:1, 173:6 Software - 61:7 sole - 125:21 solemnly - 5:11, 87:5 solution - 27:2 Solutions - 76:1 solutions - 27:1, 37:23, 41:5, 81:5, 88:16, 88:18, 89:3, 161:17 solve - 42:2, 133:19 solved - 171:14 someone - 94:20, 112:14, 119:17, 130:17 Sometime - 163:6 sometimes - 6:5, 6:11, 100:9 Sometimes - 19:12, 56:13, 81:25 somewhere - 15:18 soon - 37:11 Soon - 163:7 sorry - 4:14, 6:19, 29:13, 80:9, 127:25, 164:2 Sorry - 12:9, 52:5 sort - 27:25 speaking - 179:6 special - 63:12, 140:9 specialized - 146:20 specific - 9:18, 37:4, 56:5, 58:13, 62:7, 71:2, 84:4, 84:18, 90:20, 91:3, 119:3, 121:2 Specifically - 8:18, 43:10 specifically - 14:14, 90:25, 105:9, 119:2, 119:9, 137:25, 144:6, 146:12, 146:25, 169:5, 170:16, 171:13 specifications - 100:25, 101:22, 111:14, 111:17, 111:19, 111:23, 112:20, 112:25, 114:12 spectroscopy - 89:2, 118:8 speculation - 153:8 speed - 18:20 spell - 5:18, 6:19 spend - 176:11 spending - 39:9, 140:7 spent - 36:20 spoken - 179:7 spreadsheet - 23:15 | spreadsheets - 20:7 spring - 23:20, 25:11 staff - 40:23, 65:5 staffing - 8:2, 8:3, 9:5, 9:9 standard - 45:5, 63:5, 93:15 standardized - 10:13 standards - 16:8, 63:7, 65:8, 85:23, 85:24, 90:21, 169:3, 169:4 Standards - 8:14, 11:1, 11:2 standing - 79:15, 135:16 start - 5:19, 7:22, 15:15, 39:6, 61:11, 95:22, 96:25, 98:24, 123:23, 176:16 started - 7:13, 14:4, 15:15, 15:17, 15:18, 21:12, 37:11, 37:17, 38:7, 111:11, 137:6, 149:3 Starting - 144:11 starting - 116:22 starts - 161:25, 162:1, 169:15 State - 1:6, 2:4, 2:5, 2:8, 4:7, 4:16, 4:22, 7:15, 13:6, 17:3, 25:2, 29:5, 29:6, 35:7, 51:17, 51:18, 52:20, 53:1, 54:18, 63:11, 67:2, 72:10, 76:6, 86:15, 86:17, 86:18, 87:14, 88:23, 89:17, 91:15, 105:14, 110:3, 110:8, 110:20, 111:3, 113:10, 113:13, 119:7, 120:22, 127:11, 127:13, 136:11, 140:2, 140:6, 141:10, 150:19, 150:20, 155:21, 165:17, 169:20, 171:13, 176:22, 177:15, 177:25, 178:14, 182:3 state - 5:18, 12:14, 14:20, 64:20, 67:5, 73:13, 81:20, 81:21, 104:19, 111:5, 156:5, 168:1, 174:11, 176:25, 177:12, 179:9 State's - 108:19, 177:19 statement - 5:3, 10:21, 11:12, 22:21, 40:1, 47:3, 47:20, 48:3, 58:20, 58:23, 61:17, 64:22, 64:25, 68:9, 71:1, 115:17, 125:5, 126:1, 134:13, 143:3, 146:7, 158:23, 160:1 States - 7:14 states - 14:15, 15:16, 43:20, 50:8, 63:11, 78:18, 107:11, 110:2, 112:3, 112:5, 112:8, 144:12, 147:12, 147:24, 156:1, 166:13, 167:23, 172:7, 178:13 stating - 156:19, |
| S | | | | |
| safe - 28:25 Safety - 10:10 sake - 16:22, 26:12, 31:24, 49:5, 58:24 sales - 54:17 sample - 93:13, 93:15, 93:16, 93:22, 93:25, 94:2, 94:4, 94:15, 105:24, 120:6, 149:21, 161:12, 162:22, 163:2 samples - 62:4, 94:6, 120:14, 120:16, 161:9 sanction - 75:23 Sarasota - 18:4, 47:23, 47:24 save - 145:20, 178:22, 180:23 saw - 42:9 scenario - 56:14, 62:2, 62:6, 84:19, 141:21 scenarios - 84:9 Schofield - 40:24, 41:1, 41:6 school - 12:5 School - 12:6 Science - 89:16 scientific - 38:2 screw - 116:4, 116:6, 116:7, 116:12, 116:13, 116:15, 116:17, 116:25, 117:4, 177:18 screws - 94:16 seat - 5:17, 87:3, 87:10 | | | | |

| | | | | |
|--|---|--|---|---|
| <p>158:8 status - 113:17 Statute - 119:20, 127:8, 135:13 statute - 84:24, 107:8, 119:15, 126:4, 134:9, 134:15, 134:24, 135:4 statutes - 119:2 statutory - 107:9, 111:20, 125:9, 127:6, 127:7, 138:15, 159:2 stay - 36:17, 180:21 steel - 42:15 step - 72:13, 86:10, 104:15, 163:24, 166:3 steps - 15:22, 25:22, 97:16, 97:22, 98:1, 100:17, 100:20, 126:24, 130:11, 130:17, 130:24, 131:10, 131:18, 131:22, 131:23, 132:17 still - 30:16, 64:8, 75:17, 75:22, 76:2, 97:24, 99:2, 116:18, 118:1, 154:21, 158:4, 163:8, 175:13, 176:15, 179:5 stood - 134:3 stop - 88:18 stopped - 145:17 straight - 59:20 Street - 1:21, 2:6 strips - 24:5, 24:23 stuck - 13:1 studies - 22:1, 23:17, 25:6, 33:2, 75:19, 97:13, 98:10, 99:9, 99:11, 99:23, 99:24, 115:21, 116:1, 116:22, 138:24, 138:25, 143:20, 146:7, 146:23, 153:15, 165:19, 173:16 study - 19:4, 21:1, 21:22, 22:9, 23:12, 23:19, 24:3, 25:13, 26:3, 26:8, 26:21, 28:9, 29:20, 32:10, 56:22, 56:23, 58:4, 58:10, 58:12, 83:24, 95:21, 97:7, 97:24, 98:8, 98:20, 99:14, 99:16, 99:17, 99:18, 99:19, 99:20, 99:21, 99:22, 100:12, 100:14, 100:16, 101:11, 101:14, 102:21, 102:24, 125:23, 126:6, 132:16, 133:2, 142:7, 143:19, 144:10, 144:17, 146:25, 152:24, 153:12, 153:16, 153:18, 153:22, 153:25, 167:14, 172:21, 173:21 stuff - 18:18, 66:19, 107:1, 126:18 subject - 28:12, 34:2, 62:5, 81:11, 110:6, 120:4, 120:9, 120:14, 157:13 subjective - 9:21 subjects - 103:8 submit - 71:16</p> | <p>103:9, 120:10 submitted - 19:18, 31:19, 177:15 Subparagraph - 142:25, 143:3, 147:2, 166:12, 167:23 subparagraph - 147:23 subpoenaed - 4:16, 81:22 Subsection - 43:19, 49:25, 50:7, 50:9, 148:1 subsequent - 92:19 substantial - 117:20 sudden - 40:16, 46:15 Suite - 2:6, 2:12 summarize - 55:2 superseded - 43:15 supervise - 87:25 supervisor - 8:8, 9:12, 44:20, 79:18 supplement - 35:6 supplemented - 35:4 supplied - 167:19 supply - 19:20 suppose - 146:2 supposed - 99:3, 169:18, 170:7 supposedly - 92:3 surfaced - 171:9 suspect - 157:20 sustain - 121:13, 136:14 Sustained - 75:13, 135:25, 138:18, 139:9 swear - 5:11, 87:5 switching - 141:8 sworn - 5:10, 7:3, 87:4, 87:15 symposiums - 11:13, 11:14 system - 66:1, 98:24, 172:18, 173:23</p> | <p>98:19, 98:21, 102:3, 103:13, 107:4, 108:15, 109:23, 110:24, 111:2, 112:8, 113:4, 117:14, 120:11, 120:13, 120:20, 120:23, 121:6, 143:5, 155:16, 157:16, 157:19, 160:18, 162:11, 169:6, 169:22, 170:16 Test - 11:15, 11:22, 90:15 tested - 16:18, 23:7, 60:23, 61:1, 105:25, 107:3, 107:5, 115:8, 115:17 testified - 7:4, 31:17, 48:1, 81:19, 82:17, 85:18, 87:16, 134:8, 136:23, 137:2, 140:16, 141:24, 149:2, 152:3, 153:14, 158:1, 159:20, 160:5, 160:8, 160:23, 161:4, 165:17, 168:16, 169:12, 173:9, 177:6, 178:2, 178:3, 178:4 testify - 18:7, 81:23, 82:1, 88:23, 91:2, 110:18, 153:9, 154:11 testimony - 5:12, 17:19, 18:6, 52:23, 77:18, 78:3, 79:21, 82:13, 83:3, 86:20, 87:6, 122:24, 136:18, 136:22, 143:18, 143:24, 153:2, 153:3, 167:1 testing - 7:12, 11:5, 14:18, 15:1, 15:11, 16:6, 16:13, 20:4, 20:9, 20:10, 21:12, 24:8, 26:10, 32:11, 34:2, 37:7, 37:8, 37:13, 43:13, 45:7, 56:14, 56:15, 57:25, 58:15, 59:19, 60:1, 61:22, 61:25, 62:2, 62:3, 62:5, 62:6, 62:21, 63:9, 63:18, 64:12, 65:17, 66:13, 68:15, 68:16, 70:20, 71:7, 71:12, 72:5, 72:11, 74:9, 75:17, 81:11, 82:13, 83:13, 83:14, 83:21, 83:22, 84:1, 84:19, 84:20, 85:14, 85:25, 88:13, 88:25, 89:1, 90:8, 97:15, 98:3, 98:13, 98:21, 98:24, 100:18, 100:22, 100:23, 101:2, 101:12, 101:23, 102:16, 108:13, 109:13, 109:14, 110:3, 112:16, 115:16, 118:24, 120:8, 124:11, 124:14, 125:1, 125:24, 127:12, 131:13, 137:10, 138:23, 140:17, 140:18, 146:14, 146:20, 147:18, 147:19, 147:20, 148:5, 148:11, 148:14, 149:4, 153:2, 169:4, 169:15, 170:4, 173:10</p> | <p>Testing - 7:18, 7:21, 11:17, 12:13, 26:15, 28:14, 44:12, 68:21, 69:13, 87:22, 87:25, 88:21, 89:12, 90:11, 91:23, 107:11, 111:22, 112:13, 112:14, 118:20, 134:15, 134:23 testings - 83:16, 83:18 tests - 20:5, 20:8, 23:5, 24:12, 24:21, 27:4, 27:6, 32:19, 32:23, 37:2, 37:6, 37:7, 46:13, 56:10, 83:19, 84:4, 84:6, 84:9, 84:16, 84:17, 97:5, 101:1, 103:9, 120:12, 168:24, 170:19 themselves - 120:16 therefore - 35:13, 155:21, 176:7 Therefore - 159:17 Thereupon - 4:1, 6:25, 69:25, 76:20, 86:25, 87:12, 103:19, 112:21, 142:18, 181:3 they've - 44:24, 83:6 thick - 128:19 thinking - 160:7 third - 28:20, 63:24 thousand - 6:3, 46:12, 60:25, 167:13, 167:14 thousands - 23:11 thousandths - 37:21 three - 8:18, 28:11, 49:16, 50:17, 64:1, 99:12, 103:3, 149:10, 164:4, 164:5, 172:25 throughout - 64:20, 141:10, 171:12, 176:4 timeframe - 16:19 timely - 88:22 timing - 62:4 title - 28:17 today - 4:17, 64:8, 72:9, 101:16, 102:7, 106:16, 117:12, 118:4, 118:18, 122:11, 135:19, 136:10, 136:16, 141:4, 169:12, 177:6 today's - 77:18, 179:25 together - 21:18, 22:19, 39:24, 76:10, 149:12 took - 7:17, 15:22, 23:8, 48:18, 48:20 top - 94:14, 112:4 topics - 88:24 total - 8:2, 27:10 totally - 170:3 tourists - 103:24 toward - 59:20 towards - 125:11 toxicology - 89:10, 89:19, 89:20, 89:22 track - 146:4 Traffic - 10:10 Trail - 2:11 train - 88:11 trained - 9:24, 10:9, 10:16</p> | <p>Training - 7:9, 8:14, 11:2, 11:3 training - 8:16, 11:8, 12:2, 21:17, 22:19, 78:6, 89:15, 89:19, 90:3, 90:5, 94:20 transcribe - 182:8 transcribed - 182:11 transcript - 18:2, 18:3, 182:10 transcripts - 17:7, 17:8, 17:11, 17:12, 17:14, 17:17, 17:22, 18:6, 18:9 Transportation - 10:15, 19:7, 21:2, 32:4, 62:22, 64:13, 66:4, 73:15, 101:9, 101:15, 102:15, 114:2, 114:11, 137:24, 138:2, 139:12, 140:9, 141:1, 142:3, 172:4, 174:4 Transportation's - 114:22 travel - 77:20 travels - 93:21, 94:3 tried - 105:10, 171:3, 172:14 trips - 24:15 trouble - 38:21, 44:16 troubleshoot - 38:25 troubleshooting - 9:22, 36:21, 39:6, 39:9, 39:10, 169:24 true - 6:16, 60:10, 175:22, 176:13, 179:23, 182:10 truth - 5:10, 5:13, 5:14, 87:7, 87:8, 105:11 truthfully - 48:1 try - 16:11, 38:25, 39:6, 51:24, 52:1, 145:20 trying - 6:11, 39:14, 40:12, 67:12, 75:20, 104:15, 136:13 Tuesday - 178:21, 180:22 turn - 30:12 Turn - 66:11 turned - 103:24 Turning - 29:15 twenty - 57:1 Two - 36:15, 60:25 two - 25:6, 26:4, 26:25, 30:20, 33:2, 36:24, 37:20, 37:21, 39:5, 39:24, 40:1, 46:3, 46:10, 46:12, 55:19, 58:19, 58:22, 62:14, 63:11, 64:1, 64:17, 81:2, 83:16, 89:18, 99:11, 106:5, 106:9, 114:9, 120:17, 127:12, 140:10, 140:25, 149:18, 158:11, 167:13, 167:14, 168:12, 169:10, 175:4, 175:12 type - 14:7, 33:8, 33:11, 60:12, 60:16, 62:3, 65:2, 69:13, 72:1, 77:17, 78:2, 159:10, 161:12,</p> |
| T | | | | |
| <p>tab - 109:19 talks - 95:20, 171:23 Tallahassee - 44:17 target - 37:19, 83:13 targeted - 84:6 taxpayers' - 140:8 teach - 11:22 technical - 90:16 Technical - 22:11, 90:13 technically - 104:12, 170:6 Technology - 11:23 ten - 40:8, 76:18, 76:19, 84:7, 86:23, 106:12, 179:24, 181:2 tender - 13:20, 91:16 term - 47:22, 85:5 test - 7:14, 8:11, 8:15, 10:5, 11:6, 14:24, 16:10, 24:4, 24:15, 24:23, 28:1, 28:6, 28:7, 33:17, 37:21, 38:3, 63:12, 69:15, 71:1, 73:14, 75:5, 75:10, 78:20, 81:8, 81:10, 88:6, 88:7, 88:11, 88:12, 88:17, 88:19, 91:20</p> | | | | |

| | | | |
|---|--|---|---|
| 169:6, 170:13, 171:6, 173:22, 175:10 types - 168:24, 169:4 | 58:6, 69:20, 71:9, 92:19, 92:21, 93:12, 93:15, 93:19, 100:22, 100:24, 101:4, 115:18, 115:19, 116:4, 116:6, 116:7, 116:10, 116:14, 116:16, 116:19, 116:20, 118:9, 138:6, 139:4, 144:8, 146:15, 149:7, 149:24, 149:25, 150:14, 150:21, 160:23, 160:24, 160:25, 161:1, 161:8, 161:10, 161:13, 162:5, 170:4, 170:5, 170:6, 170:7, 170:9, 177:18 valve's - 42:24 vapor - 33:22, 33:23, 41:13, 45:22, 47:4, 47:7, 92:8, 93:17, 93:20, 93:22, 161:15, 161:17, 162:21, 162:23, 162:25, 163:2 vapors - 37:18, 41:20 variance - 38:2 variations - 39:13 varied - 8:4 various - 10:8, 11:4, 26:15 venous - 103:10 vents - 39:16 verbal - 123:14, 123:18 verbally - 121:23 verified - 149:2 verify - 20:4, 149:5 Version - 63:2, 63:3, 64:19 version - 43:17, 51:10, 56:25, 57:1, 73:19, 73:24, 96:6, 128:14, 128:16, 137:19, 137:22, 140:22, 164:7, 164:8, 164:9, 170:18, 178:12 versions - 62:15, 62:17, 63:3, 63:5, 64:18, 140:11, 164:5, 164:6, 174:18 versus - 100:23, 115:18, 123:18, 131:6, 135:20, 155:7, 155:24, 168:25 violate - 124:1 violated - 172:3 violates - 123:24 violation - 75:7, 75:22, 124:20, 158:3, 166:11, 168:8 violations - 75:25 Voice - 29:9 Volke - 16:14 Volke's - 16:14 Volpe - 16:15, 20:4, 62:22, 63:4, 64:13, 68:15, 68:23, 69:6, 69:10, 69:11, 142:3 volume - 34:2, 62:4, 141:14, 141:16, 141:17, 141:19, 141:21 volumes - 141:14 vs - 1:8 Vuong - 135:20 | Wait - 174:15 wait - 59:22 walk - 108:2 wants - 70:20, 104:18, 130:17, 145:4, 171:24 warn - 113:3 warrant - 106:15 warranted - 68:10 waste - 112:12 watched - 42:10 wave - 15:6, 15:7 wavelengths - 15:9, 15:10, 15:13 Wayne - 1:14 ways - 158:19, 158:21 week - 36:16, 36:18, 36:20, 36:23, 37:8, 80:7, 84:12, 163:12 West - 1:22, 2:7 Westlaw - 50:5, 164:10, 164:15 wet - 160:25 whatsoever - 20:21, 22:22, 23:1, 24:16, 33:4, 33:5, 33:9, 33:12, 44:22, 58:6, 59:4, 65:2, 175:2, 176:7 whichever - 108:19 whistleblower - 47:21 Whitehead - 2:6 whole - 5:13, 17:4, 87:7, 121:2, 123:11, 170:22, 171:11, 171:12 wires - 31:11 Wisconsin - 12:6, 12:20 wish - 16:23, 134:4 Witness - 3:4, 6:21, 6:24, 28:11, 28:22, 34:1, 34:4, 34:10, 36:4, 43:1, 48:13, 48:18, 48:24, 49:2, 49:4, 58:19, 58:22, 61:11, 61:19, 61:21, 62:1, 70:8, 82:11, 82:14, 82:16, 82:20, 82:24, 83:4, 83:6, 83:12, 83:22, 84:3, 84:17, 84:23, 86:11, 103:22, 113:5, 114:1, 141:25, 164:20, 164:23, 165:9, 165:13, 165:21 witness - 4:19, 5:7, 7:2, 18:22, 70:5, 87:14, 91:9, 91:16, 178:3 witnesses - 6:9, 86:13, 86:16, 163:25 wondering - 130:9, 138:13, 152:8 word - 134:19, 147:15, 147:20 words - 170:15 workings - 13:21, 71:10, 120:13 works - 51:11 worried - 103:22, 180:20 write - 107:10, 118:25, 156:12, 159:24, 179:24, 180:24 writes - 118:15, | 118:17 writing - 22:16, 44:2, 44:7, 44:8, 44:24, 48:19, 55:13, 136:21, 137:5, 137:13, 137:17, 143:13, 145:19, 145:25, 146:1, 166:15 written - 44:12, 44:21, 48:8, 53:1, 54:14, 55:1, 59:11, 60:13, 66:3, 80:3, 105:2, 105:6, 121:20, 123:18, 123:20, 124:2, 124:4, 124:17, 124:24, 127:3, 130:11, 137:1, 138:25, 148:10, 151:23, 168:10, 168:14, 168:17 Written - 121:23 wrote - 22:18, 35:15, 66:16, 150:8, 150:25, 152:9, 152:10 |
| U | | | Y |
| ultimately - 113:21 unable - 32:21 under - 8:5, 16:5, 25:14, 25:16, 37:2, 39:3, 49:25, 50:9, 58:19, 58:22, 63:5, 96:16, 111:15, 148:1 Under - 61:16 underlying - 110:12 understood - 180:22 Unfortunately - 52:13 uniformly - 169:18 unique - 71:2, 71:12, 141:21 unit - 91:3 United - 7:14 University - 12:6, 12:20, 89:18, 103:11 Unless - 83:6 unless - 119:12, 134:25, 164:22 unquote - 75:4 unsure - 180:10 unusual - 169:5 up - 4:25, 6:12, 9:14, 15:5, 18:21, 20:4, 33:16, 36:14, 36:23, 36:25, 37:15, 38:7, 46:10, 54:10, 60:19, 66:3, 69:23, 87:3, 95:1, 97:6, 104:17, 111:10, 116:16, 116:20, 120:4, 124:9, 128:5, 138:24, 144:20, 146:6, 161:11, 163:8, 169:16, 170:2, 173:8, 173:17, 175:3, 175:4, 175:5, 179:24, 180:24 update - 11:4, 48:7, 79:19, 92:11, 95:17, 97:4, 99:8, 105:11 updated - 114:8 updates - 104:15, 106:13, 118:4, 165:22 upgrades - 165:22 ups - 47:14 user - 11:15, 85:2 Users - 36:16 uses - 11:2, 101:8, 118:7 utilize - 86:3 utilized - 14:18, 30:21, 85:20, 142:3 utilizing - 85:17, 85:18, 85:19 | | | year - 106:9, 107:5, 108:5, 145:16 years - 11:19, 39:23, 75:25, 77:2, 77:3, 89:19, 106:5, 106:10, 106:12, 114:9, 134:1, 171:10, 174:3 yellow - 109:19 Yesterday - 179:15 yesterday - 4:20 yourself - 9:17, 47:13, 76:10, 166:22 |
| V | | | Z |
| valid - 78:20 validates - 104:22, 108:7 value - 93:20, 94:3, 94:17 values - 83:13 valve - 34:19, 34:20, 34:21, 35:12, 41:18, 41:19, 41:21, 41:23, 41:25, 42:1, 42:4, 42:7, 42:13, 42:18, 42:21, 44:14, 47:9, | | | Zero - 81:11 |
| | W | | |