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IN THE CIRCUIT COURT OF THE  
11TH JUDICIAL CIRCUIT IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA

CASE NO. F01-4855

STATE OF FLORIDA  
Plaintiff,  
vs.  
YILEYMI SUAREZ  
Defendant.

/ COPY

TRANSCRIPT OF PROCEEDINGS  
Trial Proceedings  
Volume 2  
Pages 98 - 245

The above-entitled cause came on for hearing before  
the Honorable DAVID C. MILLER, Presiding Judge, at 1351  
N.W. 12th Avenue, Miami, Florida on JUNE 17, 2002  
commencing on or about 2:00 p.m.

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APPEARANCES :

OFFICE OF THE STATE ATTORNEY  
KATHERINE FERNANDEZ RUNDLE  
STATE ATTORNEY  
BY: Karen Kahgan  
BY: Helen Page  
Assistant State Attorneys  
Appearing on Behalf of the Plaintiff.

LAW OFFICES OF ROBBINS, TUNKEY, ROSS, AMSEL,  
RABEN, WAXMAN & EIGLARSH  
BY: Frederick S. Robbins  
Appearing on Behalf of the Defendant.

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1 THE COURT: Okay, on the publication issue and  
2 the Harvard issue are there any other issues that the  
3 State wanted to proffer and/or any cases that would  
4 change my ruling?

5 MS. KAHDGAN: Well, Ms. Brill hasn't brought back  
6 any cases which deal with those first two issues which  
7 is my effort to show to this jury that Mr. Swope's  
8 claim in his resume that he is -- that he taught a  
9 seminar at Harvard is patently untrue.

10 THE COURT: We don't need to repeat those issues.  
11 We've made a record on them already. what else do you  
12 have?

13 MS. KAHDGAN: I have, what other areas I wanted to  
14 inquire of him on?

15 THE COURT: Yes.

16 MS. KAHDGAN: You're asking me to proffer my cross  
17 examination now?

18 THE COURT: If you don't want to, you don't have  
19 to. I thought if you wanted a record, that's fine. If  
20 you don't think it's appropriate, that's fine. If you  
21 don't have any more cases, I'm ready to move on.

22 MS. KAHDGAN: I don't have cases on those two  
23 issues. I have other areas of Mr. Swope's background  
24 that I intend to cross-examine him on. If you would  
25 like me to proffer those now, I will be happy to do

1 that. I just don't want to -- I don't have to do that.  
2 I just don't want any more problems.

3 THE COURT: Are they direct impeachment of  
4 something he said on direct.

5 MS. KAHGAN: They relate to his educational  
6 credentials that he has spoken of and what he retracts  
7 and believes about his credentials from those. He's  
8 testified that he has a Master of Science in  
9 Engineering Technology and Engineering.

10 He's testified that he's in Ph.D. studies. I am  
11 entitled to explore how he describes both of those  
12 educational opportunities and what he believes his  
13 credentials to be based upon those educational  
14 credentials.

15 I'm also going to be exploring with him, of  
16 course, the nature of his business. When he started  
17 it. He's in this for the money and all the things that  
18 you can normally with a witness to show his bias.

19 THE COURT: Right.

20 MS. KAHGAN: I'm also going to be exploring with  
21 him his claimed publications in Reiff's book, which  
22 he's already testified to that he wrote two chapters in  
23 a book by Bob Reiff. Let's see what other areas about  
24 his background I am going to go through.

25 THE COURT: I'm not going to go back and read the

1 transcript, obviously, -- Mr. Robbins, what did he say  
2 about Master of Science.

3 MS. KAHGAN: He said he has a Masters of Science  
4 in Technology and Engineering from the University of  
5 Miami.

6 MR. ROBBINS: Something like that.

7 THE COURT: Okay. And what did he say about the  
8 Ph.D. Issue.

9 MS. KAHGAN: That he's presently pursuing a Ph.D.

10 THE COURT: Okay. Business issues and Reiff  
11 chapters. Okay, bring them in.

12 MS. KAHGAN: There may be more matters that come  
13 up during the course of his cross-examination,  
14 although, he's so clever we'll see what happens.

15 (Thereupon, the jury entered the courtroom.)

16 THE COURT: All right, you may be seated.

17 Welcome back from lunch. Has anybody started  
18 talking about the case or have you permitted anybody to  
19 talk about it in your presence, if so, raise your hand.  
20 I see no hands.

21 Ms. Kahgan, you may continue.

22 MS. KAHGAN: Thank you, Judge.

23 THE COURT: We need the witness.

24 THE COURT: Okay, Mr. Swope, you're still under  
25 oath.

1 THE WITNESS: Thank you, Judge.

2 THE COURT: Did you talk to anyone about your  
3 testimony during the brake?

4 THE WITNESS: No, Judge.

5 THE COURT: Okay.

6 You may proceed.

7 RICK SWOPE

8 having been previously sworn in the above cause,  
9 continued to testify on his oath as follows:

10 CROSS-EXAMINATION CONTINUED

11 BY MS. KAHGAN:

12 Q Okay, Mr. Swope, one of the things you mentioned  
13 to the jury as part of your credentials was that you had  
14 authored two chapters in a book written by an attorney  
15 named Robert Reiff, correct?

16 A That's correct.

17 Q And actually in your curriculum vitae you list  
18 yourself as the author of two chapters in those two book,  
19 correct?

20 THE COURT: Let's stick to what the witness has  
21 said in direct. Let's proceed.

22 BY MS. KAHGAN:

23 Q Mr. Swope, did you author two chapters in a book  
24 by Robert Reiff?

25 A Yes.

1 Q Okay. Let me show you a book entitled Drunk  
2 Driving Related Vehicular Offenses. Is this the book that  
3 you're referring to?

4 A Let me --

5 Q Yes. So that's the second edition of this book?

6 Well, you told us you wrote two chapters in two  
7 books. One is the first edition and one is the second,  
8 correct?

9 A That's correct. I wrote two chapters.

10 Q One in each book, correct?

11 A That's correct.

12 Q And you are designated author of those two  
13 chapters; is that correct?

14 A That is correct.

15 Q Now, I'm holding the book in front of me and  
16 you'll see in the front that the author assistant is  
17 Robert Reiff, correct?

18 A That's correct.

19 Q Doesn't have your name on it, does it?

20 A No, it does not.

21 Q Okay. And actually, if you turn to the chapter  
22 itself, which I believe is chapter 21, which is Accident  
23 Investigation Reconstruction, your name does not appear as  
24 the author of that chapter, does it?

25 A No, it appears in the front of the book.



1 Q My question is, your name does not appear on that  
2 chapter, does it?

3 I'll get there.

4 THE COURT: You're repeating your question. He  
5 answered it and now next question.

6 BY MS. KAHGAN:

7 Q Now, in all fairness, Mr. Swope, doesn't it say  
8 on the bottom of page 21 that this section was prepared  
9 with your assistance?

10 A I really don't know --

11 Q Take a look at it.

12 A -- what it says on the bottom.

13 Q Take a look at it and see what that says.

14 A Yes, it does.

15 Q So that's your credit for having participated  
16 with Mr. Reiff in writing this chapter, correct?

17 A Yes, I believe so.

18 Q And that's the basis for you saying to us that  
19 you authored the chapter, correct?

20 A That's correct.

21 Q But you're not listed as the author, are you, Mr.  
22 Swope?

23 A I am not the author of the book, no, that's  
24 correct.

25 Q Or the chapter either?

1           A     Well, I think it refers to me in there as doing  
2 the chapter.

3           Q     Actually you were credited with assisting  
4 Mr. Reiff; isn't that correct?

5           A     That's correct I am.

6           Q     Mr. Reiff doesn't say this chapter was written by  
7 Rick Swope, does it?

8           A     No, he doesn't, no.

9           Q     But you say you wrote the chapter, correct?

10          A     That's correct, I did.

11          Q     Now, you've also mentioned to us in your  
12 direction examination that in terms of your education you  
13 went to St. Thomas University, correct, and got a  
14 Bachelor's in Criminal Justice, correct?

15          A     That's correct.

16          Q     Now, none of the courses that you took at St.  
17 Thomas involved physics, did it, Mr. Swope?

18          A     No.

19          Q     And none of it involved mathematics, did it, Mr.  
20 Swope?

21          A     I don't know what you mean by mathematics or  
22 sciences course as far as like any of the science courses  
23 had some math in it as far as -- if you're dealing with  
24 physics mathematics, no, I did not.

25          Q     Thank you clarifying that. You took no courses

1 in your undergraduate training in scientific mathematics,  
2 correct?

3 A That's correct.

4 Q Obviously in many courses there may be some basic  
5 mathematics but you receive no training in physics and  
6 higher mathematics, correct?

7 A In that course, that's correct.

8 Q When you were doing your BA degree or was it a BS  
9 degree?

10 A It was a BA degree.

11 Q Now, you've also told us that you have received a  
12 degree in something that you have called a Master of  
13 Science in Technology slash Engineering, correct?

14 A That's correct.

15 Q And now actually Mr. Swope, isn't it correct when  
16 you refer to that degree as a Master of Science in the  
17 Management of Technology?

18 A That's one way to refer to the degree. There are  
19 two ways --

20 Q The University of Miami --

21 THE COURT: There are two ways.

22 THE WITNESS: There are two ways to list a  
23 degree. The way I listed my degree was done by the  
24 director of the program Calvin Leonard. He advised me how  
25 to list my curriculum and how to state my exact degree and

1 that's what I did.

2 BY MS. KAHGAN:

3 Q So you're telling us that you list your degree  
4 one way because somebody told you to do it that, correct?

5 A The director of the program who invented the  
6 program came up with it and the University of Miami  
7 instructed me on another individual on how to list the  
8 degrees in our program and that's what I did.

9 Q As far as you're concerned then the University of  
10 Miami would approve of your listing this degree as a  
11 degree in Technology slash Engineering?

12 A Absolutely.

13 Q Let me show you -- actually by the way, do you  
14 even know if Dr. Leonard was an engineer?

15 A I don't know what his background was. I just  
16 know that he was the director of the program for UM. I  
17 don't know what his degree was.

18 MR. ROBBINS: May I see it, please.

19 BY MS. KAHGAN:

20 Q Now, as to this program you just took his word on  
21 that's the way -- you just took his word when he told you  
22 that the you describe this program was one of Technology  
23 slash Engineering was okay with the University of Miami,  
24 correct?

25 A I took his word as the director of the program

1 when I approached him that's what I took his word at,  
2 correct. Actually, he looked at it when I did the resume.

3 Q Now, this is a program jointly sponsored by the  
4 College of Engineering and the School of Business  
5 Administration at the University of Miami, correct?

6 A That's correct.

7 Q So half the courses that you take are  
8 engineering, correct?

9 A They're industrial, correct.

10 Q Thank you for clarifying that for me. So they're  
11 a particular type of engineering called industrial  
12 engineering, correct?

13 A That's correct.

14 Q And half of the courses were this business  
15 administration, correct?

16 A That's correct.

17 Q It's a joint program that both business students  
18 can take, business professionals can take?

19 A I don't know all the requirements for the  
20 program. I'm assuming that.

21 Q Well, let me ask you this, Mr. Swope, when you  
22 took the courses were some of your classmates people from  
23 IBM?

24 A Yes, most of them were from IBM or Southern Bell.  
25 Well, no, actually they were software designers now.

1 Q Okay. Let me show you what's been marked as  
2 State's Exhibit 3-L. Does that show that this is a Master  
3 of Science in Management of Technology, Mr. Swope?

4 A The front cover shows that, yes.

5 Q And that's a publication from the University of  
6 Miami, correct?

7 A I'm sure it is. There are pages missing, but yes  
8 it is.

9 Q The front sheet at least says University of Miami  
10 Masters of Science in the Management of Technology,  
11 correct?

12 A That is what the front says, yes.

13 Q Doesn't list it as a Master of Science in  
14 Technology slash Engineering, does it?

15 A I believe you will find in the certificate  
16 whether it's, again, all the pages aren't included. It's  
17 a dual degree program and a joint program as you  
18 indicated. And that's the way it's listed.

19 Q Actually, would the designation of the degree be  
20 reflected in your transcript, Mr. Swope?

21 A I have no idea how it would be listed in the  
22 transcript. If it's in the transcript or not I don't  
23 know. Usually it just gives an MS degree. That's  
24 probably what it lists.

25 Q Let me ask you to take a look at State's Exhibit

1 3-D for identification. See whether that refreshes your  
2 recollection as to the designation of the degree when you  
3 got it.

4 A Is there a specific spot on here?

5 Q Yes, let me point to the bottom of -- the  
6 right-hand corner it says the major is the Management of  
7 Technology, correct?

8 A Master of Science and a Major in Management  
9 Technology, correct.

10 Q Correct. And that's the way the University of  
11 Miami -- that's your transcript, isn't it?

12 A I believe it is, yes. The dates wrong on it, but  
13 that's the transcript, yes.

14 Q And that reflects the studies that you undertook  
15 to receive this degree the Master of Science that the  
16 University of Miami is describing as a Master of Science  
17 with a major in the Management of Technology, correct?

18 A Yes, that's correct.

19 Q Now, I believe it is your opinion about that  
20 degree that based upon your education you believe that  
21 you're an engineer, correct?

22 A Sure. There's a lot of types of engineers,  
23 absolutely.

24 Q And also you believe that you're a specialized  
25 kind of an engineer, that you're an industrial engineer,

1 correct?

2 A Well, I don't know what you mean by specialized,  
3 but basically I specialize in accident reconstruction.

4 Q My question wasn't about what you specialize in  
5 as a profession. We are talking about your belief that  
6 you're an engineer, correct?

7 A I'm sorry. I don't understand what you mean by  
8 belief.

9 Q You just told us that your opinion of yourself,  
10 that you are an engineer, correct?

11 A No, it's not an opinion of myself. That's the  
12 opinion of people I work with and also from the director  
13 of the program. So if that's industrial that would be  
14 correct.

15 Q Well, let me ask you this, Mr. Swope, because  
16 you've confused me. You told us that you believe that  
17 based upon your degree, you're qualified to an engineer?

18 A No, I don't think just based on the degree, no.  
19 I think there's a lot of other things involved.

20 Q Your practical work as an accident  
21 reconstructionist, for example?

22 A I think that would be one. Certainly the 2500  
23 hours of classes that I have taken. Classes from Society  
24 of Automotive Engineering. Tests that I've done.  
25 Training I have done. All those things I believe add up



1 to it.

2 Q So really as far as it goes for you, you believe,  
3 you're telling us today because of all these things you  
4 have done, you have decided to consider yourself an  
5 engineer, correct?

6 A I don't agree with that statement that I have  
7 decided. That's not correct.

8 Q Well, has the State of Florida, for example,  
9 given you a credential that says that you Rick Swope are a  
10 professional engineer as far as the State of Florida is  
11 concerned?

12 A Have I applied and taken the test or something,  
13 no I have not. I have never applied for a test.

14 Q But you believe you can take the test at any  
15 time?

16 A The requirements when I finish my degree, if I am  
17 enrolled in that program I could take the test at that  
18 time, that's correct. If they change, I don't know. If I  
19 wanted to be -- you mean if I wanted to be an PE in the  
20 State of Florida that would correct.

21 Q In order for you to be recognized by the State of  
22 Florida as an engineer you'd have to take Professional  
23 Engineers Licensing Exam?

24 A I believe it depends, again, on what criteria  
25 you're going to go into. I believe there is tests for

1 civil engineers and I believe there's tests for --  
2 probably mechanical, I'm not sure of all the test  
3 requirements right now for the State. But there are  
4 certainly many.

5 Q Would you agree with me that there is a statutory  
6 scheme that decides what credentials you need to have in  
7 order to apply to take the exam and be registered by the  
8 State of Florida.

9 MR. ROBBINS: Judge, I'm going to object. He  
10 said he didn't take the exam and this is irrelevant and  
11 immaterial.

12 THE COURT: Overruled.

13 THE WITNESS: I'm not sure what all the  
14 requirements are for the particular type of engineer that  
15 you would want to take the test for. I am not sure. I  
16 haven't looked at those. I don't know.

17 MS. KAHGAN: All right, Mr. Swope, I think you  
18 have told us that -- actually you've confused me again.  
19 Are you telling us that as far as you're concerned --

20 MR. ROBBINS: Judge, I'm going to object to.

21 THE COURT: All right.

22 MR. ROBBINS: Personal feelings about.

23 THE COURT: Counsel's personal confusions are not  
24 relevant here. It's what the jury understands. You can  
25 ask your questions.

1 BY MS. KAHGAN:

2 Q Mr. Swope, is it your present belief that you can  
3 go and take the test to become a profession engineer?

4 A In 1995 or '94, I believe, I could take the test  
5 for a certain type of registered engineering in the State  
6 as long as I could pass the test if I took it. As far as  
7 what the requirements are now or since 1995, I couldn't  
8 tell you.

9 Q All right. Well, Mr. Scope, I'd like to show you  
10 a transcript of sworn testimony that you gave in March of  
11 2002.

12 A Okay.

13 Q In which you say and I quote, "If I wanted to I  
14 could go and take the test." See if that refreshes your  
15 memory of your qualifications for taking the exam. In  
16 this year of 2002.

17 A I'm just looking to see if I would have looked  
18 that up at the time for this case. Were you on this page,  
19 ma'am, I'm sorry what line were referring to?

20 Q I held it open for you to the page I was reading  
21 from. And it is page 114, lines nine and ten. Feel free  
22 to look at the front to refresh your recollection as to  
23 what case that was in and when you provided that sworn  
24 testimony.

25 A That's correct. I indicated, I was talking about

1 developing roads or teaching at the University level.

2 Q Actually that's --

3 A That's correct.

4 Q Meaning to take the professional engineers exam  
5 because you would agree with me to be able to do those  
6 things you need to take the exam, correct?

7 MR. ROBBINS: Well, what thing, Judge. I object  
8 to the ambiguousness.

9 THE COURT: Overruled.

10 THE WITNESS: I don't know to which exam you're  
11 referring to. If you are referring to an exam at  
12 university level, yes, I would be able to take that, as I  
13 indicated. If you are referring to the civil or  
14 transportation engineer, no, I wouldn't tend to think so.

15 Q All right, Mr. Swope, so that there's no  
16 confusion, let me read to you page 114.

17 A Okay.

18 MR. ROBBINS: Objection, Your Honor, unless it  
19 for purposes of impeachment I'm objecting.

20 MS. KAHDAN: The witness has advised that he  
21 doesn't know what exam. It's being referred to so I'd  
22 like to refresh his recollection.

23 THE COURT: Did you read page 114?

24 THE WITNESS: I just read the line on top and I  
25 just indicated my answer was the same?

1 THE COURT: Proceed.

2 THE WITNESS: Yes.

3 BY MS. KAHGAN:

4 Q So you've refreshed your recollection of the  
5 content?

6 A Yes. That's exactly what I told you.

7 Q So the discussion was whether you were qualified  
8 or capable of sitting for the exam to become a  
9 professional engineer, correct?

10 A That was part of what the conversation was, just  
11 as I indicated.

12 Q So let's look for a minute and see what it is you  
13 believed you had as a credential to allow you, back in  
14 March of 2002, to sit to take the exam as a professional  
15 engineer, okay?

16 A Sure. Whatever you'd like to look at.

17 Q I'm sorry?

18 A Whatever you'd like look at.

19 Q Okay. I'm referring you to the examinations  
20 requirement of the Florida Statute 471.

21 A I don't know what you're referring to.

22 Q I'm going to read it to you, Mr. Swope. I'll  
23 show you the statute if you'd like. Perhaps, Judge, if  
24 you have the statute books here we can give Mr. Swope a  
25 copy of 471.

1 THE COURT: Back in my office?

2 THE WITNESS: I'm not familiar with that.

3 MS. KAHGAN: All right, we'll wait and get a  
4 statute book.

5 THE COURT: Which chapter?

6 MS. KAHGAN: 471.

7 THE WITNESS: 471.

8 THE COURT: Bob, do you want to get that for me.  
9 Can I see the prior deposition?

10 MS. KAHGAN: Oh, sure.

11 THE COURT: Page 114. What year statute are you  
12 reading from?

13 MS. KAHGAN: From my jacket it's hard to tell,  
14 Judge. It appears to be the one in effect for 2000/2001.  
15 My copy has it most recently updated as of 2000.

16 THE COURT: Okay, what section of 471?

17 MS. KAHGAN: 471.013, I believe. It should say  
18 examinations and prerequisites.

19 THE COURT: Okay, Mr. Swope, do you want to check  
20 this. We are talking 471.013. Right there.

21 THE WITNESS: Okay.

22 BY MS. KAHGAN:

23 Q Okay, have it in front of you?

24 A Yes.

25 Q So this is the examination that you have stated

1 under oath that you are qualifi

2 A Excuse me, that's not

3 Q You said and I quote,

4 wanted to."

5 A That's correct. That's

6 However, I have not -- there are

7 that deposition transcript that I

8 Q I will be happy to give :

9 you can sit here and read it if you like.

10 A Thank you.

11 MR. ROBBINS: While Mr. Swope is reading the

12 deposition may I look at the statute that Ms. Kahgan is

13 referring to.

14 THE COURT: 471.013, correct, Ms. Kahgan?

15 MS. KAHGAN: 013, correct?

16 THE WITNESS: I'm sorry, I didn't understand your

17 question.

18 BY MS. KAHGAN:

19 Q My question was, and I don't really want to be

20 repeating myself, it is in the deposition on page 114 you

21 have said that, "If I wanted to, I can go and take the

22 test." So I just want to ask you to go over the criteria

23 set forth in the Florida Statutes to see whether, in fact,

24 you're qualified to take the test?

25 A But that's not a fair question because four lines

1 down I told you I didn't know what was required for the  
2 test.

3 Q Well, Mr. Swope, you did say under oath that you  
4 were qualified to take the test. so I'm going to ask you  
5 what about --

6 MR. ROBBINS: Judge. I'm going to object to her  
7 arguing with the witness. If I may just, I just want to  
8 say one thing, Your Honor, what page is that on?

9 THE WITNESS: 114.

10 THE COURT: I think the relevant portion may be  
11 between lines two and ten. Are you suggesting somewhere  
12 else down the page there's something else; 2 through 18.

13 Do you want to read 2 through 18, Ms. Kahgan?

14 MS. KAHGAN: I'll be happy to.

15 THE COURT: Thank you.

16 BY MS. KAHGAN:

17 Q "Are you a registered professional engineer in  
18 the Florida?"

19 Your answer was, "no."

20 The next question is: "Why are you not  
21 registered as a professional engineer?"

22 You say: "I don't develop roads, teach at the  
23 university level."

24 "If I wanted to I could go and take the test. As  
25 far as being registered by the State, I have no reason