

*Hoiland v AJD Construction, et al.*

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*Jason B. Randle, P.E.*

*May 20, 2021*

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*FrontinoReporting, LLC*

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*Philadelphia, Pennsylvania 19106*

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1  
2 IN THE SUPERIOR COURT OF NEW JERSEY  
3 FOR THE COUNTY OF HUDSON  
4 DONALD J. HOILAND and : CIVIL ACTION - LAW  
MANDY HOILAND, his wife, :  
5 Plaintiffs, :  
6 v. :  
7 AJD CONSTRUCTION CO., :  
8 INC.; GRAND LHN III, :  
9 U.R., LLC; GRAND LHN II :  
10 URBAN RENEWAL, LLC; :  
11 GRAND LHN I URBAN :  
12 RENEWAL, LLC; GRAND LHN :  
13 URBAN RENEWAL I, LLC; :  
14 GRAND LHN, III, LLC; :  
15 IRONSTATE DEVELOPMENT :  
16 COMPANY; IRONSTATE :  
17 DEVELOPMENT COMPANY, :  
18 LLC; P. ESPOSITO :  
19 CONSTRUCTION, LLC; :  
20 ESPOSITO CONSTRUCTION, :  
21 LLC; ESPOSITO :  
22 INDUSTRIES, LLC; :  
23 ESPOSITO GROUP, LLC; :  
24 AMERICAN SAFETY :  
25 PARTNERS, LLC; MEN OF :  
STEEL ENTERPRISES, LLC; :  
MEN OF STEEL :  
ENTERPRISES, LLC; MEN OF :  
STEEL REBAR FABRICATORS, :  
LLC; EMPIRE STATE REBAR :  
INSTALL, LLC; JOHN DOES :  
1-20; ABC CORPS/BUSINESS : NO. HUD-L-2754-19  
ENTITIES 1-20, :  
Defendants. :  
May 20, 2021  
DEPOSITION OF JASON B. RANDLE, P.E.  
FrontinoReporting, LLC  
Frontino/DeFilippis Court Reporting Agency  
34 North Front Street  
Philadelphia, Pennsylvania 19106  
(215) 922-2133

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1  
2  
3 Deposition of JASON B.  
4 RANDLE, P.E., taken via Zoom videoconference on  
5 the above date at 10:00 a.m., before Dolores  
6 DeFilippis, RMR-CCR.  
7  
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Development Company and  
Ironstate Development Company, LLC

EXHIBIT	I-N-D-E-X DESCRIPTION	PAGE
P-38	AJD Construction 235 Grand Street Safety Orientation PowerPoint	92
P-4.1	Photograph	161
QUESTIONING BY: PAGE		
MR. CLARK		5
MS. DEROGATIS		263
REQUESTS FOR PRODUCTION		
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	61/24	
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INSTRUCTIONS NOT TO ANSWER		
	PAGE/LINE	
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1 J. Randle, P.E.  
2 (It is stipulated by and  
3 among counsel for the respective parties that  
4 signing, sealing, filing and certification are  
5 waived and that all objections, except as to the  
6 form of the question, are reserved until the time  
7 of trial.)  
8 - - -  
9 JASON B. RANDLE, P.E.,  
10 The Bourse Building, 111 South Independence Mall,  
11 Philadelphia, Pennsylvania, 19106, after having  
12 been first duly sworn, was examined and testified  
13 as follows:  
14 - - -  
15 EXAMINATION  
16 BY MR. CLARK:  
17 Q. Good morning, Mr. Randle. My name is  
18 Jerry Clark. I am the attorney that represents  
19 the plaintiff in the case.  
20 About how many times have you  
21 been deposed in the past?  
22 A. Depositions, I'll say about eight.  
23 Q. And were those all in connection with  
24 your work at Robson Forensic?  
25 A. As an expert witness, yes. I have

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1 J. Randle, P.E.  
2 been deposed as a fact witness, you know, prior  
3 to my employment with Robson.  
4 Q. How many times were you deposed as a  
5 fact witness before working for Robson?  
6 A. Two days. One -- one matter  
7 concerning a construction dispute with an owner  
8 that didn't want to pay us.  
9 Q. Okay. So, was it a total of six  
10 depositions with Robson or eight?  
11 A. I'm going from memory here. I'm  
12 going to say eight.  
13 Q. Okay. If you don't know the exact  
14 answer to a question, you can estimate or  
15 approximate; you understand that. Right?  
16 A. Sure. Yes.  
17 Q. If you don't know the answer to a  
18 question, you should say that you don't know.  
19 Okay?  
20 A. Got it.  
21 Q. If you answer a question, we are  
22 going to assume that you understood it. Okay?  
23 A. I understand.  
24 Q. So, where are you right now?  
25 A. Are you home or at an office

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1 J. Randle, P.E.  
2 or what?  
3 A. I'm home. Home office.  
4 Q. And prior to COVID, did you  
5 ordinarily work out of a home office or out of  
6 Robson's office somewhere?  
7 A. So, my territory is sort of the East  
8 Coast for Robson in terms of construction, you  
9 know, being the construction expert. So, I  
10 generally would work out of my home.  
11 Q. Even before COVID?  
12 A. Correct.  
13 Q. When did you start with Robson?  
14 A. I think it's four years in September.  
15 Q. And have you ever been deposed as an  
16 expert while working for Robson in a defense case  
17 or were they all plaintiffs' cases, meaning who  
18 you were retained by in the case?  
19 A. I've had a mix of defense and  
20 plaintiff.  
21 Q. Are you standing up right now?  
22 A. I am.  
23 Q. Do you think you're going to be able  
24 to stand up the whole deposition, assuming we go  
25 long, or will you be able to sit down as well?

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1 J. Randle, P.E.  
2 A. I can stand all day.  
3 Q. Okay. So, do you type up your  
4 reports yourself or do you dictate them?  
5 How does that work?  
6 A. I type my reports myself.  
7 Q. And where do you save them when  
8 you're finished with them?  
9 A. So, we use G-Suite. And my  
10 report -- you know, I have my own G-Suite  
11 personal file. And that's where -- you know,  
12 it's saved to the cloud server. But it is, you  
13 know, dedicated to me, if that's making sense.  
14 Q. No. It makes a lot of sense.  
15 Is that similar to Dropbox?  
16 Do you ever see Dropbox where  
17 there's, like, folders?  
18 A. Yes.  
19 Q. And in your G-Suite would be all the  
20 reports that you've written for Robson?  
21 A. We made the transition a year or so  
22 ago. There's been some -- some blips here and  
23 there in terms of transferring information. But  
24 generally, yes.  
25 Q. So, when you made -- when they made

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1 J. Randle, P.E.  
 2 the transition a year ago, they also endeavored  
 3 to move the old files and incorporate them into  
 4 G-Suite?  
 5 A. Yes. We used to host our own -- our  
 6 own servers. And the type of documents,  
 7 obviously, you know, the size of the documents,  
 8 to deal with, it just became impractical for us  
 9 to continue to try to host all the data.  
 10 I'm talking like I know about  
 11 this. I wasn't on some kind of committee, but  
 12 this is what I was sort of told, so --  
 13 Q. And are there about, like, 120  
 14 reports in your G-Suite folder that you've  
 15 written in prior cases?  
 16 A. Through the years. That's generally  
 17 a -- probably more. Maybe closer to 140, 150  
 18 more.  
 19 Q. And who is your manager or supervisor  
 20 at Robson?  
 21 A. So, I have a practice group leader,  
 22 and he manages the civil group. I believe under  
 23 his sort of umbrella is about 25 to 30 experts.  
 24 And his name is Brant Leisenring. He's an expert  
 25 as well. He, you know, obviously takes on cases.

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1 J. Randle, P.E.  
 2 And we also have a peer-review process. And  
 3 there's a group of experts with more -- you know,  
 4 with -- who have been tenured longer at Robson  
 5 that are also peer reviewers.  
 6 Q. They're all in-house Robson people.  
 7 Right?  
 8 A. Correct.  
 9 Q. When we talk about peer review in  
 10 terms of, like, an engineering journal article,  
 11 are you familiar with that?  
 12 A. I mean, I understand --  
 13 Why don't you continue and  
 14 I'll let you know if I am.  
 15 Q. Yeah. I'm just thinking, like, peer  
 16 review is -- it just seems a little  
 17 self-contradictory to say that people within  
 18 Robson would do a peer review. Because one would  
 19 think that if you had, like, a legitimate  
 20 engineering journal or a legitimate medical  
 21 journal, saying that it's been peer-reviewed  
 22 would imply that it's someone outside the  
 23 organization of the person that wrote it so as to  
 24 avoid conflicts. That's what I'm talking about.  
 25 A. Yeah. We define it differently.

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1 J. Randle, P.E.  
 2 Q. "We" being who?  
 3 A. Robson.  
 4 Q. Did you ever publish anything  
 5 that's --  
 6 Strike that.  
 7 Did you ever write anything  
 8 that's been published in a peer-reviewed journal?  
 9 A. Yes. I wrote an article about  
 10 energy-efficient buildings. And that was -- you  
 11 know, there was a group of us that came up -- it  
 12 was an industry -- industry publication. We also  
 13 presented on it at a conference, the smarting of  
 14 buildings, I think.  
 15 Q. And what journal was it published in,  
 16 do you remember?  
 17 A. The organization is called CLM. I  
 18 don't know if you are familiar with them or not.  
 19 Q. What is -- I am not. What does that  
 20 stand for?  
 21 A. It's a -- it's an insurance industry  
 22 organization, dedicated organization. You can  
 23 Google them.  
 24 Q. So, that's not an engineering  
 25 journal.

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1 J. Randle, P.E.  
 2 A. Okay. Good point. I apologize for  
 3 misspeaking there.  
 4 Q. Yes. I'm talking about, like, a  
 5 peer-reviewed --  
 6 Like, let's just see here.  
 7 By the way, you understand  
 8 that you're sworn under oath to tell the truth.  
 9 Right?  
 10 A. Yes.  
 11 Q. All right. And just somewhat  
 12 standard at the depositions, I just want to  
 13 advise you that -- you probably already know, but  
 14 we'll just put it in here -- that perjury is a  
 15 third-degree crime in New Jersey. That means a  
 16 person convicted of perjury in New Jersey could  
 17 face three to five years in prison and a fine of  
 18 up to \$15,000.  
 19 Do you understand that?  
 20 A. Yes.  
 21 Q. So, when you say your reports are  
 22 peer-reviewed, what you mean is that they are  
 23 reviewed by other people at Robson Forensic, in  
 24 the same organization.  
 25 A. Yes.

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1 J. Randle, P.E.  
2 Q. They're not peer-reviewed in the  
3 sense of how a journal article would be  
4 peer-reviewed in the sense that it's reviewed by  
5 people outside the organization so as to avoid  
6 conflicts. Is that fair?  
7 MS. MULHERN: Objection to  
8 form.  
9 THE WITNESS: Yes.  
10 MS. MULHERN: But you can  
11 answer.  
12 THE WITNESS: Yes.  
13 BY MR. CLARK:  
14 Q. Can you spell Brett Leisenring's name  
15 for the benefit of the court reporter.  
16 A. Sure. It's Leisenring. And it's  
17 L-e-i-s-e-n-r-i-n-g.  
18 Q. And who owns Robson Forensic?  
19 A. Who owns Robson?  
20 Q. Yes.  
21 A. I believe -- well, I'm not -- I  
22 believe our president is the majority owner or  
23 our -- I'm not sure that's his title. But, you  
24 know, our CEO would have -- is majority owner.  
25 His name is Bart Eckhardt.

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1 J. Randle, P.E.  
2 Q. Okay. And if Bart Eckhardt wanted  
3 all the reports that you drafted that are in your  
4 G-Suite folder, how long do you think it would  
5 take for you to download that to a thumb drive?  
6 Would that be a matter of,  
7 like, clicking the folder and dragging it to the  
8 thumb drive and then however long it takes to  
9 copy it to it?  
10 A. No, no. I mean, similar, I'm sure,  
11 how you manage your cases, you know, I have  
12 multiple folders for each case number that I'm  
13 assigned. And within those folders are the  
14 documents, my standards that I'm referencing, my  
15 work product, anytime there's inspection --  
16 anything along those lines.  
17 So, it would be a matter of,  
18 basically, you know, navigating through every  
19 case number.  
20 (Lazaro Berenguer, Esquire,  
21 joined the deposition.)  
22 BY MR. CLARK:  
23 Q. And when you say there's 140 or so  
24 reports, are they in 140 different sub-folders  
25 or --

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1 J. Randle, P.E.  
2 A. Yes.  
3 Q. "Yes."  
4 A. We don't have, like, a clearinghouse  
5 for reports. It's not how we manage our  
6 practices.  
7 Q. It's in each of the files,  
8 essentially, the file folders?  
9 A. Right.  
10 Can you ask that again?  
11 MR. CLARK: I'll ask Dolores  
12 to read it back.  
13 (The following was read by  
14 the court reporter:  
15 "Q. It's in each of the  
16 files, essentially, the file folders?")  
17 THE WITNESS: Yes. So,  
18 you're right. I mean, within each case number  
19 that we -- you know, we assign to a certain  
20 matter are multiple subfolders. And within those  
21 subfolders would be, you know, a report folder  
22 within my work product subfolder, so --  
23 BY MR. CLARK:  
24 Q. So, there's a report subfolder within  
25 the file number?

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1 J. Randle, P.E.  
2 A. Yes.  
3 And that's how I manage my  
4 cases. I'm not speaking on behalf of Robson.  
5 This is -- you know, we all have our own  
6 individual practice. That's why Robson is such a  
7 fantastic firm.  
8 We do have -- you know,  
9 there's general best practice. And that's how I  
10 manage -- that's how I manage my files and my  
11 work product.  
12 Q. And you could give anyone access to  
13 your G-Suite with your name and log-in, right, I  
14 imagine, right, if you wanted to?  
15 A. I'm not sure my agreement with the  
16 company, with the firm, would allow that. But in  
17 concept, sure.  
18 Q. And are you a W-2 employee of the  
19 firm or are you a 1099?  
20 A. W-2.  
21 Q. And how about the eight or so  
22 deposition transcripts?  
23 How would you go about  
24 getting your hands on those?  
25 A. Similar.

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1 J. Randle, P.E.  
 2 I -- I'll be frank. I don't  
 3 believe I probably have but a couple of  
 4 deposition transcripts. For whatever reason,  
 5 I -- you know, we -- we tend not to get them. A  
 6 lot of times we'll beat on our clients to try to  
 7 get them sent to us, and many times we are not.  
 8 And then by the time we really get heated, the  
 9 case, you know, generally either settles or moves  
 10 onto the next stage.  
 11 Q. That makes sense.  
 12 So, for the couple that you  
 13 have or so, I can't imagine it would take  
 14 terribly long for you to get your hands on those.  
 15 Right?  
 16 A. No.  
 17 Q. Do you know offhand which cases those  
 18 were?  
 19 Were you retained in those  
 20 cases by the defense or the plaintiff, do you  
 21 know offhand?  
 22 A. One case was the defense. It was a  
 23 construction dispute. It was more of a -- you  
 24 know, it wasn't an injury case. It was more of a  
 25 dispute between parties concerning the quality of

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1 J. Randle, P.E.  
 2 work that was completed on a house. We were -- I  
 3 was defending the general contractor.  
 4 And I believe the other case  
 5 involved defense of a site contractor that was  
 6 claimed to have caused damages in a restaurant in  
 7 Connecticut. So, those are the ones I remember  
 8 offhand where I received a transcript.  
 9 Q. You said in the first you were  
 10 defending the general contractor?  
 11 A. Yes.  
 12 Q. And who are you defending in this  
 13 case that we're here for today?  
 14 A. I've been engaged to give an opinion  
 15 primarily concerning the owner of the project.  
 16 So, that would be 235 Grand, I believe is the  
 17 LLC.  
 18 Q. Thank you.  
 19 Do you have any support staff  
 20 help at Robson?  
 21 A. We have a -- sort of an admin pool  
 22 that if we have requests primarily concerning,  
 23 you know, when documents are transmitted to us,  
 24 they, you know, download them and then typically  
 25 they'll load them back up into our -- into

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1 J. Randle, P.E.  
 2 our -- you know, either into a shared folder or  
 3 into our personal folder.  
 4 So, you know, when COVID hit,  
 5 we all kind of readjusted how things were. And  
 6 we used to have a dedicated admin to our  
 7 particular office. But she's been gobbled up and  
 8 put in the pool. So, you know, we -- like I  
 9 said, I have access to a pool of admins that can  
 10 support my efforts.  
 11 Q. So, the admin would -- the admin pool  
 12 would have access to your G-Suite. Is that  
 13 right?  
 14 A. To my personal G-Suite, no.  
 15 Q. How are they then able to upload  
 16 materials into your G-Suite?  
 17 A. So, there's -- I misspoke about the  
 18 process. There's a shared folder for -- you  
 19 know, beyond my personal folder there's also a  
 20 company shared folder. And typically, you know,  
 21 once you get to the shared folder on the cloud,  
 22 to move it into your personal folder is much  
 23 easier than downloading all the documents and  
 24 uploading it to your personal folder.  
 25 So, that's a very simple, you

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1 J. Randle, P.E.  
 2 know, move that I can make versus, you know,  
 3 frankly, watching files be downloaded and  
 4 it's -- there will be a shared folder based on  
 5 the case number that I then kind of move those  
 6 documents from that shared folder into my folder  
 7 and it's much simpler at that point.  
 8 Q. I understand.  
 9 So, the admin would have  
 10 access to the shared folder and upload what  
 11 they're working on or what they need and then you  
 12 would take it from the shared folder and put it  
 13 into your particular filing system within  
 14 G-Suite?  
 15 A. Correct. Yes.  
 16 Q. Do you -- are those shared -- and the  
 17 shared folders are under the umbrella of each  
 18 particular file number?  
 19 A. Yes.  
 20 Q. And what is your file number in this  
 21 case?  
 22 Is it 21JN0007?  
 23 A. Yes.  
 24 Q. And there would still be -- you would  
 25 still expect all the shared file folders would be

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1 J. Randle, P.E.  
2 within each of those files that you worked on?  
3 A. Yes.  
4 In this case, I can't  
5 remember how the documents were received, if I  
6 just received them and moved them myself, which,  
7 you know, is -- this profession allows me the  
8 luxury of working off-hours a lot, which I can go  
9 ahead at times, move the documents myself, or if  
10 it was sent to the admin. I'm not a hundred  
11 percent sure.  
12 Q. So, I'm now understanding this.  
13 It sounds like your G-Suite  
14 is a lot like Dropbox or actually a lot like the  
15 old Windows Explorer system, which is folders and  
16 subfolders and all. Is that fair?  
17 A. Yeah, it is.  
18 It was -- but there was still  
19 a learning curve, trust me, you know, because we  
20 did -- we did use the old Microsoft, I guess,  
21 file suite or whatever you want to call it. And  
22 it was tied to our VPN and all of this stuff.  
23 This is a much easier process  
24 I've come to accept, after being pretty pigheaded  
25 and not wanting to early on.

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1 J. Randle, P.E.  
2 But, yes, there's -- you  
3 know, G-Suite, we've kind of curtailed it to  
4 match what we're used to -- what we're used to  
5 seeing.  
6 Q. So, now, understanding that, it  
7 sounds like it would take an admin a day or less  
8 to go through the file folders and drag over  
9 copies of the reports in each of the cases?  
10 MS. MULHERN: Objection to  
11 form.  
12 BY MR. CLARK:  
13 Q. Is that --  
14 MS. MULHERN: Is there a  
15 question there?  
16 MR. CLARK: It's hard  
17 to -- it's funny. So, the question started. The  
18 question would start here and end here. And you  
19 interrupted me at about this point and said, Is  
20 there a question? So, it's hard to do that when  
21 I'm interrupted in the middle of the question.  
22 MS. MULHERN: Oh, I  
23 apologize, Jerry. I misread the pause. I  
24 thought your pause was the final word in your  
25 question. If I interrupted you, I apologize for

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1 J. Randle, P.E.  
2 that.  
3 But go ahead and, I guess,  
4 complete your question.  
5 MR. CLARK: There's no need  
6 to apologize at all. But thanks, you know,  
7 anyway.  
8 BY MR. CLARK:  
9 Q. So, now, understanding kind of how  
10 the file system works, being kind of similar to  
11 Dropbox and in some ways similar to the old  
12 Windows Explorer, it seems to me that a  
13 reasonably trained member of the Robson Forensic  
14 admin pool would take about a day or less to go  
15 through those files and drag your final reports  
16 in each of those cases into a folder or a thumb  
17 drive.  
18 Does that sound about fair to  
19 you?  
20 A. In a vacuum maybe. But 140  
21 documents, clicking through very large file  
22 folders, I -- I'd be aggressive to say it could  
23 be done in a day. I'm actually an estimator as  
24 well. So, I would definitely not estimate a day  
25 for this.

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1 J. Randle, P.E.  
2 And then, you know, I would  
3 need to be involved, you know, again, after, you  
4 know, getting approval for this type of thing  
5 from not only internally, but also our -- you  
6 know, all my clients, which would take a -- would  
7 take quite a bit of work.  
8 Q. How do you name your reports usually?  
9 A. Well, they -- you know,  
10 generally -- I don't think there's really a  
11 standard for me based on the case information,  
12 so -- but generally it's a technical report of  
13 something. You know, like I said, my practice is  
14 not just construction industry. It includes  
15 disputes between homeowners and builders and  
16 builders and commercial owners and subcontractors  
17 and what have you. So, those take on, like, a  
18 different naming system.  
19 But, you know, it's sort  
20 of -- you know, you wake up and you put on your  
21 pink socks or your purple socks is kind of how I  
22 head down the path of naming my reports.  
23 They generally, you know,  
24 are -- list the plaintiff or -- yeah, and then  
25 have the incident, you know, in the word, in



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1 J. Randle, P.E.  
 2 terms of construction-injury matters. Otherwise  
 3 it's curtailed more towards the type of case it  
 4 is. And that's -- a lot of times it's really,  
 5 frankly, to make the client understand that their  
 6 case is important and that's why we named it  
 7 certain ways.  
 8 Q. When I say "name," I don't mean,  
 9 like, the title of the report as --  
 10 A. Okay.  
 11 Q. -- is on the title. I mean the file  
 12 name.  
 13 A. So, the numbering system for the  
 14 case?  
 15 Q. I'm just trying to find out how you  
 16 name the file of your final expert reports within  
 17 your G-Suite.  
 18 A. Again, it depends. At times -- you  
 19 know, generally it'll be the case number, the  
 20 case name, which, you know, I -- I'm assuming I'm  
 21 not giving away any corporate secrets here, but  
 22 it's really the name of the attorney and the name  
 23 of the plaintiff. And then it'll be my initials  
 24 at the end of it.  
 25 Now, generally reports will

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1 J. Randle, P.E.  
 2 go through an admin's hands, where they'll go  
 3 through and just make sure the format is good  
 4 and, you know, it's -- there isn't some, like,  
 5 blank spaces. And generally when I direct them,  
 6 they'll add my signature and then it will get  
 7 sent to the client.  
 8 So -- but, again, you  
 9 know, it does happen in a pinch. I'll -- you  
 10 know, if it's a late evening where a client is  
 11 asking for something quickly and that process  
 12 can't take place, I'll -- you know, I'll do the  
 13 final process on the report and send it off. And  
 14 the naming system will be similar, but really it  
 15 depends on -- again, we don't have, like, you  
 16 must name, you know, this file, that type of  
 17 scenario. It's -- you know, there's general  
 18 practice on what it is, but I've seen other  
 19 experts within the firm who, you know, follow a  
 20 different system.  
 21 So, sorry I'm being a  
 22 little -- not very clear.  
 23 But, again, you know,  
 24 we're -- we pride ourselves that we're a  
 25 collection of, like, folks that are, you know,

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1 J. Randle, P.E.  
 2 experts in their assigned industry. And the  
 3 company is not going to come in and try to step  
 4 on people's toes. We have a lot of flexibility  
 5 in terms of how we manage our practice.  
 6 So, short answer is generally  
 7 it'll typically have our Robson case number.  
 8 And, you know, it may have my initials and it  
 9 might have the -- it should have, you know, the  
 10 case name on how we title it. That's just how we  
 11 track billings and if there are things that are  
 12 uploaded, you know, inquiries, whatever.  
 13 Q. Do you have G-Suite open right now in  
 14 this case?  
 15 A. No.  
 16 Q. How long would it take you to open  
 17 G-Suite?  
 18 A. Minutes, half a minute.  
 19 Q. Can you open it up and tell us what  
 20 the report was named in this case in the file,  
 21 the electronic file name?  
 22 A. Yeah. I -- I can.  
 23 Q. While you're doing that, I'm going to  
 24 go get a cup of water.  
 25 A. Okay.

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1 J. Randle, P.E.  
 2 Q. Thanks.  
 3 (Pause.)  
 4 Also, while you're doing  
 5 that, do you bill on this case by the hour?  
 6 A. The firm bills my time per hour.  
 7 Yes.  
 8 Q. And what's the rate that they bill  
 9 for on this case?  
 10 A. I believe it's \$430 an hour.  
 11 Q. Okay. Is it open?  
 12 A. Yes.  
 13 Q. And, so, what are you seeing there?  
 14 Like, what's shown?  
 15 Is there a bunch of folders  
 16 or what?  
 17 A. For G-Suite I pulled open the work  
 18 product folder. And the report is called -- it's  
 19 titled 21JN0007 Mulhern dash Hoiland. And then  
 20 in parentheses it's a date, you know, 2-12-21,  
 21 and then my initials at the end.  
 22 So, this report was sent to  
 23 the admin pool and they, you know, checked format  
 24 and made sure the file size wasn't wonky and, you  
 25 know, added my signature based on my direction

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1 J. Randle, P.E.  
2 and then it was sent to -- sent to Attorney  
3 Mulhern.  
4 Q. So, once you open a file in G-Suite,  
5 a case file, you can readily identify which file  
6 within that folder is the report. Is that fair?  
7 A. Again, in a vacuum, sure. But  
8 not -- you know, I have response -- responses  
9 that I'm -- that I author, you know give,  
10 opinions on.  
11 Again, generally, the way I  
12 manage my case files are based on, you know, our  
13 case file numbering system. I have a group of  
14 subfolders that I've become familiar with on  
15 how to manage my cases. And then within  
16 that -- within those folders is a folder I call  
17 work product. And within that normally is  
18 something I call report. And generally my  
19 reports are in that report sub-subfolder.  
20 But, again, I -- you know,  
21 there's -- it's not extremely cut and dry in  
22 terms of, like, you know, I can just wind someone  
23 off and have them go search things out. It's  
24 just -- for whatever reason, you know, the case  
25 closes and -- or there's some follow-up -- you

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1 J. Randle, P.E.  
2 know, sometimes a report is settled -- you know,  
3 the case settles before it's off -- you know,  
4 it's just a lot of goings-on with -- you know,  
5 these reports take a lot of time and a lot of  
6 emotion and a lot of thought. And I don't want  
7 to, like, you know, minimize, you know, my many  
8 hours of work in terms of minutes pulling the  
9 reports. And I think it's justified that way,  
10 frankly. You know, I would -- I would need to be  
11 part of that process.  
12 Q. What else is in the sub-subfolder  
13 titled reports?  
14 What else is generally in  
15 those, or is it just the reports?  
16 A. Well, at times I'll take snapshots  
17 of, you know, like, my excerpts that I use on my  
18 reports, like a duplimap (phonetic) image or a  
19 particular photo. Those can all kind of pile  
20 into that report folder, which helps me kind of  
21 focus on what it is that I'm adding into  
22 my -- you know, what kind of additional analysis  
23 support I would be adding into the report.  
24 So, again, it's -- how we get  
25 there can vary. Ultimately there -- you know, it

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1 J. Randle, P.E.  
2 ends in the report.  
3 But, again, there is -- you  
4 know, at times during my sort of path of creating  
5 my practice, I put deposition excerpts in that  
6 folder, which I would, you know, grab and put  
7 into my report or, like, you know, at times I  
8 could put in the opposing expert's work product  
9 that I would reference.  
10 So, it would -- you know, it  
11 would -- it would take some serious hand-holding  
12 along the way between, you know -- frankly, it  
13 would probably have to be me, you know. Because  
14 even if -- even if the admin pulled it together,  
15 I would have -- I would have to check it. And,  
16 again, I -- you know, there's multiple steps  
17 prior to even that part happening, which  
18 is -- you know, I'd have to -- if you were my  
19 attorney/client, I'd have to call you and talk to  
20 you about this and you would tell me probably no  
21 and then, you know -- so, at that point there  
22 would be an exception made.  
23 So, yeah. I don't -- I hope  
24 I'm answering your question.  
25 Q. I'm not sure. You went so long I

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1 J. Randle, P.E.  
2 forgot what the question was. So, I hope you  
3 answered the question, too. But the transcript  
4 will show it.  
5 Of the 140 or so reports that  
6 you have from prior cases, can you estimate how  
7 many of those cases would be injury cases?  
8 A. I'd probably say 60 to 70 percent.  
9 So, you know, 60 percent of 140 would be 84.  
10 70 percent would be 98. So, somewhere in that  
11 range.  
12 Q. Okay. And of the 84 to 98 of those  
13 injury -- of those reports which you estimate  
14 would be injury cases, of that grouping, can you  
15 estimate what percentage would be  
16 construction-injury cases?  
17 A. Sure. That's -- that's 80 percent  
18 more.  
19 Q. So, we're talking about 70 to 80  
20 reports that you have in cases you worked on for  
21 Robson Forensic, 70 to 80 of those would be  
22 construction-injury cases.  
23 Is that a fair estimate?  
24 A. Based on how we spoke through it.  
25 Sure.

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1 J. Randle, P.E.  
 2 Q. And we understand it's an estimate;  
 3 we're allowed to estimate at depositions.  
 4 So, if there were a court  
 5 order that ordered you to produce in this case  
 6 those 70 or 80 reports, why would you necessarily  
 7 need to be intimately involved in the process?  
 8 Why could not an admin just  
 9 go in, pull out the final reports, put it in a  
 10 shared folder and then you can go through and  
 11 delete any reports that don't fall within the  
 12 scope of the court order? That being the 70 or  
 13 80 construction-injury reports.  
 14 Would that help to streamline  
 15 things?  
 16 MS. MULHERN: I'm going to  
 17 object to the form.  
 18 I'm also going to note that  
 19 those reports are subject to a protective order.  
 20 But you can answer, if you  
 21 can.  
 22 THE WITNESS: Yeah. Like I  
 23 said, it's not that -- it's not that simple for  
 24 my practice. I just -- by the time I -- by the  
 25 time an admin touched them, I'd be touching them

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1 J. Randle, P.E.  
 2 again.  
 3 So, you know, it's  
 4 just -- like I said, I'm not going to minimize my  
 5 work effort into click here, click there. It's  
 6 just -- it's not -- it's not how my practice has  
 7 been created. So, you know --  
 8 BY MR. CLARK:  
 9 Q. You know, please don't take this the  
 10 wrong way or please don't be insulted, but you  
 11 seem a little defensive or not too jazzed about  
 12 the prospect of having to turn over your prior  
 13 reports in construction injury cases that you  
 14 wrote for Robson Forensic.  
 15 Am I misreading you or do you  
 16 have some sort of apprehension about that?  
 17 MS. MULHERN: I'm going to  
 18 object to the form.  
 19 But, Mr. Randle, you can  
 20 respond.  
 21 THE WITNESS: Yeah. No. I'm  
 22 very proud of my work product. And I have a  
 23 pretty big ego. So, I'm sorry if that's not  
 24 coming across, at least that's what I've been  
 25 told.

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1 J. Randle, P.E.  
 2 So, no, I'm very proud of my  
 3 work product. I think, you know, it wouldn't  
 4 necessarily be -- I probably shouldn't use this  
 5 word. But I don't think it would be fair to  
 6 the -- to the folks involved in these different  
 7 matters for me to wind up an admin to put forth  
 8 going through my folders and pulling out my work  
 9 product.  
 10 And that's -- you know,  
 11 there's no -- there's no apprehension. No.  
 12 My -- my reports are great. My opinions are  
 13 strong. I'm an expert in this industry. I have  
 14 no problem advertising as such.  
 15 So -- but, again, you know,  
 16 this -- this is a decision -- you know, this  
 17 conversation is beyond this deposition. So, I  
 18 guess that's where my apprehension is. I don't  
 19 want to -- I don't want to -- I don't want to  
 20 step on the toes of those that have come before  
 21 me in this conversation. I -- you know, we have  
 22 a firm policy. And there's other folks involved  
 23 that are -- you know, play a part in paying my  
 24 paycheck every week. So, that's where I stand.  
 25 BY MR. CLARK:

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1 J. Randle, P.E.  
 2 Q. Of the 70 or 80 reports that you have  
 3 written in construction-injury cases that we've  
 4 been speaking about, can you estimate what  
 5 percentage of those were written in litigation  
 6 matters? Meaning cases that were lawsuits filed  
 7 in court.  
 8 A. Versus -- let me ask, versus just,  
 9 like, a private matter or versus arbitration/mediation?  
 10 Q. Yes.  
 11 A. Okay. For construction industry -- I  
 12 mean for construction injury, I would say, you  
 13 know, a hundred percent.  
 14 Q. And as far as you know, none of those  
 15 70 or 80 reports which were written in  
 16 construction-injury-litigation matters, none of  
 17 those reports, as far as you know, were the  
 18 subject of any kind of protective order or  
 19 contain privileged information. Is that correct?  
 20 To your knowledge.  
 21 MS. MULHERN: Objection to  
 22 form.  
 23 They are in -- they're  
 24 subject to a protective order in this case,  
 25 Jerry.

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1 J. Randle, P.E.  
2 I'm not sure I'm  
3 understanding your question.  
4 BY MR. CLARK:  
5 Q. So, Mr. Randle, you can answer.  
6 If you need it read back, we  
7 can have it read back.  
8 A. I don't know.  
9 Q. So, we're going to have the question  
10 read back. And please listen to the question.  
11 There was a -- there was sort of a descriptive  
12 qualifier in the beginning of the question. And  
13 that descriptive qualifier was repeated at the  
14 end of the question.  
15 So, let's have the question  
16 read back and listen to it with particular  
17 appreciation for the beginning and ending  
18 qualifiers. And let's see if maybe you can give  
19 a little better answer to it.  
20 (The following was read by  
21 the court reporter:  
22 "Q. And as far as you know,  
23 none of those 70 or 80 reports which were  
24 written in construction-injury-litigation  
25 matters, none of those reports, as far as you

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1 J. Randle, P.E.  
2 know, were the subject of any kind of  
3 protective order or contain privileged  
4 information. Is that correct? To your  
5 knowledge.")  
6 MS. MULHERN: I'll also  
7 object to the form. They're subject to a  
8 protective order in this case.  
9 But, Mr. Randle, if you  
10 understand the question, you can respond.  
11 THE WITNESS: I don't know.  
12 You know, I'm not a lawyer. I know of particular  
13 cases that are protected. I -- I'll leave it at  
14 that. I don't know every -- every case at the  
15 back of my hand.  
16 And like Attorney Mulhern  
17 said, I believe this case is under protection.  
18 So, I don't know them -- you  
19 know, I'm not generally involved in the mechanics  
20 of that part of the process.  
21 BY MR. CLARK:  
22 Q. Well, aside from this case, as far as  
23 you know, are any of those reports the subject of  
24 any kind of protective order or contain  
25 privileged information, to your knowledge?

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1 J. Randle, P.E.  
2 A. Yes.  
3 Q. And of the 70 or 80, can you estimate  
4 what percent would be subject to a protective  
5 order or contain privileged information?  
6 Because that would be unusual  
7 for a construction injury expert report to  
8 contain privileged information, particularly when  
9 it's written for litigation purposes, to be  
10 served on the other side for purposes of trial  
11 testimony. That would be very unusual for such a  
12 report to contain privileged information or to be  
13 the subject of any kind of protective order  
14 within each case.  
15 A. Okay. Like I said, I'm -- I don't  
16 know every case, where they stand in -- in what  
17 you're describing. I do know of a couple of  
18 cases that are -- you know, involve sort of  
19 larger firms and corporations that from  
20 the -- from the onset -- well, and I'm -- I'm  
21 envisioning a client that I work for is -- has  
22 us, you know, agree to certain things prior to  
23 taking on their matters. So, there are  
24 definitely some that stand out. But speaking for  
25 all 70 or 80, I don't know.

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1 J. Randle, P.E.  
2 Q. Well, it would be very unusual for an  
3 expert to write a report in a case, serve the  
4 report for purposes of trial testimony under New  
5 Jersey court rules, and that report to contain  
6 privileged information or somehow be subject to a  
7 protective order; it would almost be an oxymoron.  
8 Because the report is meant to outline the trial  
9 testimony or to put the other side on fair notice  
10 of what the expert intends to testify in trial,  
11 which is a public proceeding.  
12 Does that make sense to you  
13 or --  
14 A. Again, I don't -- I'm not trained in  
15 what it is you're explaining. You know,  
16 I'm -- generally the process works for me.  
17 I'm -- you know, I understand the fact pattern on  
18 a case. I speak with the client. We decide if  
19 it makes a good fit. I'm asked to give an  
20 opinion on -- on a stated purpose. And I produce  
21 a report. And then at times I'll be deposed or  
22 I'll -- you know, about those opinions. And at  
23 times I'll, you know, testify in court.  
24 But in terms of managing the  
25 case itself, that's -- that's not my bailiwick.

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1 J. Randle, P.E.  
 2 I mean, I don't -- I didn't --  
 3 I thought I wanted to be  
 4 lawyer at one time and I'm kind of -- my father  
 5 talked me out of it. And I stayed in  
 6 engineering. So, I'm pretty grateful for him,  
 7 because I do like engineering.  
 8 Q. Well, you could have been a patent  
 9 lawyer.  
 10 A. Good point. Great point.  
 11 Q. You could be an engineer and a patent  
 12 lawyer.  
 13 A. Oh, yeah.  
 14 Q. Anyway, if there were a protective  
 15 order in any of those litigation matters that  
 16 somehow limited the report or somehow limited the  
 17 disclosure of the report --  
 18 Which, again, would be highly  
 19 unusual in a construction-injury case. I've  
 20 never even heard of it. A patent litigation  
 21 might be different, because sometimes the patents  
 22 and the trade secrets there, but I've never heard  
 23 of such a thing in a construction-injury case.  
 24 But in any event, if there  
 25 were such a protective order in any of those

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1 J. Randle, P.E.  
 2 particular cases, there should be some indication  
 3 in your files to that effect. Right?  
 4 Whether it be a letter from  
 5 the lawyer or a copy of the order, something like  
 6 that?  
 7 A. Possibly.  
 8 Again, the ones I know -- I  
 9 know of -- immediately know of -- and I don't  
 10 know if you're limiting it to what you said. You  
 11 also, I thought, had mentioned a nondisclosure,  
 12 which, you know, I've been part of at times. And  
 13 then, you know, some kind of confidentiality  
 14 agreement-type thing. I don't know if that's in  
 15 the court setting or that's just what I was, you  
 16 know, asked to be -- you know, to agree to, for  
 17 various reasons.  
 18 Q. Yeah. We're just talking about  
 19 construction-injury-litigation matters. Okay.  
 20 MR. CLARK: For the record,  
 21 I'm going to call for production of those 70 or  
 22 80 reports that Mr. Randle has written during his  
 23 time at Robson Forensic in  
 24 construction-injury-litigation matters.  
 25 And I'll do a letter and

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1 J. Randle, P.E.  
 2 we'll follow up in a letter. So, I'm just noting  
 3 that so the court reporter can make a log in the  
 4 beginning of the deposition.  
 5 MS. MULHERN: Understood and  
 6 thank you.  
 7 But I will also point out  
 8 that those records are, as you are aware of,  
 9 subject to the protective order dated April 30th,  
 10 2021.  
 11 But send me the letter. I'll  
 12 review it. If there's anything else that needs  
 13 done, we'll do it. But there's a protective  
 14 order for those reports.  
 15 BY MR. CLARK:  
 16 Q. So, Mr. Randle, putting aside your  
 17 concerns about nondisclosure agreements or  
 18 possible but in all likelihood nonexistent  
 19 protective orders in those cases, putting aside  
 20 those concerns, would you have any problem with  
 21 us and everyone here in this case reviewing those  
 22 reports and possibly comparing those reports to  
 23 the report you wrote in this case to determine if  
 24 there are any significant inconsistencies?  
 25 MS. MULHERN: Object to the

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1 J. Randle, P.E.  
 2 form. Subject to protective order.  
 3 You can respond.  
 4 THE WITNESS: Yeah. I  
 5 would -- I would -- you know, I -- I would  
 6 need to talk to my clients, of course. I  
 7 don't -- it's -- you know, I'd have to speak to  
 8 every client about what it is that you're  
 9 suggesting.  
 10 BY MR. CLARK:  
 11 Q. Who's your client in this case?  
 12 A. It's Attorney Mulhern and I guess her  
 13 law firm.  
 14 Q. Putting aside that you say you want  
 15 to speak to your clients on that, putting that  
 16 aside as well, would you have any problem with  
 17 the people in this case seeing those reports and  
 18 reviewing them and comparing them with your  
 19 reports and testimony in this case to determine  
 20 if there are any inconsistencies, particularly  
 21 inconsistencies about standards and application  
 22 of standards?  
 23 MS. MULHERN: Objection to  
 24 form.  
 25 BY MR. CLARK:

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1 J. Randle, P.E.  
2 Q. You did mention earlier that you had  
3 a large ego and were so proud of your reports and  
4 would stand by them until the cows come home.  
5 So, perhaps that recollection  
6 will assist you in answering the question.  
7 MS. MULHERN: Objection to  
8 form.  
9 Again, those records are  
10 subject to a protective order.  
11 BY MR. CLARK:  
12 Q. Do you understand what I'm saying?  
13 A. Yeah. I mean --  
14 Q. And if I can supplement. It's  
15 actually kind of common in injury cases for prior  
16 reports of experts to be obtained and prior  
17 deposition transcripts to be obtained and then  
18 use them in cross-examination to identify  
19 inconsistencies and to assist the jury to  
20 determine its fact-finding role and determine  
21 issues about credibility. It's actually a common  
22 thing.  
23 And in federal court, as you  
24 may know, if you were an expert in federal court,  
25 you have to actually list all the prior cases in

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1 J. Randle, P.E.  
2 the last, I think it's five years or ten years,  
3 for that very purpose of the litigants obtaining  
4 those prior reports and testimony for the reason  
5 I just said.  
6 MS. MULHERN: Is there a  
7 question?  
8 Mr. Clark, did you ask him a  
9 question?  
10 BY MR. CLARK:  
11 Q. Mr. Randle, do you need the question  
12 read back?  
13 A. Sure.  
14 MR. CLARK: Why don't we read  
15 it back.  
16 Because there was the  
17 question and then there was the supplementation  
18 and then there was the question by defense  
19 counsel --  
20 THE WITNESS: Okay.  
21 MR. CLARK: -- which may have  
22 confused you in answering the question.  
23 (The following was read by  
24 the court reporter:  
25 "Q. Putting aside that you

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1 J. Randle, P.E.  
2 say you want to speak to your clients on that,  
3 putting that aside as well, would you have any  
4 problem with the people in this case seeing  
5 those reports and reviewing them and comparing  
6 them with your reports and testimony in this  
7 case to determine if there are any  
8 inconsistencies, particularly inconsistencies  
9 about standards and application of  
10 standards?")  
11 THE WITNESS: So, I think we  
12 already established that I'm an employee of  
13 Robson Forensic and Robson pays my salary. And,  
14 so, you know, I rely on the firm to pay my  
15 paycheck. And, so, if you ask if I had a problem  
16 with it, similar to why, you know, this order was  
17 produced and why Robson made the response that I  
18 believe it did, I would have a problem with it.  
19 BY MR. CLARK:  
20 Q. Because you're concerned there would  
21 be inconsistencies in testimony that you gave or  
22 reports that you wrote in other cases versus the  
23 report you wrote in this case?  
24 For example, if you were  
25 retained to prosecute a case like you say you're

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1 J. Randle, P.E.  
2 retained to defend this case and if you're  
3 retained to prosecute a case for a plaintiff, you  
4 may say one thing, but in another construction-injury  
5 case where you are retained to defend someone in  
6 the case, you say something the opposite because  
7 you think it might help that party.  
8 Is that why both you and  
9 Robson would have a problem and are apparently  
10 resisting allowing the light to shine on those  
11 prior reports?  
12 MS. MULHERN: Objection.  
13 Mr. Clark, that question is  
14 completely inappropriate.  
15 I'm going to direct  
16 Mr. Randle, don't respond to it.  
17 You are aware that those  
18 prior reports are subject to a protective order.  
19 I have afforded you great latitude in the  
20 questions that I have let you ask and that  
21 Mr. Randle has responded to. But at this point  
22 your questions are crossing the line.  
23 MR. CLARK: Were you a moot  
24 court judge recently or something? Because you  
25 sounded like a judge there, so that was weird.

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1 J. Randle, P.E.  
 2 MS. MULHERN: By all means, I  
 3 invite you to get the judge on the phone.  
 4 (Pause.)  
 5 MR. CLARK: Dolores, could  
 6 you make a log in the deposition of questions  
 7 where the witness is directed not to answer so  
 8 that I can get a log of that and, if need be,  
 9 file a motion on the issue and seek whatever  
 10 relief the court rules would provide for in this  
 11 situation and ask to have the witness brought  
 12 back and maybe some fee shifting, that kind of  
 13 thing. So, I'm just going to ask you to create a  
 14 log.  
 15 MS. MULHERN: Mr. Clark, may  
 16 I ask, who did you call?  
 17 Because, if possible, I would  
 18 prefer to just have a judge address the issues  
 19 right now so we can continue with the deposition,  
 20 rather than potentially have to deal with a  
 21 second deposition or anything like that.  
 22 Did you call the judge?  
 23 MR. CLARK: I feel like  
 24 you've asked me more questions at the deposition  
 25 than you have given me the opportunity to ask the

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1 J. Randle, P.E.  
 2 witness. I feel like every -- I feel like every  
 3 periodic time I get asked a question by you. And  
 4 it's -- it's making me feel uncomfortable.  
 5 MS. MULHERN: Well, I think  
 6 the record will show that I have not asked you  
 7 any questions, except for maybe a couple where I  
 8 wanted to clarify. But the record will show all  
 9 of that.  
 10 Again, I'll ask, though, did  
 11 you call the judge?  
 12 (Pause.)  
 13 MR. CLARK: I feel like  
 14 you're staring at me. It's making me feel  
 15 uncomfortable as well. So, I've got to do this.  
 16 MS. MULHERN: Apologies for  
 17 making you feel uncomfortable.  
 18 That is not my intent. My  
 19 intent is just to clarify, you know, you're aware  
 20 of the protective order that is in this case. My  
 21 witness is here. He's here to testify concerning  
 22 his opinion. And you've spent the last in excess  
 23 of an hour not discussing Mr. Randle's opinion in  
 24 this matter.  
 25 All I'm trying to do -- and I

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1 J. Randle, P.E.  
 2 am not trying to make you uncomfortable at  
 3 all -- is to kind of get this deposition on track  
 4 with where it should be, rather than your  
 5 continuing to pursue documents and information  
 6 that are protected by the protective order.  
 7 MR. CLARK: Well, under that  
 8 reasoning, under that reasoning, under your  
 9 reasoning, Mr. Bergman shouldn't be an expert in  
 10 this case, but we all know that he is an expert  
 11 in this case.  
 12 And I feel it's my  
 13 position -- and I generally try not to argue  
 14 motions at depositions. I try to ask questions  
 15 and get answers.  
 16 But since you are expressing  
 17 an interest in arguing motions, I will state our  
 18 position that I believe your objection and  
 19 directing the witness not to answer the question  
 20 is frivolous because it's clearly not privileged.  
 21 And while it's true there is today a court order  
 22 limiting the scope of written discovery and  
 23 reports that get turned over, there is no court  
 24 order limiting the scope of this deposition,  
 25 which would be the second and only other category

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1 J. Randle, P.E.  
 2 in which a lawyer can direct a witness not to  
 3 answer the question.  
 4 And since you're directing  
 5 the witness not to answer the question does not  
 6 fall within either of those two categories, it's  
 7 our position your objection is frivolous.  
 8 MS. MULHERN: Okay. And I  
 9 have asked, did you get the judge on the phone?  
 10 Because if we can resolve  
 11 this, we can do that, or restate your question  
 12 and I will evaluate my objection. If Mr. Randle  
 13 can answer and it's appropriate for him to do so,  
 14 I will of course allow him to answer.  
 15 MR. CLARK: The thing is I  
 16 feel that the record fairly reflects what I think  
 17 everyone realizes is the reason why neither you  
 18 nor him nor Robson Forensic want those reports  
 19 produced.  
 20 So, I'm good with how the  
 21 record is right now and would like to move on to  
 22 my next question, if I could.  
 23 MS. MULHERN: And what would  
 24 that --  
 25 You know what? I'm not going

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1 J. Randle, P.E.  
2 to worry about it. Yep, please proceed.  
3 MR. CLARK: Okay. Just give  
4 me one second. Every time you and I get into it,  
5 I feel the need to go turn the air conditioning  
6 down.  
7 MS. MULHERN: Oh, you know,  
8 Mr. Clark, we never get into it.  
9 BY MR. CLARK:  
10 Q. Okay. Back to you, Mr. Randle. I  
11 apologize that we haven't been to you in a while,  
12 but now we're back to you.  
13 Okay. Do you still have your  
14 Hoiland file, your Mulhern, slash, Hoiland file  
15 open in G-Suite?  
16 A. I do.  
17 Q. And how many subfolders do you have  
18 in there, roughly?  
19 (Pause.)  
20 You don't have to count them  
21 all. You can just estimate them.  
22 A. 12.  
23 Q. "12."  
24 And what are the names of the  
25 subfolders, the 12 subfolders?

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1 J. Randle, P.E.  
2 A. So, I use a folder called Case  
3 Management.  
4 Q. Okay.  
5 A. I have a folder called Material from  
6 Client. I have a folder called Site Inspection.  
7 I have a folder called Work Product. I have a  
8 folder called Documents. I have a folder called  
9 Original Documents. I have a folder called My  
10 Review of Documents.  
11 Within those doc -- well,  
12 it's getting bigger. But within those documents  
13 folders are documents on -- you know, I try to  
14 date stamp them when I received them, within  
15 folders, so I can, you know, obviously track what  
16 I've reviewed timely.  
17 Within Site Inspection I'll  
18 have photos. I have a Standards folder. I have  
19 an Excerpts folder. I have a Report folder.  
20 Within the Report folder, I have an Images  
21 folder.  
22 So, that's -- that's,  
23 again -- you know, these things kind of  
24 grow -- the -- my file management kind of grows  
25 organically based on each case. So, I'll

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1 J. Randle, P.E.  
2 sometimes have an Estimate folder or a Schedule  
3 folder or a -- you know, sometimes I'll use terse  
4 words when I'm naming my folders.  
5 Q. And when you estimated about 12  
6 folders, was that just the main folders or the  
7 subfolders as well?  
8 A. All folders.  
9 Q. And do you testify in court in cases  
10 like this?  
11 A. Can you define "cases like this"?  
12 Q. Well, let's say have you ever  
13 testified in court during your time at Robson  
14 Forensic?  
15 A. Yes.  
16 Q. Can you estimate how many times?  
17 A. Two to three.  
18 Q. And when you're on the witness stand,  
19 do you stand up or do you sit down?  
20 A. I sit.  
21 Q. Do you ever ask the judge if you can  
22 stand?  
23 A. I have not.  
24 Q. Do you feel less comfortable sitting  
25 and testifying than standing and testifying?

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1 J. Randle, P.E.  
2 A. I think as a society we're kind of  
3 getting slower. This is my sort of process to  
4 try to stay flexible. And my wife bought me this  
5 cool FluidStance board it's called, where I can  
6 balance. And it's -- it's actually a decent  
7 workout. So, I'm, like -- I'm not balancing  
8 right now. I could show you off record if you'd  
9 like. But, you know, it's a way for me to try to  
10 defeat the aging process, let's put it that way.  
11 I'm actually 80, but you guys  
12 probably wouldn't guess that. So --  
13 MR. CLARK: Robyn, why do  
14 you -- all right. I'm not going to go there.  
15 MS. KALOCSAY: He said he was  
16 80. I just laughed because he's not 80.  
17 THE WITNESS: Sorry.  
18 BY MR. CLARK:  
19 Q. Okay. Is the balance -- is it a  
20 balance board? Like, it's like a skateboard with  
21 a thing and you do that?  
22 A. Yes.  
23 We have -- my wife's a Yoga  
24 of Movement instructor, so she's trying to keep  
25 me around.



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1 J. Randle, P.E.  
 2 Q. So, when you go to court, what do you  
 3 usually bring?  
 4 Like, when you would go to  
 5 testify at a deposition or go to court, normally  
 6 the expert will bring his file, which will be,  
 7 you know, a Redweld, one of these, with a bunch  
 8 of papers in it (indicating).  
 9 What's your process and  
 10 procedure before COVID?  
 11 A. I generally am asked to bring my  
 12 report, the engagement contract, my testimony  
 13 history, you know, for four or five years. I  
 14 believe it's four years.  
 15 You know, many cases, in  
 16 terms of, like, files, the files are -- have been  
 17 shared with all parties, you know, all the  
 18 discovery. So, that's -- I rarely bring that  
 19 type of information. At times I'll be asked to  
 20 bring, like, the standards I relied on.  
 21 That's probably about it.  
 22 Q. That's fair.  
 23 So, tell me about the four-  
 24 to five-year testimony history.  
 25 Do you have something like

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1 J. Randle, P.E.  
 2 that printed out for federal cases?  
 3 A. Yeah.  
 4 Q. Rule 26 disclosures?  
 5 A. Correct.  
 6 Q. And you have that -- what, do you  
 7 have it in the G-Suite or -- where do you keep  
 8 it?  
 9 A. That's actually generally maintained  
 10 by our admins. You know, they just -- they  
 11 maintain our CVs and they'll maintain, you know,  
 12 the regular type documents that are asked of us,  
 13 which would include testimony histories.  
 14 So, you know, after this  
 15 deposition is completed, I'll reach out to the  
 16 admin. You know, I'll explain to them or I'll  
 17 even draft up something that says, you know, what  
 18 this deposition testimony was for and that'll go  
 19 in my testimony history.  
 20 Q. So that you can keep that testimony  
 21 history document updated?  
 22 A. Yes.  
 23 Q. Okay. And it's called at Robson  
 24 Forensic a testimony history document?  
 25 A. Yes.

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1 J. Randle, P.E.  
 2 Q. About how many pages is it for you?  
 3 A. Four years, it's one page.  
 4 Q. And it's got the name of the case and  
 5 the docket number and the file number, that kind  
 6 of thing?  
 7 A. Yes. And what -- you know, what  
 8 arena, if it was a deposition or if were a trial  
 9 or arbitration.  
 10 Q. Do you also have another document  
 11 that's a list of all the cases that you've worked  
 12 on just by name or anything like that?  
 13 Is that encapsulated  
 14 anywhere?  
 15 A. We use a software program called  
 16 NetSuite. I don't know if you're familiar with  
 17 it or not. But that -- you know, that would  
 18 have -- that suite would have all the -- all the  
 19 cases I've been involved in.  
 20 I've kind of changed my  
 21 process earlier on. I had -- you know, I wasn't  
 22 listing closed cases any longer or active cases.  
 23 It's just -- so, in terms of the -- you know,  
 24 really defining the cases I've been involved in,  
 25 it would have to go through our NetSuite software

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1 J. Randle, P.E.  
 2 program.  
 3 Q. And could a document be readily  
 4 generated that lists all the cases that you've  
 5 worked on or is there a document already in  
 6 existence in that regard?  
 7 How does that work?  
 8 A. I don't think I -- I don't know. I  
 9 don't know. I would imagine. I mean, it's just  
 10 a big, you know -- it's just a big database. So,  
 11 I'm sure -- I'm not -- I think the company  
 12 sometimes is lucky I get my time inputted on a  
 13 weekly basis. So, I don't -- you know, I  
 14 don't -- I'm not a NetSuite expert. You know,  
 15 there's others within the group -- within the  
 16 company that manage, you know, that process a  
 17 little better than me.  
 18 But I would imagine, because,  
 19 again, you know, that's also our -- sort of  
 20 our -- our inputting our time, our billable time  
 21 for different cases. So, if -- you know, I would  
 22 imagine that all the cases are in the -- in  
 23 the -- in the database. Otherwise, you know, it  
 24 would be a challenge for me to bill  
 25 appropriately.

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1 J. Randle, P.E.  
2 Q. Okay. What's the federal court thing  
3 called again that lists the testimony? What is  
4 that?  
5 A. I believe it's just the four-year  
6 testimony history.  
7 Q. Oh, the testimony history.  
8 But I think it's five years  
9 in federal court.  
10 Does that sound more  
11 accurate?  
12 A. Possibly.  
13 Q. Try to do your best when you're  
14 testifying to not testify to possibilities.  
15 You can estimate or  
16 approximate. But just don't guess or speculate  
17 or tell us possibilities. If you can just do  
18 your best with that. Okay?  
19 A. Yeah. Just to retract, my  
20 understanding is it is a four-year history.  
21 Q. Okay. That's fine.  
22 And don't -- yeah. That's  
23 fine.  
24 MR. CLARK: So, just for the  
25 record, I will call for production of

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1 J. Randle, P.E.  
2 Mr. Randle's testimony history document which he  
3 referenced earlier. And I will also call for  
4 production of a list of the cases that Mr. Randle  
5 has worked on which, my understanding, can be  
6 readily generated from the NetSuite software  
7 program.  
8 And I will include that in  
9 our letter and we'll send that to counsel.  
10 MS. MULHERN: Thank you.  
11 BY MR. CLARK:  
12 Q. And, Mr. Randle, if you need a break  
13 at any time, just let us know and we can take a  
14 break. Okay?  
15 A. Okay. No. Thank you.  
16 Q. Who is the owner or developer of this  
17 project?  
18 A. I'm fairly sure it's a group called  
19 Grand LHN. I can -- I have my report right here.  
20 I can look that up if you want.  
21 Q. I imagine it wouldn't take very much  
22 for you to drag your Hoiland file and the 12  
23 folders that you mentioned earlier to a thumb  
24 drive. Right?  
25 You can do that if you wanted

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1 J. Randle, P.E.  
2 to?  
3 A. I can. Anything's possible. Sure.  
4 Q. But we did earlier agree we were  
5 going to stay away from possibilities, right, at  
6 the deposition?  
7 We were going to estimate or  
8 approximate but not guess, speculate or talk  
9 about possibilities.  
10 A. I can drag -- I've been known to drag  
11 folders and files into other drives.  
12 Q. Yeah. And the only reason I'm trying  
13 to stay away from possibilities as opposed to  
14 probabilities and fair estimates is because  
15 that's what the New Jersey court rules and case  
16 law require with regard to admissibility at  
17 trial. Okay?  
18 A. Okay.  
19 Q. So, you expect you would be able to  
20 fairly easily drag the Hoiland case file to a  
21 thumb drive, if need be?  
22 A. Yes.  
23 MR. CLARK: Okay. So, for  
24 the record, I'm going to call for production of  
25 Mr. Randle's Hoiland case file. And it seems,

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1 J. Randle, P.E.  
2 based on his testimony, that it would make most  
3 sense to just drag it to a thumb drive or  
4 external CD for production.  
5 And, again, this is just  
6 something I'm logging in the deposition and it's  
7 going to be a letter and sent to counsel.  
8 MS. MULHERN: Okay.  
9 MR. CLARK: And I'm not  
10 asking you directly because that's not how it  
11 works. I'm just putting it on the record. And  
12 then we're going to send a letter to counsel  
13 that's going to catalog all these requests.  
14 Thanks.  
15 MS. MULHERN: And just for  
16 the record, just to confirm that those records  
17 are subject to a protective order.  
18 But, by all means, send your  
19 letter.  
20 (Pause.)  
21 BY MR. CLARK:  
22 Q. And what or who was the general  
23 contractor on the job?  
24 A. AJD.  
25 Q. And who was the subcontractor

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1 J. Randle, P.E.  
 2 responsible to build and maintain the access road  
 3 on the job?  
 4 MS. KALOCSAY: Objection to  
 5 form.  
 6 THE WITNESS: Esposito, I  
 7 believe it's Construction. I can look it up if  
 8 you need to. Yeah. Esposito Construction.  
 9 BY MR. CLARK:  
 10 Q. And you would agree that the  
 11 developer on this job, Grand LHN, had substantial  
 12 control over the general contractor vis-à-vis the  
 13 job?  
 14 Would you agree with that as  
 15 a general proposition?  
 16 A. Your question is does the owner have  
 17 control over the general contractor?  
 18 Q. We can have the question read back if  
 19 that helps you.  
 20 A. Yeah. Sure.  
 21 (The following was read by  
 22 the court reporter:  
 23 "Q. And you would agree  
 24 that the developer on this job, Grand LHN, had  
 25 substantial control over the general

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1 J. Randle, P.E.  
 2 contractor vis-à-vis the job?  
 3 "Would you agree with that as  
 4 a general proposition?"  
 5 THE WITNESS: You know, based  
 6 on a contractual relationship between the owner  
 7 and general contractor, there -- you know, they  
 8 do have some level of control over the general  
 9 contractor in terms of establishing the scope of  
 10 work, but not in a -- but not in how the general  
 11 contractor performs its work.  
 12 BY MR. CLARK:  
 13 Q. Are you also defending AJD in this  
 14 case or are you just defending the developer,  
 15 Grand LHN?  
 16 A. I think my purpose is stated in my  
 17 report. So, I'm not -- you know, I would --  
 18 I can read it to you.  
 19 Q. Well, there's just a question  
 20 pending. And we're just looking for an answer to  
 21 the question.  
 22 A. A way for me to answer is to, you  
 23 know, dial back into what I've written in my  
 24 report.  
 25 So, no. I have not been

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1 J. Randle, P.E.  
 2 engaged by any counsel or law firm that's  
 3 associated with either AJD or Esposito. I've  
 4 been engaged by Attorney Mulhern's law firm to  
 5 represent Grand LHN.  
 6 Q. Let's make a deal, if we can.  
 7 We'll all allow you to use  
 8 your report to answer the questions -- I know a  
 9 lot of experts are comfortable doing that -- as  
 10 long as you will agree to respond to the  
 11 questions to the best of your ability in a  
 12 responsive manner.  
 13 Can we agree to that?  
 14 A. I -- I think I would always agree to  
 15 that. Yes.  
 16 Q. Okay. Great.  
 17 So, if you want to use your  
 18 report, that's fine. But please don't -- like,  
 19 if I ask you a question, you know, Hey, what's  
 20 the color of the shirt, please don't read to me a  
 21 section of the report that gives the weather.  
 22 Okay?  
 23 But if there's a section of  
 24 the report that's gives the color of the shirt,  
 25 if you want to read it, that's fine. But we'll

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1 J. Randle, P.E.  
 2 see how it goes.  
 3 A. I understand. I understand you don't  
 4 want me to -- this isn't a memory game. We're  
 5 not playing Match.  
 6 Q. Correct.  
 7 A. You know, my opinions are my  
 8 opinions. And, you know, my report captures my  
 9 opinions based on the fact pattern in this case.  
 10 And, you know, I'm here  
 11 to -- I'm here to help, you know, the trier of  
 12 fact. I'm here to -- I'm -- of the facts. I'm  
 13 here to help this collective group understand the  
 14 circumstances and my opinions based on this  
 15 matter.  
 16 So, sure. I will be as  
 17 helpful as I can.  
 18 Q. Okay. But aren't you here to  
 19 primarily help your client, the one that you said  
 20 you were -- early on in the case, you said you  
 21 were defending?  
 22 Isn't that what you're  
 23 primarily here to do?  
 24 A. No.  
 25 Again, my purpose is my

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1 J. Randle, P.E.  
2 purpose. I don't think my purpose has ever been  
3 to help, you know -- that's confusing. My  
4 purpose is stated in my report. That's what I  
5 was engaged to do. And that's what I -- that's  
6 what, you know, I'm limited to sort of my purpose  
7 in my report.  
8 Q. But Robson Forensic is a business.  
9 Right?  
10 A. Yes.  
11 Q. And aren't businesses in business to  
12 serve their customers and meet their customers'  
13 needs?  
14 A. Sure. We have a client base and  
15 we're -- you know, we perform a service, for  
16 sure. And we perform a service for those  
17 clients.  
18 Q. Under the contract, the owner had the  
19 right to terminate the general contractor on this  
20 job under certain circumstances?  
21 A. Right.  
22 Again, this isn't a memory  
23 game. I don't know the contract by memory.  
24 But generally most contracts  
25 initiated by an owner to a general contractor

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1 J. Randle, P.E.  
2 will include a termination clause.  
3 So, based on what I just  
4 said, I would -- I would -- it's reasonable to  
5 expect that there's a termination clause within  
6 the AJ -- or the Grand LHN-AJD general contract.  
7 Q. And you would agree that the general  
8 contractor was in charge of safety on this job.  
9 Correct?  
10 A. The general contractor managed the  
11 safety program and also hired, you know, a  
12 third-party safety consultant.  
13 So, yes, the general  
14 contractor is -- controls the safety process on  
15 the project.  
16 Now, you know, obviously the  
17 owner had some input early on in managing safety.  
18 The owner has obligations in terms of ensuring  
19 that they're using a qualified general  
20 contractor, as well as confirming that a safety  
21 program is in place and it's active. And, you  
22 know, that there was also generally a budget  
23 assigned to safety, which there -- you know. So,  
24 Grand LHN in terms of their responsibilities as  
25 the owner checked all those boxes when it comes

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1 J. Randle, P.E.  
2 to safety management.  
3 Q. And as the general contractor, AJD  
4 had the authority to stop unsafe work on this  
5 job. Correct?  
6 A. Yes.  
7 Q. And AJD on this job had the ultimate  
8 responsibility for site safety. Correct?  
9 A. Yes. AJD was the controlling  
10 contractor on this project, which includes safety  
11 management.  
12 Q. And the access road where this injury  
13 occurred, AJD had the responsibility to make sure  
14 that road was safe. Correct?  
15 A. Yeah. I mean, the access road is  
16 part of the construction project and AJD managed  
17 the safety for the construction project.  
18 Q. And AJD had a responsibility on the  
19 job to see to it that Esposito did their work  
20 correctly. Is that true?  
21 A. As the controlling contractor, AJD  
22 is -- has oversight responsibilities for its  
23 subcontractors. Yes.  
24 Q. You would agree that proper progress  
25 of the work and safety are supposed to go hand in

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1 J. Randle, P.E.  
2 hand.  
3 Would you agree with that?  
4 A. Can you repackage that for me?  
5 I'm -- there's a lot going on  
6 with that question. I can break it apart.  
7 Are we talking progress in  
8 terms of schedule and timelines or are we  
9 talking -- you know, there's --  
10 As the controlling  
11 contractor, there's a lot of boxes that general  
12 contractors check. I'm -- I was a general  
13 contractor for a long time.  
14 Managing the schedule and the  
15 timeline on the project, yes. Managing the  
16 safety, yes.  
17 Hand in hand, priority one  
18 over the other, you know, that's not how the  
19 industry works. Everything's important.  
20 So, if I'm not answering your  
21 question, I'd like to ask you to re-ask it a  
22 different way.  
23 Q. I think you fairly answered it.  
24 A. Okay.  
25 Q. I think you're proceeding in good

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1 J. Randle, P.E.  
 2 faith. I don't think so far you've been evasive.  
 3 So, I think that response was acceptable.  
 4 A. Okay.  
 5 Q. Okay. Proper progress of the work,  
 6 like, carrying out the work and proceeding along  
 7 the schedule according to the specifications,  
 8 that presupposes -- and safety is all part of  
 9 that. It should be kind of one in the same.  
 10 Is that true as a -- is that  
 11 true as a general proposition?  
 12 A. Yeah. Safety is a priority on the  
 13 project site, for sure.  
 14 Q. And if safety is not being followed  
 15 on a job that is moving forward timely, one  
 16 couldn't fairly say that that progress is moving  
 17 forward properly.  
 18 Would you agree with that as  
 19 a general safety concept as well?  
 20 A. If the work's proceeding --  
 21 Sure. If there's unsafe  
 22 activities on the project as it progresses  
 23 through completion, that's -- that's not  
 24 reasonable. So, yeah. I -- I think I answered  
 25 your question.

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1 J. Randle, P.E.  
 2 Q. Yeah. I think so, too.  
 3 So, you would agree that  
 4 proper progress of the work requires safe  
 5 progress as well.  
 6 Again, these are general  
 7 safety principles we're talking about.  
 8 A. Yes.  
 9 Q. Okay.  
 10 A. As contractors, we have an obligation  
 11 to perform, you know, work safely.  
 12 Q. You're familiar with the standard set  
 13 forth in OSHA 29 CFR Section 1926. Right?  
 14 A. Yes.  
 15 Q. And you understand that these OSHA  
 16 rules have general health and safety rules and  
 17 then they have specific rules for various tasks  
 18 or modes of construction, such as ladders and  
 19 scaffolding, woodworking tools, masonry and  
 20 concrete, cranes and derricks, trenches.  
 21 You understand that?  
 22 A. Yes.  
 23 Q. And you understand that OSHA also has  
 24 standards with regard to safe working and walking  
 25 surfaces?

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1 J. Randle, P.E.  
 2 A. Yes.  
 3 MR. CLARK: Ms. Mulhern, I'm  
 4 going to put the court rule book back, away.  
 5 Hopefully we don't need that again today.  
 6 But we're going to keep out  
 7 the OSHA book.  
 8 BY MR. CLARK:  
 9 Q. You would agree that the site  
 10 superintendent or the safety competent person at  
 11 AJD is required to make sure that the walking  
 12 surfaces on this job are suitable for employees  
 13 to walk on.  
 14 Would you agree with that?  
 15 A. So, you know, again, the  
 16 superintendent is part of the general contractor  
 17 who manages the safety program. Part of what  
 18 their role is is to ensure safe practice,  
 19 reasonably safe practice, reasonably safe  
 20 conditions.  
 21 So, you know, maybe if you  
 22 could just kind of dial in what the question  
 23 really is or give me some -- a little bit more  
 24 background.  
 25 You know, construction sites

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1 J. Randle, P.E.  
 2 are different than sidewalks, and there's  
 3 different standards that apply to both. So, we  
 4 might have to get pretty specific.  
 5 If you want me to sort of  
 6 talk conceptually, if you want me to talk about  
 7 the fact pattern involved in Mr. Hoiland's  
 8 incident, I can do that. But there's a  
 9 lot -- there's -- there is -- you know, the  
 10 conditions on job sites are sort of endless in  
 11 terms of the conditions in place and work  
 12 processes in place.  
 13 So, you know, this is the  
 14 biggest industry in the world. So, there's a lot  
 15 of nuances happening.  
 16 So, I -- again, I don't want  
 17 to be -- if we can dial in some specific facts.  
 18 If we want to talk about Mr. Hoiland, that's  
 19 great. If we want to talk about the industry in  
 20 general, it would be difficult for me to do  
 21 without understanding what the real question is.  
 22 And, you know, if it's something else, we can,  
 23 you know, talk afterwards. You can engage me to  
 24 give you some ideas about certain things if it's  
 25 another case you're involved in or whatever.

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1 J. Randle, P.E.  
2 But, you know, again, I've already testified that  
3 AJD was in charge of safety. They hired -- they  
4 had a superintendent group. They had a safety  
5 team -- you know, a third-party safety  
6 consultant. So, there was a lot of parts -- you  
7 know, there was a lot of different stakeholders  
8 involved in the safety management on this  
9 project.  
10 Q. Would you agree that as a general  
11 proposition, as part of its overall  
12 responsibility to manage safety on this project,  
13 that AJD had a responsibility to make sure  
14 walking surfaces are suitable for employees to  
15 walk on?  
16 A. Sure. I mean, based -- you know,  
17 that the reasonable -- for -- you know, if you're  
18 asking employees to jump off a ten-foot, you  
19 know, retaining wall to get down to where they're  
20 working, that's not reasonable. If you're asking  
21 them to walk onto a project site where there's a  
22 wash rack, that's reasonable.  
23 So, again, you know, our  
24 standards are based on reasonableness. There's  
25 no absolute safety, there really isn't. So, it

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1 J. Randle, P.E.  
2 all comes down to what's reasonable and what  
3 could be expected and, you know, again,  
4 having -- having the proper people involved in  
5 the project.  
6 So, yeah, again, we'd have to  
7 dial in a little bit more and define the question  
8 a little bit further if we're going to talk  
9 conceptually.  
10 Now, if we're going to talk  
11 about Mr. Hoiland's incident, I can -- I can --  
12 you know, I can dive into that. But I've already  
13 given testimony that, you know, AJD was  
14 responsible for safety management. And they had  
15 a superintendent -- they had multiple  
16 superintendents. They had multiple third-party  
17 safety inspectors.  
18 So, we'd have to get a little  
19 bit more specific about what the question  
20 involves in terms of the walking surface.  
21 Q. Try to -- when you're testifying, try  
22 to listen to the question that's asked and just  
23 answer that question.  
24 I'm sure you spent a lot of  
25 time preparing for your deposition and you want

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1 J. Randle, P.E.  
2 to give a story and kind of tell your side of  
3 things and kind of express what's in your report.  
4 But asking a question, asking  
5 a question, that's not what we're -- like, asking  
6 a question doesn't mean we press play and now you  
7 just tell all your opinions in the case. We're  
8 trying to stay focused on the question. So, if  
9 you can just try to do that.  
10 And when you say we're going  
11 to have to get more specific, it doesn't really  
12 work that way. If the question calls for  
13 specificity, we'll do that.  
14 So, I'm just asking if we can  
15 just try to focus on the exact question that's  
16 asked. So, I'm going to ask it again. We're not  
17 going to have it read back because it's kind of  
18 far back in the transcript. I'm just going to  
19 kind of re-ask the question again and see if we  
20 can focus on just answering that question.  
21 Would you agree that as part  
22 of its overall responsibility to manage safety on  
23 the site and enforce safety rules, that AJD had a  
24 responsibility to make sure that walking surfaces  
25 were safe and suitable on this job for workers to

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1 J. Randle, P.E.  
2 walk on?  
3 A. All right. So, let me -- I'll just  
4 back up and explain that I'm here to help the  
5 trier of fact. I think you would agree that  
6 giving a half answer isn't going to help anything  
7 in the process. So, when you ask me a half  
8 question, I have to ask for the whole question.  
9 But to continue forward,  
10 there are standards on construction projects that  
11 need to be considered. And there are standards  
12 for walking surfaces and temporary construction  
13 surfaces that need to be considered that -- and  
14 need to be managed by the controlling contractor,  
15 which is AJD, obviously not the developer.  
16 So, I believe I answered your  
17 question. There are standards on construction  
18 projects.  
19 You know, to dial in a little  
20 bit further, there was -- there's -- there was  
21 not a standard walking surface that was violated  
22 in Mr. Hoiland's incident.  
23 So, again, you know, I'm  
24 going to add some detail as I can to help the  
25 trier of fact to understand my answer. I

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1 J. Randle, P.E.  
 2 don't -- I'm not here to give half answers.  
 3 That's -- that's who I am. If you -- if you ask  
 4 specific questions, I will give you specific  
 5 answers kind of thing. And I think I've done a  
 6 pretty good job of that so far.  
 7 Q. I think you did early on in the  
 8 deposition. But I think now that we're getting  
 9 to this point, I think your answers are  
 10 becoming -- I wouldn't call them non-responsive,  
 11 but I would call them far beyond the scope of the  
 12 question.  
 13 Many experts would answer  
 14 that question with a yes. They would simply say,  
 15 Well, yes, of course the general contractor has a  
 16 responsibility to see to it that walking surfaces  
 17 are safe for employees. I mean, who would  
 18 disagree with that? So, many experts would just  
 19 answer that question yes.  
 20 So, if you had answered the  
 21 question yes and you then commented, I think I've  
 22 been responsive, I would say yes, I definitely  
 23 agree with that. But when you go off and start  
 24 talking about juries and fact finders and Don  
 25 Hoiland and rocks, that's going far beyond the

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1 J. Randle, P.E.  
 2 scope of the simple question about whether or not  
 3 a general contractor has a responsibility to see  
 4 to it that walking surfaces on the job site are  
 5 made safe.  
 6 So, I'm going to ask it one  
 7 more time.  
 8 MS. MULHERN: Mr. Clark,  
 9 before you do, Mr. Randle, if you need  
 10 clarification for questions, that's okay. And  
 11 just to clarify what Mr. Clark just said, you're  
 12 not limited in how you respond. If Mr. Clark  
 13 asks you a question, you are free to respond as  
 14 your opinion allows and as your knowledge allows.  
 15 Okay?  
 16 So, Mr. Clark, please  
 17 proceed. Mr. Randle, you can answer.  
 18 BY MR. CLARK:  
 19 Q. Okay. So, Mr. Randle, in response to  
 20 that, the court rules do not permit a witness to  
 21 say whatever they want in response to a question.  
 22 If a question asks what is the color of the car  
 23 and the color is black or red, the proper answer  
 24 is black or red, whatever applies.  
 25 It would be inappropriate for

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1 J. Randle, P.E.  
 2 the witness to then go on and talk about cars and  
 3 engines and how juries view cars and cars in a  
 4 particular case. That would be inappropriate.  
 5 And if that kind of thing happens a lot in a  
 6 deposition, what happens is the deposition can be  
 7 suspended and a motion can be filed with the  
 8 court where the judge would be asked to order the  
 9 witness to comply with the court rules and give  
 10 responsive answers to questions.  
 11 So, I think that is a more  
 12 fair characterization of how it works.  
 13 MS. MULHERN: In order to  
 14 render a complete question, Mr. Randle, please  
 15 render -- or in order to render a complete  
 16 response, please use whatever terms you need to  
 17 answer Mr. Clark's question.  
 18 Mr. Clark, I understand your  
 19 somewhat absurd example. But I will go with it  
 20 and I understand it and Mr. Randle I'm sure  
 21 understands it as well.  
 22 However, again, if your  
 23 question calls for a response, which all of them  
 24 do, Mr. Randle will respond accordingly. I  
 25 understand they might not be a response that you

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1 J. Randle, P.E.  
 2 like or that you think is necessary. But if he's  
 3 responding to the question, he can do that.  
 4 That's the whole purpose of this deposition.  
 5 MR. CLARK: And, so,  
 6 Mr. Randle if on a motion for relief from a  
 7 witness straying from a question and giving  
 8 non-responsive answers or going far beyond the  
 9 question, if on that motion other relief is  
 10 sought, like fee shifting or, you know, this,  
 11 that, the other thing, it probably would be a  
 12 fair defense for the witness to say, Yes, but my  
 13 lawyer told me to do that.  
 14 So, you know, if the record  
 15 would reflect that you're doing that because your  
 16 lawyer just told you to do that and said it's  
 17 okay to do that, then that might have an effect  
 18 on how a court rules on the motion in terms of  
 19 where the fee shifting would go, whether it be to  
 20 the witness or to the attorney or something else.  
 21 But that's just my two cents. I could be  
 22 completely wrong on that.  
 23 MS. MULHERN: Mr. Randle,  
 24 don't let counsel intimidate you.  
 25 BY MR. CLARK:

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1 J. Randle, P.E.  
2 Q. So, I'm going to ask a simple  
3 question.  
4 Would you agree that on this  
5 job site that as part of AJD's overall  
6 responsibility to manage safety, that that also  
7 included making sure that walking surfaces were  
8 safe and suitable for people to walk on on the  
9 job site?  
10 Would you agree with that?  
11 A. On this construction site, where AJD  
12 was the general contractor and Mr. Hoiland had  
13 his incident, I would -- I would agree that the  
14 general contractor has responsibility to provide  
15 safe and reasonable access to the job site.  
16 Q. Okay. Thanks.  
17 MS. MULHERN: Counsel, I  
18 don't want to interrupt if you're in the middle  
19 of something. But just while we're paused here,  
20 it's five of noon. I don't know what everyone's  
21 thoughts are for a lunch break. I don't know how  
22 much longer you plan on being. So, if during  
23 this brief pause, if we can just discuss that.  
24 MR. CLARK: Okay. Are we off  
25 the record or --

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1 J. Randle, P.E.  
2 MS. MULHERN: We can be off  
3 the record.  
4 (Discussion was held off the  
5 record.)  
6 BY MR. CLARK:  
7 Q. Did we agree yet that a GC is  
8 responsible to maintain a safe walking surface on  
9 jobs? I forget.  
10 THE COURT REPORTER: Do you  
11 want me to read back the last question and  
12 answer, Jerry?  
13 MR. CLARK: No. I was just  
14 asking Mr. Randle.  
15 THE WITNESS: Would you mind  
16 reading that back, Dolores?  
17 THE COURT REPORTER: Not at  
18 all.  
19 MR. CLARK: Are we reading  
20 back the pending question?  
21 THE COURT REPORTER: We're  
22 reading back the last question and answer, Jerry.  
23 MR. CLARK: Can we just read  
24 back the pending question and see if we can get  
25 an answer to it?

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1 J. Randle, P.E.  
2 (The following was read by  
3 the court reporter:  
4 "Q. Did we agree yet that a  
5 GC is responsible to maintain a safe walking  
6 surface on jobs? I forget.")  
7 THE WITNESS: Yeah. I  
8 answered that. That's why I was asking  
9 Ms. DeFilippis to read back the answer.  
10 BY MR. CLARK:  
11 Q. Are we in agreement that, yes, a GC  
12 has a responsibility to make sure walking  
13 surfaces are safe on a job site that they are in  
14 charge of?  
15 MS. MULHERN: Objection to  
16 form.  
17 THE WITNESS: Can I get my  
18 answer read back? Do you mind?  
19 BY MR. CLARK:  
20 Q. Why are we reading back a prior  
21 answer when there's a pending question?  
22 A. Okay. What's your question?  
23 MR. CLARK: Okay. Can we  
24 please read back the pending question.  
25 (The following was read by

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1 J. Randle, P.E.  
2 the court reporter:  
3 "Q. Are we in agreement  
4 that, yes, a GC has a responsibility to make  
5 sure walking surfaces are safe on a job site  
6 that they are in charge of?"  
7 MS. MULHERN: Objection to  
8 form.  
9 You can answer.  
10 THE WITNESS: General  
11 contractors are, you know, required to provide a  
12 reasonable walking surface for construction  
13 workers on a construction project site.  
14 BY MR. CLARK:  
15 Q. Okay. Thanks.  
16 Would that also, generally  
17 speaking, include the subcontractor that is  
18 responsible to build and maintain such a walking  
19 surface?  
20 MS. KALOCSAY: Objection to  
21 form.  
22 THE WITNESS: It really  
23 depends on scope, you know, what is --  
24 So, let me -- I'm going to  
25 try to just help the question along and define



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1 J. Randle, P.E.  
 2 this.  
 3 So, the subcontractor who is  
 4 responsible for maintaining the --  
 5 BY MR. CLARK:  
 6 Q. I'm sorry. I'm sorry. I need to  
 7 interrupt you.  
 8 First of all, after I asked  
 9 the question, you said something about scope and  
 10 then, secondly, which is more concerning, you  
 11 said you need to help the question along.  
 12 I think you need to  
 13 understand that at a deposition -- this  
 14 deposition is being taken pursuant to a case  
 15 called Hoiland versus AJD Construction, et al.,  
 16 Docket Number HUD-L-2754-19. And there is a  
 17 judge on the case and the case is being taken  
 18 under the jurisdiction of that court. And there  
 19 are certain court rules that apply to the  
 20 deposition. And among those court rules is that  
 21 there are questions and answers. And the  
 22 questions generally are asked by the attorney,  
 23 and then the answers are given by the witness.  
 24 And it's not up to the witness to change the  
 25 question or help the question along or repackage

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1 J. Randle, P.E.  
 2 the question. The witness is required to give  
 3 responsive answers to the question.  
 4 So, what I am going to  
 5 do -- now, if you don't understand a question or  
 6 you don't know the answer to a question, it's  
 7 perfectly okay to say that you don't know or you  
 8 don't understand. But it is not permissible for  
 9 the witness to give a non-responsive answer or  
 10 answer a different question, perhaps one that the  
 11 witness would prefer had been asked.  
 12 So, those are sort of  
 13 supplemental instructions.  
 14 And before I go ahead and get  
 15 to the question again, I just want to give  
 16 everyone an opportunity to respond or if there's  
 17 anything anyone wants to say. I'm not inviting  
 18 colloquy, but I don't want to just rush to the  
 19 next question.  
 20 MS. MULHERN: Yeah. Just  
 21 very briefly, Mr. Randle, if you need  
 22 clarification in order to respond to a question,  
 23 if it is something you don't understand, ask  
 24 counsel to repeat or rephrase as necessary so  
 25 that you can respond to the question asked.

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1 J. Randle, P.E.  
 2 THE WITNESS: Okay.  
 3 BY MR. CLARK:  
 4 Q. Okay. So, on a job site does a  
 5 subcontractor that is responsible to build and  
 6 maintain a walking surface have a responsibility  
 7 to see to it that the walking surface that they  
 8 built is built in a safe manner?  
 9 MS. KALOCSAY: Objection to  
 10 form.  
 11 THE WITNESS: Okay. Does the  
 12 subcontractor -- okay. On the question you asked  
 13 me, yes.  
 14 BY MR. CLARK:  
 15 Q. Okay. And does a  
 16 subcontractor -- and, again, we're speaking  
 17 generally.  
 18 Generally speaking, does a  
 19 subcontractor that is responsible to build and  
 20 maintain a walking surface on a job have a  
 21 responsibility to maintain that walking surface  
 22 in a safe condition, assuming such is within the  
 23 scope of their contract?  
 24 MS. KALOCSAY: Objection to  
 25 form.

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1 J. Randle, P.E.  
 2 THE WITNESS: Thank you for  
 3 defining the question further.  
 4 Yes.  
 5 BY MR. CLARK:  
 6 Q. This was obviously a multi-employer  
 7 work site. Correct?  
 8 A. Yes.  
 9 THE WITNESS: Can you guys  
 10 give me one second, please.  
 11 MS. MULHERN: Sure.  
 12 (Exhibit P-38, AJD  
 13 Construction 235 Grand Street Safety Orientation  
 14 PowerPoint, is marked for identification.)  
 15 BY MR. CLARK:  
 16 Q. I'm going to show you an exhibit that  
 17 we marked as P-38. And we'll email that around  
 18 shortly. It's on its way a little bit slowly.  
 19 Do you see this?  
 20 A. Yes.  
 21 Q. Okay. We're at slide two or the  
 22 second page of P-38.  
 23 Do you think it's a good idea  
 24 for a general contractor on a job site like this  
 25 to give a safety orientation?

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1 J. Randle, P.E.  
2 A. Yes.  
3 Q. Do you think it's a good objective  
4 for a general contractor such as AJD to help  
5 people to understand basic safety rules for the  
6 project?  
7 A. Yes.  
8 Q. Do you think it's a good idea for the  
9 general contractor to see to it that appropriate  
10 warning signs are posted on a job site to prevent  
11 needless injury to workers?  
12 A. Yes.  
13 Q. And you agree that a general  
14 contractor on a job site should have a commitment  
15 to safety for anyone that may be expected to come  
16 on the job site, including employees of  
17 subcontractors, visitors and others?  
18 A. Yes.  
19 Q. And do you agree that a general  
20 contractor should make every effort to see to it  
21 that unsafe conditions are eliminated on the job  
22 site?  
23 A. Yes.  
24 Q. Do you agree with the core principles  
25 and the hierarchy of safety that the first is to

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1 J. Randle, P.E.  
2 identify hazards; next is to eliminate hazards;  
3 and third is to manage hazards that cannot be  
4 eliminated?  
5 A. That's a -- that's a fair assessment.  
6 Yes.  
7 Q. Do you recognize a hazard in the  
8 photo on page six of P-38?  
9 A. Yes.  
10 Q. And what hazard do you recognize in  
11 that photo?  
12 A. The fall hazard.  
13 Q. Can you describe it in a little more  
14 detail?  
15 A. There -- you know, if this is -- if  
16 this is not an active area, this stairwell should  
17 have -- you know, it should be either flagged off  
18 or there should be a temporary rail installed.  
19 Q. And that would be an example of  
20 identifying a hazard here by looking at the  
21 picture and identifying a hazard and then making  
22 appropriate controls to eliminate the hazard?  
23 A. Yeah. I mean, my issue is I haven't  
24 measured the height of that landing.  
25 But, again, as it stands, if

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1 J. Randle, P.E.  
2 this is not an active area, there should be some  
3 level of protection on that stair.  
4 Q. And looking at page seven of P-38,  
5 that railing, is that an example of eliminating  
6 the hazard?  
7 A. Sure. You know, yeah. That's fair.  
8 The railing is there to help prevent falls.  
9 Q. Do you think that's a helpful picture  
10 or an appropriate picture to get across that  
11 point?  
12 A. For an orientation? Sure. Yeah.  
13 I'm a proponent of communicating safety policies  
14 to workers on projects, for sure.  
15 Q. And looking at page six, do you think  
16 that's an appropriate picture to kind of get  
17 across the point that's being made on page six  
18 about identification of hazards?  
19 A. Sure. Yeah. It's not a bad slide.  
20 Q. Do you agree with the concept on this  
21 page eight of P-38 talking about management of  
22 hazards?  
23 A. Yes.  
24 Q. And do you think that's an  
25 appropriate picture that kind of gets across the

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1 J. Randle, P.E.  
2 point?  
3 A. I think that's a good slide.  
4 Q. And it looks like they could not  
5 eliminate the hazard of workers in a trench. So,  
6 they managed the hazard by putting shoring up.  
7 Does that appear to be the  
8 point being made there by the picture?  
9 A. Yes.  
10 Q. And this is a fair or helpful picture  
11 on the slide showing different safety rules that  
12 might apply, like the OSHA here on the lower left  
13 of the photo on page nine?  
14 A. Is there a question?  
15 I mean, what are you --  
16 Q. Well, as part of safety, required  
17 posters and information should be posted on a job  
18 site trailer or shanty wall, would you agree with  
19 that, such as OSHA safety information?  
20 A. Yes.  
21 Q. Are you familiar with OSHA's general  
22 duty clause?  
23 A. I am.  
24 Q. And is that a fair statement of  
25 OSHA's general duty clause on page 11 of P-38?

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1 J. Randle, P.E.  
 2 A. It looks -- it looks like it's  
 3 correct. Yes.  
 4 Q. And you understand that OSHA defines  
 5 employer as contractor or subcontractor.  
 6 Are you aware of that?  
 7 A. In the multi-employer policy, yes.  
 8 Now, that only applies -- you  
 9 know, there's also, like, a direct employer,  
 10 which, you know, they have their obligations as  
 11 well. If there's an OSHA violation, the  
 12 multi-employer citation policy is used to define  
 13 the different, you know, entities on the project.  
 14 And it's also, you know, used as a standard for  
 15 the different participants on projects.  
 16 Q. But in addition to the multi-employer  
 17 work site policy, are you aware that under  
 18 1926.32, employer is defined -- employer means  
 19 contractor or subcontractor as stated in that  
 20 section?  
 21 MS. MULHERN: Objection to  
 22 form.  
 23 THE WITNESS: Yeah. I mean,  
 24 you know, again, there's different employer  
 25 definitions. You know, like I said, there -- you

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1 J. Randle, P.E.  
 2 know, the employee has a direct employer as well.  
 3 So, yeah. You know --  
 4 BY MR. CLARK:  
 5 Q. But in this case, the direct  
 6 employer, Men of Steel, had no responsibility to  
 7 maintain or construct the access road. Right?  
 8 A. I -- I have not seen any, you know,  
 9 evidence to show that they would have been  
 10 responsible for that, no.  
 11 Q. And are you aware that under 1926.16  
 12 and the New Jersey supreme court case of Alloway  
 13 versus Bradlees, that a general contractor has  
 14 all the responsibilities under OSHA that are  
 15 defined as employer responsibilities on a job  
 16 site?  
 17 Are you aware of those  
 18 standards or principles or regulations and case  
 19 law?  
 20 A. You said all the responsibilities for  
 21 an employee?  
 22 Q. Yes. All the employer  
 23 responsibilities.  
 24 A. Okay. I -- again, the employee's  
 25 employer, direct employer, Men of Steel, also had

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1 J. Randle, P.E.  
 2 obligations on that project.  
 3 So, I think "all" is -- is  
 4 not the right word.  
 5 Q. Okay. Page 12, P-38, do you see this  
 6 page, where it says General Safe Work Practices?  
 7 A. Yes.  
 8 Q. And is that a good picture to show  
 9 that concept, with clean, well-lit stairs with  
 10 railings?  
 11 A. Yes.  
 12 Q. Now, do you think it's a good, safe  
 13 work practice to prevent slips on a job?  
 14 A. Yeah. I mean, slips are bad.  
 15 Preventing slips is good. Yes.  
 16 Q. Okay. And do you think this is a  
 17 good picture to kind of show that, where you have  
 18 the floor and the spill is cleaned and you have  
 19 the warning sign, for page 16 of P-38?  
 20 A. The question is is this a  
 21 good -- this is a good slide.  
 22 Q. Have you ever given safety  
 23 orientations before in any capacity?  
 24 A. Yes.  
 25 Q. Do you think it's important on a job

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1 J. Randle, P.E.  
 2 site to prevent trip injuries?  
 3 A. Yeah. Again, trip injuries are bad  
 4 and preventing them is good.  
 5 Q. And would you agree that good  
 6 housekeeping practices should be done to reduce  
 7 clutter on job sites?  
 8 A. I would agree with that.  
 9 Q. And a general contractor should take  
 10 steps to see to it that falls are prevented on  
 11 job sites?  
 12 A. Yes. Falls are bad. Preventing them  
 13 is good.  
 14 Q. Okay. And on page 19 of --  
 15 I'm sorry. We skipped over  
 16 page 15 on P-38.  
 17 So, do you think it's a good  
 18 idea to give orientation on a job site of slips,  
 19 trips and falls such as shown on page 15 of P-38?  
 20 A. Is it a good idea to give  
 21 orientations on slips, trips and falls?  
 22 I think you can give  
 23 orientations for many, multiple safety, you know,  
 24 policies, for sure. Safety's, you know, an  
 25 important aspect of the project.

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1 J. Randle, P.E.  
2 Q. So, you agree that it would be,  
3 generally speaking, a good idea to give safety  
4 orientation on a job site about slips, trips and  
5 falls and preventing that?  
6 A. In addition to a multitude of other,  
7 you know, topics, sure.  
8 Now, is it required? No.  
9 But is it good practice? Yes.  
10 Q. And do you agree that slips, trips  
11 and falls are the most common cause of workplace  
12 injury?  
13 A. Yes.  
14 Q. Do you also agree that they are also  
15 the easiest to prevent?  
16 A. I would -- I don't think I would  
17 agree with that.  
18 Q. So, we're at slide 15 on P-38, which  
19 says, Slips, trips and falls are a leading cause  
20 of workplace injuries. And it also says in red,  
21 Nearly all of them are preventable.  
22 You disagree with that?  
23 A. I don't -- I don't think that was  
24 your question. Are slips, trips and falls  
25 preventable? Yes. You know, is there absolute

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1 J. Randle, P.E.  
2 safety? No. But, you know, I don't disagree  
3 with that statement that nearly all of them are  
4 preventable. There's a lot of different ways to  
5 prevent safety incidents.  
6 Q. So, when you're giving -- when we're  
7 speaking about safety orientations and safety  
8 orientations that you've given and if one were to  
9 create a slide about slips, trips and falls and  
10 we have up here P-38, page 15, is this a good  
11 slide?  
12 Do you think the information  
13 in there and the photograph that's shown is a  
14 good and helpful tool to prevent the kind of  
15 thing that's shown in that photograph?  
16 MS. KALOCSAY: Objection to  
17 form.  
18 THE WITNESS: Again I'm a big  
19 proponent of training on safety. I don't -- I  
20 think this is not a bad slide. In essence, you  
21 know, trying to empower the employees to know  
22 what to look out for or their role in slips,  
23 trips and falls, it's a good -- it's a decent  
24 slide, yes.  
25 BY MR. CLARK:

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1 J. Randle, P.E.  
2 Q. Okay. Great.  
3 And that also includes the  
4 photo in the slide as well, that that's a good  
5 kind of illustrative photo about slips, trips and  
6 falls and preventing the kind of thing shown in  
7 there?  
8 Would you agree with that?  
9 A. Are there better slides? Are there  
10 worse? Yes to both of those. So, it's a slide.  
11 It's a photo and a slide. And I've already said  
12 that, you know, the slides -- any slides are good  
13 when they provide safety, especially when you're  
14 giving orientations to workers to empower them to  
15 prevent, you know, falls.  
16 Q. And that would include this slide of  
17 P-38, page 15?  
18 A. Yeah. For the third time, it's not a  
19 bad slide. It's not a great slide.  
20 There's -- there's worse slides, there are better  
21 slides. Orientations are good.  
22 Q. Okay. Great.  
23 And it's important for  
24 employees to know that if they have a safety  
25 concern, that they can go to the higher-ups on

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1 J. Randle, P.E.  
2 the job site and express those concerns without  
3 fear of reprisal.  
4 That is a basic safety  
5 concept. Right?  
6 A. Yes.  
7 Q. And if an employee goes to a  
8 higher-up on the job site for such a concern, the  
9 employee should expect that the concern will be  
10 taken seriously and that steps will be taken to  
11 eliminate needless hazards.  
12 Would you agree with that as  
13 a general proposition?  
14 A. Yes.  
15 Q. And when an injury or incident is  
16 reported, the company in charge of safety on the  
17 job site that is aware of the incident should  
18 take steps to determine the cause and determine  
19 how to prevent it from happening again.  
20 Would you agree with that?  
21 A. That's good practice. Yes.  
22 MR. CLARK: Okay. It's  
23 12:30. I don't need a break. But I think others  
24 said they did want a break at 12:30. So, do we  
25 want to do that now?

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1 J. Randle, P.E.  
 2 MS. MULHERN: Mr. Randle,  
 3 would you like to take a break?  
 4 THE WITNESS: Sure. It's  
 5 been two and a half hours. So, yeah, I think  
 6 it's reasonable.  
 7 MS. MULHERN: All right.  
 8 Let's take a 20-minute break and come back at  
 9 12:50.  
 10 MR. CLARK: Okay. Thanks.  
 11 MS. MULHERN: Thanks,  
 12 everyone.  
 13 (Luncheon recess.)  
 14 MS. MULHERN: So, during the  
 15 lunch break, I was reviewing the exhibits that  
 16 were circulated by plaintiff's counsel, P-37 and  
 17 P-38, during the deposition.  
 18 I just wanted to put on the  
 19 record that P-38 appears to be a modified  
 20 version, specifically slide 15, and possibly  
 21 more, that I'm assuming was modified by  
 22 plaintiff's attorney and it does not appear to be  
 23 the original document put out by AJD, which I  
 24 believe is what is represented in P-37.  
 25 I don't know if counsel will

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1 J. Randle, P.E.  
 2 have anything to add.  
 3 MS. TUTELO: I object to the  
 4 use of this exhibit as part of -- as representing  
 5 something from AJD, when it clearly was modified.  
 6 MR. CLARK: I never  
 7 represented the document was from AJD.  
 8 MS. TUTELO: The first page  
 9 represented it was from AJD. It had its name on  
 10 it.  
 11 MR. CLARK: I didn't  
 12 represent it was from AJD.  
 13 MS. TUTELO: The bottom line  
 14 is I object to it. So, just note for the record  
 15 my objection.  
 16 MR. CLARK: Okay. But I  
 17 never represented it was from AJD.  
 18 BY MR. CLARK:  
 19 Q. Mr. Randle, did you speak with  
 20 counsel during the break about the case or your  
 21 deposition or the testimony in the deposition?  
 22 A. I came on -- I'm sorry. I missed the  
 23 1:15 new timeline. And Attorney Mulhern told me  
 24 to come back on at 1:15. But, no, we didn't  
 25 speak directly at all.

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1 J. Randle, P.E.  
 2 Q. Did you email or anything like that  
 3 or text?  
 4 A. No.  
 5 Q. Okay. Sorry you didn't get the 1:15.  
 6 But I appreciate everyone doing that. I got a  
 7 sandwich and it ended up coming later. So,  
 8 thanks.  
 9 Now, isn't the purpose of  
 10 investigating incidents to determine how they  
 11 occurred so as to prevent them from happening  
 12 again?  
 13 A. Yeah. I mean, there -- well, sure.  
 14 There's -- it's a valid -- it's a valid  
 15 statement. The point of -- you don't want  
 16 incidents -- you know, incidents to happen on  
 17 projects sites, no.  
 18 Q. I'm going to show you P-37, I'll pop  
 19 that up on the screen, which I will represent to  
 20 you was produced by AJD in discovery in this  
 21 case. And I'm just going to share the screen.  
 22 And we have up page 15 of P-37 or slide 15.  
 23 Do you see this?  
 24 A. Yes.  
 25 Q. Do you think that this photograph is

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1 J. Randle, P.E.  
 2 helpful with respect to giving information about  
 3 slip, trip and fall hazards and preventing them?  
 4 MS. KALOCSAY: Objection to  
 5 form.  
 6 THE WITNESS: There's  
 7 some -- there's some of that information on this  
 8 slide. Yes.  
 9 BY MR. CLARK:  
 10 Q. And do you think the photo is a good  
 11 photo and kind of appropriate to communicate that  
 12 kind of thing in preventing what happened as  
 13 indicated in the photo?  
 14 A. It's a photo of someone who appears  
 15 to have been injured. I don't know a whole lot  
 16 more of the details. But, again, you know,  
 17 anytime -- orientations are good. Anytime you  
 18 can talk about safety is good.  
 19 So, you know, I didn't create  
 20 this. I don't know what the -- why that photo is  
 21 there. But, like I said, regardless, safety  
 22 management is a good thing on sites.  
 23 (Pause.)  
 24 Q. Did you see any indication in this  
 25 file that this incident was the subject of any

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1 J. Randle, P.E.  
2 kind of investigation to determine what happened  
3 and to prevent it from happening again in the  
4 future?  
5 A. I believe there was an accident  
6 report. I'd have to go back and look at the  
7 materials.  
8 So, I'm sorry, can I ask for  
9 the question again?  
10 Q. That's fine with me.  
11 (The following was read by  
12 the court reporter:  
13 "Q. Did you see any  
14 indication in this file that this incident was  
15 the subject of any kind of investigation to  
16 determine what happened and to prevent it from  
17 happening again in the future?")  
18 THE WITNESS: I don't  
19 remember. I'm sorry. I believe there was an  
20 incident report by multiple groups. But I don't  
21 remember as we sit here right now.  
22 BY MR. CLARK:  
23 Q. That's fine. And I'll represent to  
24 you that there was in fact an incident report.  
25 A. Yeah. I'm looking on my report now.

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1 J. Randle, P.E.  
2 It looks like there was a couple of incident  
3 reports that day for Mr. Hoiland.  
4 Q. Okay. I'm going to show you P-19,  
5 which was produced in discovery by AJD as their  
6 Site Specific Health & Safety Plan for the  
7 project.  
8 Do you see this --  
9 A. Yes.  
10 Q. -- page of this document?  
11 A. Yes.  
12 Q. Do you agree that housekeeping is  
13 essential to job safety and efficiency?  
14 A. Housekeeping is definitely important.  
15 Yes.  
16 Q. And do you agree that work sites  
17 should be cleaned on a daily basis to preclude  
18 the creation of tripping hazards?  
19 A. Yes.  
20 Q. Do you agree that places where  
21 workers are expected to walk should be kept free  
22 from obstruction, debris and loose material?  
23 A. You know, I would say generally, yes.  
24 Yeah. I mean, it's -- project sites are  
25 constantly, you know, moving and changing. But

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1 J. Randle, P.E.  
2 as a general theme, housekeeping, there should be  
3 good housekeeping on project sites.  
4 Q. What percent of the cases you've  
5 worked on for Robson have been on the plaintiffs'  
6 side versus the defense side?  
7 A. I'm very similar to the firm. I'm  
8 50-50 percentage wise. Yeah. I crest up and  
9 down for whatever reason. But generally I would  
10 say I'm, you know, 50 percent plaintiff,  
11 50 percent defense.  
12 Q. Do you agree that on this job site  
13 external walkways and pedestrian routes should be  
14 clearly recognizable from surrounding areas and  
15 free from defects?  
16 MS. KALOCSAY: Objection to  
17 form.  
18 THE WITNESS: Sure. External  
19 walkways and pedestrian routes should be clearly  
20 recognizable. Sure.  
21 BY MR. CLARK:  
22 Q. Do you agree that the superintendent  
23 from AJD as a matter of good safety practices  
24 should enforce and monitor work areas routinely  
25 for tripping hazards and other unsafe conditions?

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1 J. Randle, P.E.  
2 A. Yeah. I believe that's good  
3 practice, yes.  
4 Q. And do you agree that all scrap  
5 lumber, waste material and other types of debris  
6 should be removed from the immediate work area as  
7 the work progresses?  
8 A. In work areas, yes, for sure.  
9 Q. Well, you said "work areas."  
10 Do you recall saying "work  
11 areas" in response to the last question?  
12 A. Yes.  
13 Q. But you also agree that areas of the  
14 job site that are prepared by earth-moving  
15 equipment or reclaimed areas after demolition  
16 work should also be made safe for walking and  
17 working surfaces? Do you agree with that as  
18 well?  
19 A. We're talking about this particular  
20 point in their site-specific plan?  
21 Q. Yes. This is AJD's site-specific  
22 plan for this case, which is P-19, and which I  
23 would note there has been no objection that it is  
24 different from the one that was actually produced  
25 in the case.

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1 J. Randle, P.E.  
 2 A. Yeah. You know, of course. Within  
 3 reason -- I think we touched on this earlier --  
 4 superintendents should provide, you know, safe  
 5 access to the project site.  
 6 Q. And you agree that the surface areas,  
 7 which include areas prepared by earth-moving  
 8 equipment and reclaimed areas after demolition  
 9 work, should be maintained in a clean and as far  
 10 as possible dry condition. Do you agree with  
 11 that?  
 12 A. Within reason, yes, for sure.  
 13 Q. Now, the access road, if you recall  
 14 from your review of the file, is in fact an area  
 15 that was prepared by earth-moving equipment.  
 16 Right?  
 17 A. Yes. There was earth-working  
 18 equipment that created the wash rack and what  
 19 some folks on the project are calling the access  
 20 road. Yes.  
 21 Q. Hold on one second.  
 22 (Pause.)  
 23 Sorry about that.  
 24 And, also, do you recall from  
 25 the file that about ten days or so prior to the

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1 J. Randle, P.E.  
 2 fall-down incident, that the access road in  
 3 question was dug up by Esposito to install the  
 4 gas main along the access road? Do you remember  
 5 that from the case materials?  
 6 MS. KALOCSAY: Objection to  
 7 form.  
 8 THE WITNESS: I do remember  
 9 there was a gas line construction -- you know,  
 10 there was construction of a gas line involved.  
 11 I'm not sure of the exact dates. But I do -- am  
 12 aware of that.  
 13 BY MR. CLARK:  
 14 Q. All right. Well, just to refresh  
 15 your recollection, we'll pop up some pictures of  
 16 that work.  
 17 So, we're going to look at  
 18 P-10.  
 19 Does P-10 look familiar from  
 20 the case?  
 21 A. This particular picture, possibly.  
 22 Like I said, I am aware that  
 23 there was a gas line construction happening.  
 24 And, so, yeah. This -- I -- there was a lot of  
 25 documents in this case. But this -- that photo

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1 J. Randle, P.E.  
 2 looks familiar.  
 3 Q. So, yeah, P-10 is two pages, one  
 4 photo on each page. So, we've shown the witness  
 5 page one.  
 6 And you see page two as well,  
 7 photo two?  
 8 A. Yes.  
 9 Q. All right. Does that help to refresh  
 10 your recollection about the construction or the  
 11 digging up of the access road for the  
 12 installation of the gas main?  
 13 MS. KALOCSAY: Objection to  
 14 form.  
 15 THE WITNESS: I'm aware there  
 16 was a gas main installed. I think we need to be  
 17 careful about the use of "access road" because I  
 18 believe there's some disagreement that there was  
 19 an access -- that this was formally an access  
 20 road.  
 21 I did not see -- you know, I  
 22 saw a wash rack on the documents. The road was  
 23 used to access the project site. So, I guess  
 24 it's -- we can, you know, follow that definition.  
 25 But I am aware that there was

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1 J. Randle, P.E.  
 2 a gas line construction that happened in this  
 3 location on the project.  
 4 BY MR. CLARK:  
 5 Q. Do you recall who Joe Punia was?  
 6 A. Punia is, I believe, part of the  
 7 ownership group. You know, he was on the project  
 8 site at times on behalf of Grand LHN.  
 9 Q. Right.  
 10 My recollection is he was the  
 11 project manager for the developer, Joe Punia.  
 12 Does that sound familiar to  
 13 you as well?  
 14 A. I -- I'm not familiar with project  
 15 manager as a title for owners. As a project  
 16 manager, I'd probably take offense to most of the  
 17 owners I've worked with.  
 18 But, no, Punia I  
 19 believe -- if he was titled project manager  
 20 within that organization, so be it. But I don't  
 21 want to misstate who he was. He was -- he was  
 22 there on behalf of the owner.  
 23 Q. Well, I think he testified on page 17  
 24 that he's the vice-president of construction for  
 25 the developer.

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1 J. Randle, P.E.  
2 A. Okay.  
3 I was -- just as an aside, I  
4 was also titled that for a developer. But I  
5 wouldn't consider myself a project manager.  
6 Q. Okay. Maybe he didn't say project  
7 manager.  
8 But can we agree he said at  
9 page 17 that he was the vice-president of  
10 construction, but I don't really use that title?  
11 MS. MULHERN: Objection to  
12 form.  
13 But you can respond.  
14 THE WITNESS: I don't have  
15 the deposition in front of me. I didn't memorize  
16 it. So, if that's the words that were used,  
17 that's just background. That's, you know,  
18 discovery. I don't have an opinion there.  
19 BY MR. CLARK:  
20 Q. In any event, you testified that we  
21 have to be careful about calling it an access  
22 road. So, I'd like to talk about that.  
23 A. Okay.  
24 Q. And he testified on page 63:  
25 Question: The Grand Street

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1 J. Randle, P.E.  
2 entrance, would that lead into something of an  
3 access road?  
4 Answer: What you would call  
5 an access road, yes.  
6 Are you aware he testified to  
7 that?  
8 MS. KALOCSAY: Objection to  
9 form.  
10 THE WITNESS: That sounds  
11 right. I don't -- I don't know -- yeah. Like I  
12 said, this was the access point for the project.  
13 I believe one of the defendants argued that it  
14 wasn't an access road, you know. I think we're  
15 kind of splitting hairs. There was a wash rack  
16 on the perimeter of this project and then, you  
17 know, that led into the project. You know, what  
18 defines an access road is not part of, you know,  
19 my evaluation or part of the documents that I  
20 knew. I think it was just a label that was  
21 attached to this area of the project.  
22 BY MR. CLARK:  
23 Q. Okay. I don't mean to interrupt, or,  
24 I don't care, I'm going to interrupt. It sounds  
25 like you were done. But there was some question

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1 J. Randle, P.E.  
2 earlier as to how long the deposition might go.  
3 And being mindful of that  
4 question, I just want to remind you that the  
5 question was very simply are you aware -- I  
6 forget. But it sounds like you then went off and  
7 started talking about access roads generally.  
8 And I was just pinning the question to the  
9 testimony. So, there's no question there. It's  
10 just an observation.  
11 If we can try to focus on  
12 just the question that's asked, it might make  
13 things go a little more expeditiously or less  
14 unexpeditiously.  
15 And you said some defendants  
16 were arguing it was not an access road. Well, we  
17 have the person who was produced as the person  
18 most knowledgeable of the duties and  
19 responsibilities of Grand LHN named Joe Punia  
20 having testified it was in fact an access road.  
21 Are you aware of any other  
22 testimony from anyone from Grand LHN that said  
23 the area at issue was not an access road?  
24 Are you aware of any  
25 testimony in that regard from Grand LHN?

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1 J. Randle, P.E.  
2 A. No.  
3 Q. And I'll also remind you that he  
4 testified at page 65 of the deposition. And the  
5 question in part was, What was that access road  
6 used for? And the answer was, Access for  
7 deliveries of, you know, materials for the site.  
8 You can see in the picture that we have there is  
9 a concrete truck there. So, concrete would come  
10 in through there and I would venture to say that  
11 many of the men probably came in through there.  
12 Did you hear what I said?  
13 A. Okay.  
14 Q. And if we want, we can -- we can, as  
15 we do this and address your concern about calling  
16 it an access road, we can put up the deposition  
17 testimony here so we see that.  
18 Okay. And he testified here  
19 on page 66, talking again about the access road,  
20 what was it used for, paraphrasing. You would  
21 expect --  
22 MS. MULHERN: Are you  
23 expecting that it's being shown on the screen?  
24 Because I don't see it on the screen.  
25 MR. CLARK: Oh, sorry. Thank



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1 J. Randle, P.E.  
 2 you.  
 3 BY MR. CLARK:  
 4 Q. Okay. So, it should be up on the  
 5 screen now.  
 6 Are you seeing the deposition  
 7 transcript now?  
 8 A. Yes.  
 9 Q. Okay. Great.  
 10 So, we're at page 66,  
 11 starting at line four, paraphrasing. He's being  
 12 asked questions about the access road, you would  
 13 expect workers would use that access road as a  
 14 pedestrian walkway or as a walkway?  
 15 Answer: Yes, an access  
 16 point.  
 17 Do you see that testimony?  
 18 A. Yes.  
 19 Q. Okay. So, that's the developer.  
 20 Now, do you remember Dan  
 21 Graham was a witness for AJD in the case and he  
 22 was the assistant super on the job? Does that  
 23 ring a bell?  
 24 A. What name? I'm sorry. You said Bram  
 25 (as stated)? Dan Bram?

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1 J. Randle, P.E.  
 2 Q. That would be Graham.  
 3 A. Oh, Graham. Oh, Graham, Graham. Dan  
 4 Graham. Yes.  
 5 Q. Okay.  
 6 A. Sorry.  
 7 Q. And then he testified at page seven  
 8 of his deposition, showing him the yellow area in  
 9 P-3, do you see the yellow area in P-3, the  
 10 marked-up version on the screen?  
 11 A. Yes.  
 12 Q. And do you understand that the  
 13 incident happened within the area marked in  
 14 yellow on that exhibit?  
 15 A. Yes. I think I referenced, you know,  
 16 that highlight in my report.  
 17 Q. Okay. Good. So, we have it up and  
 18 we have it zoomed in.  
 19 Do you see?  
 20 A. Yes.  
 21 Q. Okay. Great.  
 22 And then we go to Graham's  
 23 testimony and the area on P-3, which is  
 24 highlighted in yellow, was that used as an access  
 25 road throughout the project?

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1 J. Randle, P.E.  
 2 Answer: By access road, that  
 3 is where we took deliveries into the job site,  
 4 yes.  
 5 Do you see that testimony?  
 6 A. Yes.  
 7 Q. Okay. So, that's the assistant  
 8 superintendent for the general contractor  
 9 agreeing that it's an access road. Right?  
 10 A. Yes.  
 11 Q. And you understand from the testimony  
 12 and your review of the case that that area was  
 13 frequently traversed by the workers on the job.  
 14 Right?  
 15 A. Yes.  
 16 Q. Okay. Are you aware of any testimony  
 17 from anyone from the general contractor disputing  
 18 that the area of the incident was part of the  
 19 access road?  
 20 A. Not that I'm aware of.  
 21 Q. Okay. So, do you still have a  
 22 problem calling it an access road?  
 23 You indicated some questions  
 24 ago that we have to be careful about calling it  
 25 an access road. And I've just kind of catalogued

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1 J. Randle, P.E.  
 2 the deposition testimony of the people in charge  
 3 of the job in fact testifying under oath with the  
 4 same penalties of perjury that you're testifying  
 5 to that, yes, it is in fact an access road.  
 6 A. I don't have an opinion on this.  
 7 What I will say is that part  
 8 of the background I believe Esposito pointed out  
 9 that it was not titled an access road. So,  
 10 that -- the title access or the label of access  
 11 road means something different to him. It really  
 12 means something different to me as well. But  
 13 that -- I don't have an opinion here. This is  
 14 really -- I think I've referenced the area as an  
 15 access road because that's what everyone labeled  
 16 it as.  
 17 So, yeah, I'm not -- I  
 18 don't -- call it what you want. I just am not  
 19 familiar with, you know, this being -- you know,  
 20 I've been on projects where we've defined what  
 21 that means in terms of materials, in terms of,  
 22 you know, dimensions, what have you, and I  
 23 believe the installer, you know, pointed out that  
 24 this was not something he had a definition of.  
 25 So, you know, again, I wasn't

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1 J. Randle, P.E.  
2 asked to give an opinion about, like, the access  
3 road. I generally use the labels similar to what  
4 all the deponents used, similar to what you just  
5 did.  
6 Q. Okay. So, when we look at the photos  
7 of the access road being dug up and trenched for  
8 the gas main which was marked as P-10, would you  
9 consider that to be demolition work when they're  
10 digging up a road like is shown in P-10?  
11 MS. KALOCSAY: Objection to  
12 the form.  
13 THE WITNESS: Yeah. I call  
14 it excavation. I don't -- I wouldn't call it  
15 demolition, no.  
16 BY MR. CLARK:  
17 Q. In any event, it's certainly an area  
18 prepared by earth-moving equipment. Right?  
19 A. Yes. Sure.  
20 Q. Okay. And because it's an area that  
21 was prepared by earth-moving equipment, the  
22 housekeeping rules and the rules for safe walking  
23 and working surfaces apply to the area  
24 highlighted in yellow in P-3. Correct?  
25 A. Can you restate that? Can you ask

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1 J. Randle, P.E.  
2 the question again?  
3 Q. Sure. We'll have it read back and  
4 we're --  
5 A. Yes. Could you keep on that while  
6 the question is asked? Thank you.  
7 Q. Sure. Which one do you want? Do you  
8 want P-19, which is the safety manual saying what  
9 I just said or do you want P-3 or do you want --  
10 A. P-19. P-19.  
11 Q. Okay. So, P-19 is up.  
12 (The following was read by  
13 the court reporter:  
14 "Q. Okay. And because it's  
15 an area that was prepared by earth-moving  
16 equipment, the housekeeping rules and the  
17 rules for safe walking and working surfaces  
18 apply to the area highlighted in yellow in  
19 P-3. Correct?")  
20 THE WITNESS: I would agree  
21 with that.  
22 BY MR. CLARK:  
23 Q. Now, I'm going to represent to you  
24 that Joseph Punia was or testified he was  
25 vice-president of construction for the developer

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1 J. Randle, P.E.  
2 and that he was produced as the corporate  
3 representative of the developer most  
4 knowledgeable in construction site safety.  
5 Can you accept that  
6 representation or do you have some information to  
7 the contrary?  
8 MS. MULHERN: Object to form.  
9 You can answer.  
10 THE WITNESS: Most  
11 knowledgeable for Grand LHN. No. I don't  
12 have -- I don't have -- if that's how he  
13 testified, that's how he testified.  
14 BY MR. CLARK:  
15 Q. Okay. And do you remember you  
16 testified earlier today about how the developer  
17 does have some safety responsibilities and you  
18 focused on early on in the project during the  
19 planning stage? Do you recall that?  
20 A. Yes.  
21 MS. MULHERN: Objection to  
22 form.  
23 You can answer.  
24 THE WITNESS: Sorry. Yes.  
25 BY MR. CLARK:

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1 J. Randle, P.E.  
2 Q. Don't you think it is a bit  
3 concerning that the person most knowledgeable in  
4 construction site safety for a major developer  
5 that is working on a \$238 million construction  
6 project has no safety training and no safety  
7 background? Isn't that concerning from a safety  
8 perspective?  
9 MS. MULHERN: Objection to  
10 form.  
11 You can answer.  
12 THE WITNESS: No.  
13 BY MR. CLARK:  
14 Q. You have no problem with that?  
15 A. On that project, no. AJD is big  
16 boys. I mean, you know, he chose a qualified  
17 general contractor.  
18 Q. Who is -- sorry. Go ahead. Did you  
19 want to correct something?  
20 A. Grand LHN, you know, assigned or, you  
21 know, awarded or agreed to the project with a  
22 qualified general contractor. I would not expect  
23 Punia's role to go out there and be a safety, you  
24 know, inspector or anything of that sort. And,  
25 frankly, as general contractors, we didn't want

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1 J. Randle, P.E.  
 2 owners on our project sites running around.  
 3 Q. Did AJD not want owners on their job  
 4 site?  
 5 MS. MULHERN: Objection to  
 6 form.  
 7 BY MR. CLARK:  
 8 Q. Or you don't know offhand?  
 9 A. I don't know.  
 10 Q. Okay. Do you find it a little bit  
 11 concerning that the assistant site super for the  
 12 general contractor, AJD, whose name is Dan  
 13 Graham, also has no safety training?  
 14 A. It's -- it depends on the  
 15 circumstances. I mean, was he just hired on and  
 16 he was going to training or was he --  
 17 You know, again, they had a  
 18 safety consultant, they had a team of field  
 19 supervision. Pulling out one particular person  
 20 on a team that, you know, was pretty large, on a  
 21 large project. I don't -- these things happen.  
 22 I mean, I don't think there's -- he wasn't the  
 23 competent person and he wasn't the third-party  
 24 inspector. And, so, I really don't have, you  
 25 know, an answer -- you know, a real strong

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1 J. Randle, P.E.  
 2 opinion about what you're asking.  
 3 Q. Do you have any issue with  
 4 that -- hold on.  
 5 (Pause.)  
 6 So, do you have any issue or  
 7 concern that Keith Healy, who was the project  
 8 manager for AJD, testified that he could not  
 9 remember any discussions about making sure that  
 10 the roadways and walkways on the job site were  
 11 safe to prevent needless fall injuries to  
 12 workers?  
 13 Is there any kind of concern  
 14 of yours that he had no recollection of  
 15 addressing those potential hazards?  
 16 MS. TUTELO: Objection to  
 17 form.  
 18 You can answer.  
 19 THE WITNESS: You know, Keith  
 20 Healy played his part on the project, you know.  
 21 I don't -- I'm not sure -- that doesn't cause me  
 22 alarm. No.  
 23 BY MR. CLARK:  
 24 Q. And you're aware from the case  
 25 records that AJD was responsible to construct

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1 J. Randle, P.E.  
 2 temporary roadways and walkways on the job for  
 3 proper progress of the work? Are you aware of  
 4 that?  
 5 A. If it's part of the discovery or the  
 6 case documents, then, you know, I would -- I  
 7 don't have a disagreement with that if that's  
 8 the -- if that's the situation.  
 9 Q. Well, you agree that this was a  
 10 temporary roadway on the construction site, the  
 11 area we're talking about?  
 12 MS. KALOCSAY: Objection to  
 13 form.  
 14 THE WITNESS: Yes.  
 15 BY MR. CLARK:  
 16 Q. And you can see at Healy's  
 17 deposition, at page 80, he testified:  
 18 Question: Would this  
 19 therefore be considered a temporary roadway on a  
 20 construction site?  
 21 And he answered, Yes.  
 22 Do you see that testimony?  
 23 A. Yes.  
 24 Q. And do you see where he further  
 25 testified, at page 81, line ten, that the area

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1 J. Randle, P.E.  
 2 where the incident happened at the time of the  
 3 incident, on the day of the incident was a  
 4 temporary roadway, right?  
 5 And he said, Okay, yes.  
 6 Do you see that?  
 7 A. Yes.  
 8 Q. And do you see here at page 86,  
 9 referencing the P-22 document -- we'll pull up  
 10 P-22 for you, which is the job specifications.  
 11 Do you see P-22 there, the  
 12 job specs, the cover page?  
 13 A. Yes.  
 14 Q. That's one of the documents you  
 15 reviewed in the case. Right?  
 16 A. Yes. I would imagine so, yes.  
 17 Q. And referencing P-22, at page 86 of  
 18 his deposition it says:  
 19 Question: Under this  
 20 section, you would agree that AJD was responsible  
 21 to construct and maintain safe temporary roadways  
 22 for the proper progress of the work, right?  
 23 And he answers, That's what  
 24 it says.  
 25 Do you see that?

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1 J. Randle, P.E.  
2 A. I do see that.  
3 Q. So, do you agree on this job that AJD  
4 was responsible to maintain temporary roadways  
5 for proper progress of the work?  
6 A. Sure.  
7 I -- again, I mean, this  
8 is -- you know, this is more just background to  
9 me. If it's there, it's there. I don't -- I  
10 don't have an opinion otherwise.  
11 Q. Okay. Well, it is there and that's  
12 what I'm pointing out to you and I am trying to  
13 find out whether or not you agree with these  
14 things. So, that's just by way of -- that's not  
15 a question. That's just me telling you what  
16 we're doing.  
17 Okay. Did you hear what I  
18 said?  
19 A. Yes.  
20 Q. And we're looking here at the specs.  
21 It's Section 3.03, Support Facilities  
22 Installation.  
23 Do you see that?  
24 A. Yes.  
25 Q. And do you see B, Temporary Roadways?

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1 J. Randle, P.E.  
2 A. Yes.  
3 Q. Construct and maintain temporary  
4 roadways and walkways adequate for construction  
5 for operations and proper progress of the work.  
6 Do you see that?  
7 A. Yes.  
8 Q. And do you remember you testified  
9 earlier today that proper progress of the work  
10 requires safety and safe progress and proper  
11 progress need to kind of go together?  
12 MS. MULHERN: Objection to  
13 form.  
14 THE WITNESS: Yes.  
15 MS. TUTELO: Please note my  
16 late objection to that question. This is Pauline  
17 Tutelo.  
18 BY MR. CLARK:  
19 Q. And do you agree that the area where  
20 this incident happened, which was in the  
21 temporary roadway and the access road that we  
22 talked about and was covered by the rules about  
23 fall hazards, like you testified to earlier, do  
24 you agree that that area should be safe for  
25 people to walk on?

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1 J. Randle, P.E.  
2 MS. KALOCSAY: Objection to  
3 the form.  
4 MS. MULHERN: Join.  
5 You can answer.  
6 MS. TUTELO: Join.  
7 THE WITNESS: The roadway on  
8 a construction site or, I'm sorry, it's an access  
9 point on a construction site, you know, it should  
10 be reasonably safe.  
11 BY MR. CLARK:  
12 Q. So, you agree that it should be safe  
13 for people to walk on?  
14 MS. KALOCSAY: Objection to  
15 form.  
16 MS. TUTELO: Objection to  
17 form.  
18 MS. MULHERN: Join.  
19 You can answer.  
20 THE WITNESS: Again, we're  
21 talking about this particular incident where  
22 Hoiland was a competent person walking through  
23 the construction site?  
24 BY MR. CLARK:  
25 Q. I'm sorry. I don't mean to interrupt

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1 J. Randle, P.E.  
2 you. But the question did not talk about Hoiland  
3 or the incident. The question talked about the  
4 access road on the job site, which is the area in  
5 yellow on P-3 and which you testified to was  
6 covered in P-19, Section 8.13 about safe walking  
7 surfaces.  
8 And the question was very  
9 simply do you agree that that area should be safe  
10 for people to walk on? That is the simple  
11 question.  
12 MS. KALOCSAY: Objection to  
13 form.  
14 THE WITNESS: Reasonably  
15 safe, yes.  
16 BY MR. CLARK:  
17 Q. And do you agree that workers have a  
18 right to expect that a designated walking surface  
19 on a job site is safe to walk on?  
20 MS. KALOCSAY: Objection to  
21 form.  
22 MS. TUTELO: Join.  
23 MS. MULHERN: Join.  
24 You can answer.  
25 THE WITNESS: Again, within

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1 J. Randle, P.E.  
 2 reason, yes, of course everything is within  
 3 reason, you know, on our construction standards,  
 4 yes.  
 5 BY MR. CLARK:  
 6 Q. Now, can we agree for purposes of our  
 7 deposition here today that Esposito dug up that  
 8 access road about two weeks before the fall?  
 9 Now, if we can't necessarily  
 10 agree, then I can walk you through the deposition  
 11 testimony that says that if you want.  
 12 MS. KALOCSAY: Objection to  
 13 form.  
 14 THE WITNESS: Yeah. I mean,  
 15 if that's -- if it's approximately two weeks or  
 16 you said earlier ten days, I -- Esposito had  
 17 performed some gas line construction excavation  
 18 in that area a couple of weeks prior to Hoiland's  
 19 incident.  
 20 BY MR. CLARK:  
 21 Q. Okay. Great.  
 22 And, for example, that's  
 23 talked about at pages 97 to a hundred of Punia's  
 24 deposition, Healy's deposition at page 300, and  
 25 Dave Vill's deposition at page 33 for your

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1 J. Randle, P.E.  
 2 reference.  
 3 A. Okay.  
 4 Q. Now, you agree that when Esposito  
 5 finishes that work, that they should restore it  
 6 and grade it out to make it safe? Do you agree  
 7 with that?  
 8 MS. KALOCSAY: Objection to  
 9 form.  
 10 MS. MULHERN: Join.  
 11 You can answer.  
 12 THE WITNESS: Yeah. I mean,  
 13 you'd have to define safe.  
 14 I do agree that they would  
 15 have to restore the area back to its  
 16 pre-excavation condition and similar to, you  
 17 know, the project site. Yeah. I mean, that's  
 18 based on an agreement with the general contractor  
 19 for the work they're doing.  
 20 BY MR. CLARK:  
 21 Q. Well, Joe Punia testified at page 105  
 22 of his deposition that when they got it all  
 23 finished, it should be graded so that it's as  
 24 safe as can be, referring to that area, after the  
 25 backfilling and digging the trench.

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1 J. Randle, P.E.  
 2 Do you agree with him when he  
 3 says that there?  
 4 MS. KALOCSAY: Objection to  
 5 form.  
 6 MS. MULHERN: Objection to  
 7 form.  
 8 You can answer.  
 9 THE WITNESS: Again, we'd  
 10 have to spend some time defining what safe is.  
 11 But they should back -- you know, they should put  
 12 back the ground to a condition where it's  
 13 reasonably, you know, safe for -- for folks to  
 14 access the project.  
 15 BY MR. CLARK:  
 16 Q. And that is a matter of good, safe  
 17 practices what you said there, right, that they  
 18 should do that?  
 19 MS. KALOCSAY: Objection to  
 20 form.  
 21 MS. MULHERN: Objection to  
 22 form.  
 23 You can answer.  
 24 THE WITNESS: The  
 25 question -- okay.

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1 J. Randle, P.E.  
 2 BY MR. CLARK:  
 3 Q. These are not trick questions, just  
 4 so you know. You have this sort of baffled look  
 5 on your face. But these are not trick questions  
 6 here.  
 7 A. Yeah. I mean, Esposito excavated for  
 8 the gas line and then put the ground back. And  
 9 it should be reasonably, you know, safe, without  
 10 hazards for others to access the project.  
 11 Q. And when you say "it should be," that  
 12 is a matter of basic safe practices and almost  
 13 common sense. Right?  
 14 MS. KALOCSAY: Objection to  
 15 form.  
 16 THE WITNESS: Yeah. I don't  
 17 know --  
 18 BY MR. CLARK:  
 19 Q. You keep looking like how is he  
 20 trying to --  
 21 A. That's kind of a place that I'm  
 22 not --  
 23 Q. -- how is he trying to trick me here?  
 24 A. Okay.  
 25 Q. You have this look on your face of

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1 J. Randle, P.E.  
2 how is he trying to trick me. And there's  
3 really -- these are really totally  
4 straightforward questions.  
5 A. All right. So, here's a  
6 straightforward answer. Esposito excavated for  
7 the gas line and backfilled it.  
8 If you're asking me about  
9 common sense, I don't think I'm the person to do  
10 that. I was asked -- I've got a purpose. And my  
11 purpose is to give an opinion about different  
12 participants on the project. If you're going to  
13 try to diminish what it is I'm doing, I take  
14 exception to that. I think we're heading down a  
15 weird place with your terminology that at some  
16 point I'm going to have to say time out.  
17 You're going to have to  
18 define your meaning of safe because your meaning  
19 of safe is different from mine, especially on a  
20 construction project.  
21 Q. What is my meaning of safe?  
22 A. So, you're asking me to give an  
23 opinion about your meaning of safe?  
24 You're just kind of circling  
25 out of control, Jerry. I mean, I think you need

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1 J. Randle, P.E.  
2 to reel it in.  
3 Q. You just did give an opinion as to my  
4 meaning of safe. And your opinion was that my  
5 meaning of safe is different than your meaning of  
6 safe.  
7 So, based upon that answer  
8 the question is what is my meaning of safe that  
9 you're referring to in your response to the  
10 previous question?  
11 MS. MULHERN: Objection to  
12 form.  
13 Jason, if you can respond to  
14 that, by all means, respond to it.  
15 THE WITNESS: Yeah. I mean,  
16 my glib response was the fact that you're asking  
17 me questions about sort of your understanding of  
18 things that are different than me as a  
19 construction expert. So, your definition of safe  
20 is different than mine.  
21 I'm a construction  
22 professional. Don Hoiland is a construction  
23 professional. Don Hoiland is a competent person.  
24 Don Hoiland knew and was aware of hazards on the  
25 project site. Don Hoiland stepped on a rock.

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1 J. Randle, P.E.  
2 BY MR. CLARK:  
3 Q. Thank you for all of that. That's  
4 very nice.  
5 But the question is what is  
6 my meaning of safety? You've testified I think  
7 two or three times now that that -- that my  
8 meaning of safety is different than your meaning,  
9 which presupposes you know what my meaning of  
10 safety is.  
11 So, the question is what is  
12 my meaning of safety that you referred to  
13 earlier?  
14 MS. MULHERN: Note my  
15 continuing objection.  
16 THE WITNESS: I'll retract my  
17 answer. And I apologize. I don't know.  
18 BY MR. CLARK:  
19 Q. There's no need to apologize. We're  
20 all here just trying to help the trier of fact.  
21 So, no need to apologize for that.  
22 So, when you say that after  
23 Esposito dug the trench and backfilled it that  
24 they needed to make it safe, the question is, is  
25 that a standard somewhere that you can point to

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1 J. Randle, P.E.  
2 or is that just a matter of good, safe practices?  
3 MS. KALOCSAY: I'm sorry.  
4 Can you -- can the court reporter read the  
5 question back, please.  
6 (The following was read by  
7 the court reporter:  
8 "Q. So, when you say that  
9 after Esposito dug the trench and backfilled  
10 it that they needed to make it safe, the  
11 question is, is that a standard somewhere that  
12 you can point to or is that just a matter of  
13 good, safe practices?")  
14 MS. KALOCSAY: Objection to  
15 the form.  
16 THE WITNESS: Okay. The way  
17 I'm defining safe is a reasonable attempt to  
18 eliminate hazards.  
19 BY MR. CLARK:  
20 Q. Thank you for that definition.  
21 And with respect to your  
22 saying that they should make it safe when they  
23 are finished with the area, is that a standard  
24 somewhere that says that?  
25 Is that in OSHA or is that

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1 J. Randle, P.E.  
 2 just kind of common sense and a matter of good,  
 3 safe practices to do that?  
 4 MS. KALOCSAY: Objection to  
 5 form.  
 6 THE WITNESS: Again,  
 7 for -- for the Hoiland incident, there was no  
 8 standard that -- there was no -- there was no  
 9 hazard that has -- that anyone's put forth on  
 10 what happened with Hoiland. It all comes down to  
 11 being, you know, reasonable. Okay. So, the  
 12 activities that occurred on the project were  
 13 reasonable. It was reasonable for the project  
 14 site. It was reasonable for the construction.  
 15 So, my definition of put it  
 16 back safe is the reasonable attempt to create an  
 17 area where workers can access the project. And  
 18 that -- from my review and analysis and based on  
 19 my opinions, that happened.  
 20 BY MR. CLARK:  
 21 Q. I'm sorry. And I don't mean to take  
 22 issue with you, but that answer had nothing to do  
 23 with the question.  
 24 The question is very simple.  
 25 After Esposito is finished

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1 J. Randle, P.E.  
 2 trenching and then backfilling the area, you said  
 3 they need to make it safe; they need to return it  
 4 to a safe condition.  
 5 My question is where does  
 6 that come from? Is there a standard that says  
 7 they need to do that? Is that in OSHA somewhere?  
 8 Or is that just a matter of good work practices?  
 9 Or you don't know?  
 10 A. No. Okay.  
 11 MS. KALOCSAY: Go ahead.  
 12 THE WITNESS: Okay. The  
 13 standard of care for the construction industry is  
 14 voluminous. Okay? It's based on probably a  
 15 city-block-wide oration of documents and  
 16 conditions and drawings and specs and everything.  
 17 There is so much that goes into the standard of  
 18 care for construction. And what I'm  
 19 doing -- what I'm giving my opinion on is the  
 20 standard of care for the different parties  
 21 involved in this incident.  
 22 BY MR. CLARK:  
 23 Q. Okay. Great.  
 24 A. That's what defines safe in my world.  
 25 Q. Okay. Great. So, your opinion that

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1 J. Randle, P.E.  
 2 Esposito needed to make the area safe when they  
 3 were finished with it comes from your  
 4 understanding of the standard of care in the  
 5 construction site safety management industry. Is  
 6 that right?  
 7 A. Yes.  
 8 Q. Okay. Now, in addition to it being  
 9 in the industry standard of care, that's also  
 10 specifically in the site safety manual,  
 11 specifically at Section 8.13B, where it says the  
 12 walking surface areas need to be made safe and  
 13 that this includes areas prepared by earth-moving  
 14 equipment. Correct?  
 15 A. I disagree. Okay. The area where  
 16 Hoiland fell was reasonably hazard-free.  
 17 Q. I'm sorry. But perhaps you're not  
 18 understanding the question or perhaps I'm not  
 19 asking it in a coherent way.  
 20 You are so itchy to talk  
 21 about your expert report and get your opinions  
 22 out. And I'm sure at some point you'll have the  
 23 opportunity to do that other than to keep reading  
 24 your report. But just please try to focus on the  
 25 questions that are asked.

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1 J. Randle, P.E.  
 2 So, I will do it again.  
 3 You testified that after  
 4 Esposito is done trenching and backfilling the  
 5 area, that they have to make it safe.  
 6 And after some time, perhaps  
 7 15 minutes, you finally told us that that rule  
 8 that you said comes from your understanding of  
 9 the standard of care in the construction site  
 10 safety industry. That's what the testimony is  
 11 reflected on the record thus far.  
 12 The question now is in  
 13 addition to that rule or that principle being in  
 14 the standard of care in the construction  
 15 industry, that rule is also contained in the  
 16 site-specific safety manual, Section 8.13B,  
 17 specifically, that says safe walking and working  
 18 surfaces include areas prepared by earth-moving  
 19 equipment. Correct?  
 20 MS. KALOCSAY: Objection to  
 21 form.  
 22 THE WITNESS: Okay. I don't  
 23 have an opinion here. You're just reading off of  
 24 some discovery. That's okay. So, I'm not going  
 25 to disagree with what's written on the paper.

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1 J. Randle, P.E.  
2 BY MR. CLARK:  
3 Q. That's all I'm asking.  
4 A. Okay.  
5 Q. I mean --  
6 A. I don't spend a lot of time in these  
7 confirming discovery. Discovery is discovery.  
8 And I'm hoping you're not pigeonholing me into a  
9 conversation about what is safe because, again,  
10 as I said way back when, three hours ago, there  
11 is no hundred percent safety, not on construction  
12 projects. It's reasonable to perform your work  
13 in a way to eliminate hazards. And what does  
14 that look like? That looks like having a  
15 competent person on-site, having competent people  
16 working, having an orientation program, hiring  
17 general contractors that are qualified and have  
18 safety programs, adding new belts and suspenders,  
19 bringing in a third party.  
20 So, you know, I -- again, I  
21 digress a little bit. I hope that's not the  
22 intent. But if we're here just for me to read  
23 something and say did I read this correctly,  
24 okay, it's -- that's fine. We can go through  
25 that process.

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1 J. Randle, P.E.  
2 Q. Now, taking a look at P-10.  
3 Do you see the rocks here in  
4 the trench spoils?  
5 A. Yes.  
6 Q. Okay. I'm going to show you some  
7 pictures from the job site. Start here with  
8 P-33.  
9 Do you see that picture?  
10 A. Yes.  
11 Q. It looks like during the demolition.  
12 Right?  
13 A. Yes.  
14 Q. And I'm going to show you P-34.  
15 Does that look like the  
16 Boys & Girls Club that was there before?  
17 A. Yes.  
18 Q. And then we see some of the  
19 demolition pictures. And you see, does that look  
20 like they demolished the building and you see the  
21 piles of concrete there?  
22 A. Yes.  
23 Q. And page two of P-34 and then at page  
24 three, you see an overhead shot of the  
25 demolition?

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1 J. Randle, P.E.  
2 A. Yes.  
3 Q. And looking into some of the other  
4 pages towards the end of P-34, you see kind of  
5 some of the close-up pictures of the surface  
6 conditions?  
7 A. Yes.  
8 Q. Do you see these what look like kind  
9 of chunks of concrete?  
10 A. Yes.  
11 Q. Okay. And does it appear that this  
12 concrete, these kind of chunks of concrete in the  
13 later pages of P-34, appears to come from the  
14 demolition of the Boys & Girls Club that is shown  
15 in the, you know, first three pictures on P-34?  
16 MS. KALOCSAY: Objection to  
17 form.  
18 MS. MULHERN: Objection to  
19 form.  
20 You can answer.  
21 THE WITNESS: They appear to  
22 be how you described them. Yes.  
23 BY MR. CLARK:  
24 Q. And it's your understanding from  
25 reviewing the geotechnical engineering report

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1 J. Randle, P.E.  
2 that the concrete was to be sort of pulverized  
3 and used as fill on the job?  
4 A. Yeah. I'm -- yes.  
5 Q. Okay. And when you look at P-10 and  
6 you look at the trench, the dug-up trench from  
7 Esposito digging it up, do you see what appears  
8 to be that same kind of concrete chunks in that  
9 fill?  
10 A. Yes.  
11 Q. And that all makes sense and is  
12 consistent with the demolition photos that we  
13 showed in P-33.  
14 Would you agree with that?  
15 A. Yes.  
16 Q. Now, when we look at the roadway  
17 photos in P-4, do you see in P-4 what appear to  
18 be the same -- we're looking at photo one of  
19 P-4 -- what appear to be the same kinds of rocks  
20 or concrete trucks -- or chunks, concrete chunks,  
21 there in the roadway as well?  
22 MS. KALOCSAY: Objection to  
23 the form.  
24 THE WITNESS: Are they  
25 similar from the visual on the -- in the photos?



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1 J. Randle, P.E.  
 2 They do appear similar. I don't know where  
 3 the -- you know, I'm not sure -- I wasn't asked  
 4 to analyze where the incident rock came from.  
 5 BY MR. CLARK:  
 6 Q. Right.  
 7 But when you look at the  
 8 demolition pictures, starting with the  
 9 Boys & Girls Club, P-34, and seeing the  
 10 demolition, moving on to the photos of the trench  
 11 and the access road, which you said appear to be  
 12 consistent with those demolition pieces of  
 13 concrete, they also appear to be consistent with  
 14 the rocks that appear in the photos in P-4, those  
 15 kind of same kind of appear to be concrete rocks  
 16 and chunks.  
 17 Would you agree with that?  
 18 With the understanding you haven't done any kind  
 19 of scientific analysis, but just common sense in  
 20 looking at it all --  
 21 MS. KALOCSAY: Objection to  
 22 form.  
 23 MS. MULHERN: Objection to  
 24 form.  
 25 You can answer.

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1 J. Randle, P.E.  
 2 MS. TUTELO: Objection to  
 3 form.  
 4 BY MR. CLARK:  
 5 Q. -- and your review and knowledge of  
 6 the file materials.  
 7 A. Right. I mean, you know, I -- I  
 8 don't know. They -- you know, it appears to be a  
 9 piece of rock.  
 10 Q. And that being the photos in P-4, is  
 11 that right, what you just referred to?  
 12 A. Sure, or some kind of recycled  
 13 aggregate. I don't -- I don't know.  
 14 Q. Well, I'm just trying to get this,  
 15 because you said that it did appear to be the  
 16 same kind of rocks or chunks of concrete from the  
 17 demolition photos, and then you said something  
 18 else, perhaps.  
 19 So, I just want to go through  
 20 this and see what exactly your answer is as we  
 21 ask it here.  
 22 A. Okay. I mean, it looks like a, you  
 23 know, four- to six-inch-size aggregate. There  
 24 were some four- to six-inch-size aggregate in the  
 25 demolition pictures. There were also some larger

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1 J. Randle, P.E.  
 2 and there was also some smaller. So, this size  
 3 of, you know, aggregate matches what could be  
 4 part of those previous pictures.  
 5 Q. The previous pictures being the  
 6 pictures we talked about in P-34. Correct?  
 7 A. Yes.  
 8 Q. Okay. Thank you.  
 9 Now, if you have -- I have a  
 10 ruler here. My finger is at six inches.  
 11 If you have a six-inch-size  
 12 rock in an access road and let's say the rock is  
 13 standing alone as opposed to it being, you know,  
 14 a uniform six-inch rock that might be laid down,  
 15 if you have a six-inch rock sitting in an access  
 16 road, that could be a tripping hazard. Right?  
 17 MS. KALOCSAY: Objection to  
 18 form.  
 19 MS. MULHERN: Objection.  
 20 You can answer.  
 21 MS. TUTELO: Objection to  
 22 form.  
 23 THE WITNESS: Could it be a  
 24 tripping hazard? People could trip over it.  
 25 BY MR. CLARK:

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1 J. Randle, P.E.  
 2 Q. Okay. Thanks.  
 3 You reviewed the deposition  
 4 of Dave Vill. Correct?  
 5 A. Yes.  
 6 Q. All right. And Dave Vill has  
 7 testified at page 45, line 22, The rocks are part  
 8 of the job. The rocks are part of fill. Like I  
 9 said, the job was a demo site. The material that  
 10 was used on that site was part of the material  
 11 that was crushed.  
 12 Do you see that testimony?  
 13 A. Yes.  
 14 Q. And that's consistent with what we  
 15 just talked about in terms of P-34, the  
 16 demolition pictures, and P-4, which is the  
 17 pictures of the incident roadway. Is that  
 18 correct?  
 19 MS. KALOCSAY: Objection to  
 20 form.  
 21 MS. MULHERN: Join.  
 22 THE WITNESS: Can you go back  
 23 to the deposition? I think there's some bridging  
 24 that needs to happen.  
 25 BY MR. CLARK:

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1 J. Randle, P.E.  
2 Q. Sure. If you want to look at his  
3 deposition here, I've got P --  
4 (Pause.)  
5 So, what we can do is we can  
6 start at page 44 and look at some of these other  
7 exhibits. And at page 44, line 13, it says,  
8 Looking at this, if someone complained to you,  
9 looking at these photos from P-4 -- and, again,  
10 we're going to pop up P-4.  
11 (Pause.)  
12 So, if someone complained to  
13 you, looking at these photos from P-4, would that  
14 be your reaction in terms of, hey, we're not  
15 eating off this, it's a job site, just deal with  
16 it, or would your reaction be, hey, we need to  
17 get this made safe?  
18 And his answer was, I would  
19 say let's get it safe.  
20 Do you see that?  
21 A. I do see that.  
22 Q. Okay. And then we ask him at line 11  
23 on 45, Do you see the rocks in the photo?  
24 Answer: I do. I see  
25 everything.

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1 J. Randle, P.E.  
2 Why were the rocks permitted  
3 to be on the job? Why weren't they graded off?  
4 Why didn't you have someone pick them up or why  
5 didn't you bring --  
6 And he interrupts and says,  
7 It's part of fill, sir. The rocks are part of  
8 fill. The rocks are part of the job. The rocks  
9 are part of fill. Like I said, the job was a  
10 demo site. The material that was used on that  
11 site was part of the material that was crushed.  
12 Do you see that testimony?  
13 A. I do see that testimony.  
14 Q. Is there something else you want to  
15 read or -- the deposition is -- it's like, I  
16 don't know, 70 pages or so.  
17 Is there another part you  
18 want to read -- you want me to read or something?  
19 A. No. Again, I'm confirming  
20 that -- what Vill said. Sure.  
21 Q. Yeah. Okay. Good. Got it.  
22 When you look at P-4, the  
23 photo, the third photo of Don on the ground,  
24 doesn't that look like a rock by his left knee,  
25 another one of those kind of pieces or chunks

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1 J. Randle, P.E.  
2 we've been talking about?  
3 MS. KALOCSAY: Objection to  
4 form.  
5 THE WITNESS: Yeah. Would  
6 you mind clicking on the photo?  
7 BY MR. CLARK:  
8 Q. Yeah. I'm sorry. Sometimes I forget  
9 to put the share, resume share and all. Yeah.  
10 There it is. Zoom out or --  
11 A. You're asking about -- can you just  
12 circle it, where you -- what's you're -- like,  
13 spin around it or something.  
14 Q. (Indicating.)  
15 A. Yeah. I can see that.  
16 I can't tell. I said before  
17 there were four- to six-inch-size aggregate.  
18 That does not -- that does not look like four to  
19 six inches, not what I'm seeing.  
20 Q. Yeah. But the question is does that  
21 appear to be, like, one of those rocks consistent  
22 with the same kind of crushed concrete fill rocks  
23 that we looked at in P-34?  
24 A. It's an -- it's a piece -- it's a  
25 sized aggregate. There is a lot -- you know,

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1 J. Randle, P.E.  
2 scroll back up to the recycled concrete from the  
3 building. There's a lot of different sizes  
4 within this, you know, crushing of the existing  
5 building.  
6 So, it's -- yes. I mean,  
7 there's -- do I know where it came from? I  
8 don't.  
9 Q. All right. I mean, you can't say any  
10 particular rock necessarily came from here or  
11 there.  
12 But the question is does it  
13 appear to be consistent with the same kind of  
14 crushed concrete fill material that we're seeing  
15 in the photos P-34, again dug on P-10 when they  
16 did the trenching, to the one by his left knee on  
17 photo three of P-4?  
18 A. I don't know.  
19 Q. Well, you don't have to know for  
20 sure. Nothing has to be with 100 percent  
21 certainty. But can you testify it probably is?  
22 A. Can I testify it's probably a rock?  
23 Yes.  
24 MR. CLARK: Okay. All right.  
25 Just for the record, we have marked up photo

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1 J. Randle, P.E.  
 2 number three of P-3 and I have put a red kind of  
 3 highlighting circle round that rock, as requested  
 4 by the witness. And, you know, I'm going to save  
 5 it as this.  
 6 Actually, here's what I'll  
 7 do. I'll save it as -- we're going to do this.  
 8 We'll call it P-4.1, incident photos marked up.  
 9 So, that's what we're doing.  
 10 And, Laz, if you can  
 11 please -- Lazaro, if you can please email that  
 12 around to everyone.  
 13 (Exhibit P-4.1, Photograph,  
 14 is marked for identification.)  
 15 BY MR. CLARK:  
 16 Q. Okay. Are you cool with that, rocks  
 17 like that being strewn around the access road, no  
 18 problem with that --  
 19 MS. MULHERN: Objection to  
 20 form.  
 21 I apologize. Did I cut you  
 22 off?  
 23 BY MR. CLARK:  
 24 Q. -- or do you think it could be made  
 25 safer by back-blading and/or putting down crushed

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1 J. Randle, P.E.  
 2 stone and grading it out? Or you're perfectly  
 3 fine with that hazard?  
 4 MS. MULHERN: Objection to  
 5 form.  
 6 MS. KALOCSAY: Objection to  
 7 form.  
 8 BY MR. CLARK:  
 9 Q. And if I may go back to P-38, slide  
 10 15 and the photo there, which you testified  
 11 earlier is a good representation of a  
 12 trip-and-fall hazard on a job site that should be  
 13 prevented by following these basic safety rules  
 14 we've been talking about.  
 15 MS. MULHERN: Objection to  
 16 the form.  
 17 That was not his testimony at  
 18 all.  
 19 MS. KALOCSAY: And could you  
 20 read the question back, please.  
 21 (The following was read by  
 22 the court reporter:  
 23 "Q. And if I may go back to  
 24 P-38, slide 15 and the photo there, which you  
 25 testified earlier is a good representation of

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1 J. Randle, P.E.  
 2 a trip-and-fall hazard on a job site that  
 3 should be prevented by following these basic  
 4 safety rules we've been talking about.")  
 5 MS. TUTELO: I join in the  
 6 objections.  
 7 MR. CLARK: I'm sorry. I  
 8 don't think you read the complete question. I  
 9 think it started with, Are you cool with that.  
 10 And I think you kind of picked it up after one of  
 11 the --  
 12 THE COURT REPORTER: I didn't  
 13 realize that was part of the question, Jerry.  
 14 Forgive me. Let me go back and read it again.  
 15 (The following was read by  
 16 the court reporter:  
 17 "Q. Okay. Are you cool with  
 18 that, rocks like that being strewn around the  
 19 access road, no problem with that, or do you  
 20 think it could be made safer by back-blading  
 21 and/or putting down crushed stone and grading  
 22 it out? Or you're perfectly fine with that  
 23 hazard?")  
 24 THE WITNESS: Yeah. That  
 25 was -- that was not how I testified.

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1 J. Randle, P.E.  
 2 BY MR. CLARK:  
 3 Q. So, I'm confused. You're okay with  
 4 the situation shown in P-4, photo number three,  
 5 in terms of the tripping hazards that you  
 6 requested we circled in red by his left knee and  
 7 rocks like that being strewn about the access  
 8 road. You're okay with that? Or should it have  
 9 been made safer by back-blading the area or  
 10 bringing in proper crushed stone for a roadway or  
 11 removing them? Or you're fine with the way it  
 12 is?  
 13 A. Yeah. I mean --  
 14 Q. You don't view that as a hazard?  
 15 MS. KALOCSAY: Objection to  
 16 form.  
 17 MS. MULHERN: Objection to  
 18 form.  
 19 THE WITNESS: Yeah. I mean  
 20 this is not a hazardous condition. This  
 21 is -- this is pretty common on project sites.  
 22 And the way I read the  
 23 depositions was that there was a constant effort  
 24 to try and level this area off, which is  
 25 reasonable. You know, there's -- you can't

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1 J. Randle, P.E.  
2 expect someone to be the rock police and stop  
3 things. It's why you have competent people on  
4 projects sites that are trained to be made aware  
5 of common construction occurrences like, you  
6 know, wash racks.  
7 So, you know, there's -- like  
8 I said, there was -- this is -- what -- the  
9 condition that I'm seeing is reasonable. It's a  
10 clean site. You know, you can't -- you can't get  
11 away from the wash rack requirement.  
12 There's -- as you can see, I  
13 mean, Hoiland had a load of rebar being pulled  
14 onto the project. At what point do you, you  
15 know, stop the work and clean this off?  
16 I mean, what I've read from  
17 the depositions is it was a constant attempt to  
18 try to make this area even better than it was.  
19 And that's reasonable.  
20 I mean, like I said, I -- the  
21 different parties, the different -- the  
22 contractor, the owner, you know, this -- this  
23 situation, these circumstances with this area is  
24 not unexpected on project sites. That's why  
25 construction standard of care is different than a

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1 J. Randle, P.E.  
2 sidewalk. You know, this isn't a sidewalk.  
3 BY MR. CLARK:  
4 Q. When you said this is reasonable,  
5 this is a clean site, we had up P-4. And, so,  
6 when answering that question when you said this  
7 is reasonable, this is a clean site, you were  
8 referring to the photo two in P-4. Is that  
9 right?  
10 A. Yes. Yeah. This does not cause me  
11 alarm.  
12 Q. Does it cause you any concern from a  
13 safety perspective?  
14 MS. KALOCSAY: Objection to  
15 form.  
16 THE WITNESS: Again, what I'm  
17 seeing in terms of that project site is generally  
18 clean. It's -- you know, it's reasonable, the  
19 condition that it was in. It's what I would  
20 expect. Probably -- you know, this -- this does  
21 not cause, you know, uneasiness in any way. No.  
22 BY MR. CLARK:  
23 Q. Now, when you said something to the  
24 effect that all construction sites are like this,  
25 did you mean all construction sites that you were

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1 J. Randle, P.E.  
2 in charge of were like this or all construction  
3 sites in the US or all construction sites in  
4 Jersey?  
5 How do you have this  
6 universal knowledge of what all construction  
7 sites are like?  
8 MS. MULHERN: Objection to  
9 the form.  
10 THE WITNESS: I apologize if  
11 I said all. I don't know if I remember saying  
12 that. But this is a construction site. These  
13 are construction professionals. They're building  
14 complicated projects and they're using  
15 specialized workers. And they had a program in  
16 place. So --  
17 BY MR. CLARK:  
18 Q. What does it matter that it's a  
19 construction site?  
20 Are you saying that people  
21 that work on construction sites should not expect  
22 safe conditions, including safe walkways and work  
23 areas?  
24 What does it matter that it's  
25 a construction site?

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1 J. Randle, P.E.  
2 A. Hoiland should have expected the  
3 condition of this project site. That's what I'm  
4 saying. And it is different. Construction sites  
5 are different than a sidewalk.  
6 Q. So, he should expect that on a  
7 construction site, despite all the things that we  
8 went through today including the site-specific  
9 safety manual, P-37, which was AJD's safety  
10 orientation, that despite all that, he should  
11 expect that an access road is going to have  
12 fist-size or six-inch-size chunks of concrete  
13 strewn about the walking area that you testified  
14 can be a tripping hazard? He should expect that?  
15 MS. MULHERN: Objection to  
16 form.  
17 MS. KALOCSAY: Join.  
18 MS. MULHERN: You can answer.  
19 THE WITNESS: This isn't  
20 unexpected, what's -- what this site  
21 appears -- you know, how these pictures show the  
22 site. He should expect -- you know, again, yeah.  
23 There -- there's active construction.  
24 BY MR. CLARK:  
25 Q. Is this the kind of thing, it should

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1 J. Randle, P.E.  
 2 be expected because the site superintendent for  
 3 the general contractor has no safety training and  
 4 the person most knowledgeable in construction  
 5 site safety for the developer has no safety  
 6 training? Is that why --  
 7 MS. MULHERN: Objection --  
 8 BY MR. CLARK:  
 9 Q. -- they should expect that?  
 10 A. No.  
 11 MS. TUTELO: Objection to  
 12 form.  
 13 MS. MULHERN: Objection to  
 14 form.  
 15 MS. KALOCSAY: Join.  
 16 THE WITNESS: No.  
 17 BY MR. CLARK:  
 18 Q. Now, are you aware that this worker  
 19 had a successful career in ironworking and hasn't  
 20 been able to work a day since this happened? Are  
 21 you aware of that?  
 22 MS. MULHERN: Objection to  
 23 form.  
 24 MS. KALOCSAY: Objection to  
 25 form.

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1 J. Randle, P.E.  
 2 MS. TUTELO: Objection to  
 3 form.  
 4 THE WITNESS: No. No. He  
 5 was a construction professional on a construction  
 6 site. He was a competent person. I don't know  
 7 that he -- you know, after the incident, kind of  
 8 my analysis and --  
 9 BY MR. CLARK:  
 10 Q. But don't you take into account the  
 11 level of harm of a hazard when you're analyzing a  
 12 safety situation on a construction site?  
 13 Don't you take into  
 14 account --  
 15 MS. KALOCSAY: Objection to  
 16 form.  
 17 BY MR. CLARK:  
 18 Q. -- kind of the harm that could happen  
 19 or did happen when you're determining  
 20 reasonableness?  
 21 MS. KALOCSAY: Objection to  
 22 form.  
 23 MS. MULHERN: Objection to  
 24 form.  
 25 MS. TUTELO: Join.

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1 J. Randle, P.E.  
 2 MS. MULHERN: You can answer.  
 3 THE WITNESS: Sure. You  
 4 know, defining a dangerous condition, part of the  
 5 definition includes, you know, level of harm.  
 6 This -- you know, yes. Sure.  
 7 But, again, you know, could  
 8 happen versus did happen. My analysis ends  
 9 basically on the fall. You know, after the fact  
 10 it's -- as you know, that doesn't really play  
 11 into my opinions.  
 12 BY MR. CLARK:  
 13 Q. So, the harm that actually happened  
 14 or the harm that could happen did not factor into  
 15 your opinions on this case?  
 16 MS. KALOCSAY: Objection to  
 17 form.  
 18 MS. MULHERN: Objection to  
 19 form.  
 20 BY MR. CLARK:  
 21 Q. Is that correct?  
 22 A. No. There's -- you're asking two  
 23 different things.  
 24 Again, I've said it for the  
 25 third time now. My analysis ended when

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1 J. Randle, P.E.  
 2 Mr. Hoiland had his incident.  
 3 Could happen, yes. That's  
 4 why standards are in place. Standards are in  
 5 place to account for reasonable risk on projects.  
 6 There's no a hundred percent safe. There just is  
 7 not. There's a level of toleration, a level of  
 8 reasonableness in what's accepted in the  
 9 industry. And this particular incident, having a  
 10 competent person on a relatively clean project  
 11 site, is acceptable, acceptable risk.  
 12 Q. Where in the job site safety manual,  
 13 in any section or in Section 8.13 about  
 14 maintaining safe walking and working surfaces,  
 15 including areas dug up by earth-moving equipment,  
 16 where does it say a fist-size rock or fist-size  
 17 rocks or six-inch-long rocks strewn about an  
 18 access road where workers are walking and have to  
 19 walk to get around the site and do their job and  
 20 feed their families, where does it say in there  
 21 that that condition is acceptable?  
 22 MS. TUTELO: Objection to  
 23 form.  
 24 MS. MULHERN: Objection to  
 25 form.

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1 J. Randle, P.E.  
2 BY MR. CLARK:  
3 Q. It seems to say the opposite. It  
4 says that they have to be maintained clean, as  
5 far as possible debris has to be removed.  
6 Where does it say that a  
7 fist-size or six-inch-large piece of demolition  
8 debris, concrete rock in an access road where  
9 people have to walk is acceptable? Where does it  
10 say that in there or anywhere?  
11 MS. KALOCSAY: Objection to  
12 form.  
13 MS. MULHERN: Objection to  
14 form.  
15 MS. TUTELO: Objection to  
16 form.  
17 THE WITNESS: Yeah. I'm glad  
18 you're cleaning this up because --  
19 BY MR. CLARK:  
20 Q. No pun intended that you're glad  
21 we're cleaning it up.  
22 A. Sorry. How that word -- how that  
23 safe word is defined in that document, I didn't  
24 write that document. So, you'd be better asking  
25 the writer of that document.

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1 J. Randle, P.E.  
2 Q. Well, does it say it in there  
3 anywhere to your recollection?  
4 I'll represent to you it  
5 doesn't, but maybe you have a different  
6 recollection.  
7 A. I can testify to what the document  
8 says. It says safe. What does that mean to the  
9 writer of this document? You probably have to  
10 ask them that, because I didn't write that  
11 document.  
12 Q. Do you have anything in your  
13 standards folder in your G-Suite program that  
14 says fist-size rocks or four- to six-inch-large  
15 rocks strewn about an access road on a  
16 construction site where workers have to traverse  
17 to do their jobs and feed their families is  
18 acceptable from a safety prospective?  
19 Do you have any document or  
20 standard or anything in that New York City  
21 block-size volume of construction safety  
22 standards you maintain?  
23 Is that in any of that stuff?  
24 MS. KALOCSAY: Objection to  
25 form.

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1 J. Randle, P.E.  
2 MS. MULHERN: Objection to  
3 form.  
4 THE WITNESS: No.  
5 BY MR. CLARK:  
6 Q. You don't dispute that the condition  
7 that we've been talking about from P-4 and the  
8 rocks, the concrete chunks from the demolition,  
9 you don't dispute that this was a common  
10 condition on the site; do you?  
11 MS. KALOCSAY: Objection to  
12 form.  
13 MS. MULHERN: Join.  
14 You can answer.  
15 MS. TUTELO: Join.  
16 THE WITNESS: Your question  
17 is is that condition -- is this condition I'm  
18 looking at in photo three on P-4.1, is that the  
19 condition on the project site? Yes.  
20 BY MR. CLARK:  
21 Q. Okay. Healy testified at 145 to 148  
22 and 149 to 150 that it was a common condition.  
23 Jeff Jacuk testified to that at pages 14 to 17.  
24 Dave Vill testified at 44 to 46 that it was  
25 common on the job site. We went over that.

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1 J. Randle, P.E.  
2 Do you dispute any of that  
3 testimony that it was a common condition?  
4 A. I don't.  
5 Q. Are you aware that there is testimony  
6 in the case --  
7 Well, first of all, Dan  
8 Graham, he was the project manager for AJD. Is  
9 that right?  
10 A. No. The project manager was Healy, I  
11 believe. I can check it. Hold on.  
12 Q. Who is Graham? We've got to get that  
13 right. We know he worked for AJD.  
14 Oh, was he the -- was he the  
15 vice-president of construction?  
16 A. Graham was assistant superintendent.  
17 Q. Yeah. Okay.  
18 In any event, are you aware  
19 of the testimony in the case that complaints were  
20 made to Graham prior to this incident about  
21 workers rolling their ankles on rocks throughout  
22 the job site and that Graham did not deny those  
23 complaints were made to him? He talked about  
24 that at pages 29 to 30 of his deposition --  
25 MS. KALOCSAY: Objection --

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1 J. Randle, P.E.  
 2 Sorry.  
 3 BY MR. CLARK:  
 4 Q. -- and 34 to 35?  
 5 MS. KALOCSAY: Objection to  
 6 form.  
 7 MS. MULHERN: Objection to  
 8 form.  
 9 THE WITNESS: You know, the  
 10 file speaks for itself. I mean, you can pull up  
 11 the deposition and I can confirm that's what it  
 12 says.  
 13 BY MR. CLARK:  
 14 Q. So, I am doing that. We're going to  
 15 pull up some depositions, in case you were  
 16 wondering.  
 17 A. Can I take a couple of minutes and  
 18 grab some water?  
 19 Q. Of course. Anytime you need a break,  
 20 just tell us.  
 21 A. All right. Thanks.  
 22 MS. MULHERN: Go ahead.  
 23 (A short recess is taken.)  
 24 BY MR. CLARK:  
 25 Q. Okay. So, we're at page 166, Don

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1 J. Randle, P.E.  
 2 Hoiland's deposition. And he said at line ten --  
 3 I'm just going to paraphrase it. And if you  
 4 think my paraphrasing is unfair or something,  
 5 just say so.  
 6 But we're at page 166, line  
 7 ten. When did you bring the condition to AJD's  
 8 knowledge?  
 9 And he said it would have  
 10 been right in the first couple of days he was on  
 11 the site. He's walking around with Dan Graham  
 12 identifying things. And we were trying to  
 13 traverse with the large rocks and everything that  
 14 were protruding and loose.  
 15 Why did you bring it to his  
 16 knowledge?  
 17 We've had rocks fall out from  
 18 underneath us. He said, Hey, we should do  
 19 something about this because someone is going to  
 20 end up twisting an ankle or who knows what could  
 21 happen.  
 22 Why did you ask him?  
 23 Because they were the  
 24 authority on the site, that being AJD. They had  
 25 the ultimate responsibility.

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1 J. Randle, P.E.  
 2 This questioning continues  
 3 through 170.  
 4 When you brought it to  
 5 Graham's attention, tell us as best you can what  
 6 you said to him and what he said to you.  
 7 And he describes the  
 8 condition, the rocks falling underneath our feet.  
 9 Everything he mentioned needs to get corrected.  
 10 My guys have a lot of rebar that they're carrying  
 11 around through here. If their footing isn't  
 12 good, they can end up falling carrying the rebar,  
 13 heavy metal. It can do a lot of damage not just  
 14 to them but to someone else that might be nearby  
 15 in the way.  
 16 And then after you  
 17 complained, was anything done to fix the  
 18 condition?  
 19 No.  
 20 And then he made a second  
 21 complaint. Yes. It was pretty much a weekly  
 22 occurrence that we're walking through the job  
 23 site. He brought the rock condition to AJD's  
 24 attention multiple times. And that's up to 170.  
 25 And then it comes up again at page 210 in his

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1 J. Randle, P.E.  
 2 deposition.  
 3 (Pause.)  
 4 I'm just not done the  
 5 question yet. I'm looking.  
 6 Okay. The question is did  
 7 you see that kind of part of the testimony from  
 8 Don Hoiland?  
 9 MS. MULHERN: Objection to  
 10 form.  
 11 You can answer.  
 12 THE WITNESS: I did -- I  
 13 remember reading Hoiland's testimony and he did  
 14 make some other statement.  
 15 BY MR. CLARK:  
 16 Q. And looking at Graham's deposition,  
 17 are you aware that he did not deny at his  
 18 deposition that those complaints were made to  
 19 him?  
 20 MS. KALOCSAY: Objection to  
 21 form.  
 22 MS. TUTELO: Objection.  
 23 THE WITNESS: I think the  
 24 file speaks for itself. I don't have an opinion  
 25 there.

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1 J. Randle, P.E.  
2 BY MR. CLARK:  
3 Q. Well, we're not asking for an  
4 opinion. We're asking if you're aware that he  
5 did not deny that in his deposition testimony  
6 when he was asked about it at page 29, Weren't  
7 there at least one or more than one occasion  
8 where Don was walking the job site with you,  
9 talking to you about the conditions and the  
10 hazards? Do you remember any conversation like  
11 that?  
12 Answer: I don't recall.  
13 You don't recall one way or  
14 the other?  
15 I don't recall that specific  
16 incident where I said I would see what I could  
17 do.  
18 And then he testifies at page  
19 30, at line ten -- I'm sorry. You know what, I  
20 thought I was sharing the screen. I forget that  
21 sometimes. Now I'm sharing the screen.  
22 At page 30 of Graham, line  
23 ten, Question: As you sit here today, are you  
24 under oath denying that such a conversation ever  
25 took place?

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1 J. Randle, P.E.  
2 Answer: No.  
3 Do you see that testimony?  
4 A. I see that testimony.  
5 Q. Okay. Do you have anything in your  
6 file to dispute that he received such complaints  
7 about the conditions we have been speaking about?  
8 Do you have anything in your  
9 file that says that didn't happen?  
10 A. That he didn't complain?  
11 Besides what you just read, I  
12 don't remember. I think there's some  
13 contradicting testimony about the condition of  
14 the road in the statement made to AJD. I know  
15 there is. That was in my report.  
16 But I don't think anyone has  
17 come out -- besides Graham and Hoiland, I'm not  
18 sure anyone else would come out and say the  
19 conversations didn't happen between the two of  
20 them.  
21 Q. So, Hoiland testified to what we just  
22 paraphrased there.  
23 We specifically asked Graham,  
24 Are you denying that he made those complaints to  
25 you? And he testified no, he was not denying the

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1 J. Randle, P.E.  
2 conversation ever took place.  
3 The question for you is are  
4 you aware of anything in the file that disputes  
5 or goes against Hoiland's testimony that he  
6 complained --  
7 MS. KALOCSAY: Objection to  
8 form.  
9 BY MR. CLARK:  
10 Q. -- about the condition.  
11 A. No. To Graham, no.  
12 Q. Okay.  
13 MS. KALOCSAY: Jerry, what  
14 was the first page that you read? What were the  
15 page numbers of that in Graham's testimony?  
16 MR. CLARK: 29 to 30.  
17 MS. KALOCSAY: All right.  
18 Thank you.  
19 BY MR. CLARK:  
20 Q. And there's also testimony from  
21 Hoiland --  
22 Or strike that.  
23 Now, you said that you ran  
24 construction sites before your time with Robson.  
25 A. Yes.

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1 J. Randle, P.E.  
2 Q. So, if you were a site supervisor on  
3 this job or a project manager for AJD or for the  
4 developer, Grand LHN, and a worker on the job  
5 made those complaints to you about the condition  
6 that we've been speaking about, would you have  
7 done anything about it such as have the area  
8 back-bladed or have gravel put in to make it a  
9 uniform surface?  
10 MS. KALOCSAY: Objection to  
11 form.  
12 MS. MULHERN: Objection to  
13 form.  
14 You can answer.  
15 THE WITNESS: Yeah. You  
16 asked me about two different roles. As the  
17 owner, I would tell him to go talk to somebody  
18 else, if someone approached me like that.  
19 And I think Hoiland himself  
20 said he never approached Grand LHN. He didn't  
21 know who they were. He wouldn't interact with  
22 them.  
23 If someone made a complaint  
24 on a project, you know, generally as who I was, I  
25 would -- I would let the superintendent know or



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1 J. Randle, P.E.  
 2 the assistant supers know and, you know, we would  
 3 deal with it, which it sounds like, you know, AJD  
 4 was regularly trying to clean up the area, as I  
 5 would expect.  
 6 And, so, yeah, I mean, if  
 7 there's -- if there's cause for concern, we would  
 8 treat it as an action item.  
 9 BY MR. CLARK:  
 10 Q. Okay. In the beginning of your  
 11 answer to that question, you said if you were the  
 12 developer and a worker came to you, you would  
 13 say, Go talk to someone else?  
 14 A. I mean, I'm not -- I'm not there to  
 15 direct the worker or the trucks or the blading or  
 16 the stones. You know, I would -- I would have  
 17 directed him towards the appropriate folks on the  
 18 prong who were the controlling contractor, you  
 19 know, the controlling employer on the project. I  
 20 was not -- that's not me as the owner.  
 21 Q. Well, are you aware that Joe Punia  
 22 had an office on-site, like, just steps away from  
 23 where the incident happened at the access road?  
 24 Are you aware of that?  
 25 MS. MULHERN: Objection to

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1 J. Randle, P.E.  
 2 form.  
 3 You can answer.  
 4 THE WITNESS: I believe they  
 5 had a trailer there, sure. It's not surprising.  
 6 You know, as an owner, I'd want a place to sit as  
 7 well that was my own space. That's pretty  
 8 common.  
 9 BY MR. CLARK:  
 10 Q. And if you were the head guy, the  
 11 person most knowledgeable in the duties and  
 12 responsibilities of the developer on the job and  
 13 the person most knowledgeable in construction  
 14 site safety for the job and, you know, a project  
 15 manager or running the job for the developer and  
 16 a worker came to you about a situation, a hazard  
 17 on the job that he was concerned could cause  
 18 serious injury to workers or others that come on  
 19 the job, you would say, Go talk to someone else,  
 20 you wouldn't take any action?  
 21 MS. MULHERN: Objection to  
 22 form.  
 23 THE WITNESS: I'd direct him  
 24 to the appropriate stakeholders, team members on  
 25 the project, which would be the general

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1 J. Randle, P.E.  
 2 contractor.  
 3 BY MR. CLARK:  
 4 Q. Do you think back-blading the area  
 5 shown in P-4 or bringing in some crushed stone  
 6 like is shown in P-35, if that was brought in, in  
 7 the area shown in P-4, do you think that would  
 8 make it more safe and help to eliminate the  
 9 hazards that we've been talking about of these  
 10 rocks and debris in the roadway?  
 11 Do you think that would help  
 12 to make it more safe?  
 13 MS. MULHERN: Objection to  
 14 form.  
 15 You can answer.  
 16 THE WITNESS: In concept,  
 17 sure. That's not how the facts played in this  
 18 case.  
 19 And you keep saying  
 20 back-blading. They had a roller there and I  
 21 think that's what they were doing, you know. The  
 22 site was generally rolled pretty tight, from what  
 23 I can see. And these stones are for the wash  
 24 rack.  
 25 BY MR. CLARK:

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1 J. Randle, P.E.  
 2 Q. "These stones" being the stones on  
 3 P-35. Correct?  
 4 A. Yeah, it appears. Yep. And there's  
 5 your drain. You wash your truck tires. And  
 6 those stones as well look like the size that  
 7 were, you know, next to Hoiland's knee. Again, a  
 8 certain size aggregate.  
 9 Q. How about the stones in P-36? Any  
 10 reason stones like that couldn't have been laid  
 11 down to make a more uniform surface to eliminate  
 12 those tripping hazards we've been speaking about?  
 13 A. Yeah. I mean, like I said,  
 14 anything's possible.  
 15 Was there anything preventing  
 16 them? No. Was there anything preventing them  
 17 from putting down a roadway? Probably not.  
 18 Maybe there was with the NDPS.  
 19 But, no, I mean, like I said,  
 20 anything's possible.  
 21 Q. But we agreed early on that we  
 22 weren't going to talk about possibilities; we  
 23 were going to talk about probabilities and  
 24 reasonable estimates. Remember?  
 25 A. Yeah. I feel like maybe you broke

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1 J. Randle, P.E.  
2 that agreement. But, yes.  
3 Q. Well, when you say I broke the  
4 agreement, what do you mean?  
5 Did I ask you to give an  
6 opinion about possibilities at some point?  
7 A. You just said could it be safer. You  
8 know, would it be possible to be safer. You can  
9 paraphrase it.  
10 Q. Oh, I'm sorry. Let's have my  
11 question read back and see if I said could it  
12 possibly have been made safer as you just  
13 testified I said.  
14 MR. CLARK: Dolores, can we  
15 please read back the question that the witness  
16 was referencing, which was one or two questions  
17 ago.  
18 (The following was read by  
19 the court reporter:  
20 "Q. How about the stones in  
21 P-36? Any reason stones like that couldn't  
22 have been laid down to make a more uniform  
23 surface to eliminate those tripping hazards  
24 we've been speaking about?")  
25 BY MR. CLARK:

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1 J. Randle, P.E.  
2 Q. Okay. So, the question having been  
3 read back, there was nothing asking you about  
4 possibilities in there.  
5 Was there another question  
6 that I asked you to opine about possibilities?  
7 Because you said that I broke our agreement on  
8 that.  
9 A. No. Again, I'm sorry.  
10 Q. You don't have to apologize. It's a  
11 long day and we all make mistakes. Certainly I'm  
12 guilty of that. I just wanted to make sure that  
13 we were clear on stuff.  
14 A. Okay. Could anything be made safer?  
15 Yes. I've said this multiple times. There is no  
16 hundred percent safe. You know, you put down  
17 layers of stone and other things start happening.  
18 You know, what was on that  
19 project was reasonable. That was my purpose, to  
20 give an opinion about the different parties and  
21 how they acted. And, you know, to sit here  
22 conceptually and talk about certain size stones  
23 and where they go and what it would mean -- could  
24 it be safer? Anything could be safer.  
25 Q. Sir, when we go back to -- let's make

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1 J. Randle, P.E.  
2 sure we get the correct one, which would be P-37.  
3 When we go back to P-37,  
4 which was AJD's safety orientation PowerPoint,  
5 you agreed that the core principles of making job  
6 sites safe is to identify hazards and then  
7 eliminate the hazard. And if the hazard can't be  
8 eliminated, then it should be managed. Right?  
9 A. Okay.  
10 Q. Okay. And one way to eliminate the  
11 hazard that you testified to earlier when we were  
12 speaking about the rocks in P-4, including the  
13 rocks shown in P-4, photo number two, as you see,  
14 the one to the lower part of his left foot in  
15 photo number two of P-4 and the one by his left  
16 knee, when we talk about -- when we talk about  
17 those hazards, is one way of eliminating that  
18 hazard would be to spread the kind of rock that  
19 is shown in P-36 near the administrator's  
20 trailer?  
21 Would you agree with that,  
22 that that would be one way to eliminate that  
23 hazard?  
24 MS. MULHERN: Objection to  
25 form.

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1 J. Randle, P.E.  
2 You can answer.  
3 THE WITNESS: Yeah. Without  
4 defining further parameters, I don't -- I  
5 can't -- I can't make that statement.  
6 BY MR. CLARK:  
7 Q. I don't understand your testimony  
8 there.  
9 You talked earlier about the  
10 rocks in the access road and P-4 which were  
11 similar to the ones in P-34.  
12 And the question is if you  
13 put gravel down like is shown in P-36, do you  
14 think that would have helped to eliminate the  
15 hazard of those rocks?  
16 MS. MULHERN: Objection to  
17 form.  
18 MS. KALOCSAY: Join in the  
19 objection.  
20 MS. MULHERN: You can answer.  
21 BY MR. CLARK:  
22 Q. I mean, just look at P-36, where they  
23 put the rocks down so they had a nice surface  
24 near their administrator's trailer, but stopped  
25 it there. And you can basically see, like,

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1 J. Randle, P.E.  
 2 there's the one area there and here's the other  
 3 area. And in this area where all the gravel is  
 4 you don't see any of the rocks sticking up  
 5 (indicating).  
 6 There's a couple here at the  
 7 edge which you can see. But for the most part in  
 8 there, it looks like a uniform surface. Right?  
 9 In P-36, the fourth photo, the last page  
 10 (indicating).  
 11 A. Okay.  
 12 Q. So, the question is would that be one  
 13 way to eliminate the hazard we've been talking  
 14 about, to spread gravel?  
 15 MS. MULHERN: Objection to  
 16 the form.  
 17 You can answer.  
 18 MS. KALOCSAY: Join in the  
 19 objection.  
 20 THE WITNESS: You know,  
 21 that's -- I -- I don't have an opinion there.  
 22 BY MR. CLARK:  
 23 Q. Well, I thought you were being  
 24 offered as a safety expert in this case to talk  
 25 about the hazard and eliminating the hazard.

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1 J. Randle, P.E.  
 2 But, okay, you don't have an  
 3 opinion. That's fine.  
 4 A. Like I said, you know, like we kind  
 5 of stum -- like you stumbled through this whole  
 6 safe conversation with me, you need to define  
 7 what that -- how that -- you need to define the  
 8 parameters of what we're talking here.  
 9 Q. When you said "stumbled through the  
 10 safe conversation," were you are intending a pun  
 11 there?  
 12 A. I guess it was just the front of  
 13 my -- in the front of my brain.  
 14 No. It's not -- like I said,  
 15 I wouldn't expect there to be stone across the  
 16 whole project. It's just not how it works.  
 17 Q. I'm sorry. You testified earlier you  
 18 agreed it was a common condition throughout the  
 19 project. And because you agreed to that, we  
 20 didn't go over Healy's deposition, at 145 to 148  
 21 and 149 to 150, where he said it was a common  
 22 condition on the job site and at 150 where he  
 23 said if he saw a rock, he would kick it out of  
 24 the way.  
 25 I guess that was his constant

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1 J. Randle, P.E.  
 2 hazard surveillance that he talked about, that if  
 3 he saw a rock, he would kick it out of the way.  
 4 And Jacuk testified at 14 to  
 5 17 it was a common condition on the project.  
 6 Dave Vill at 44 to 46 testified to that. Even  
 7 Esposito, who swore under oath in his answers to  
 8 interrogatories that he has no idea of what  
 9 happened. He doesn't have any version of the  
 10 incident. But then when he testified at his  
 11 deposition, he gave a version which he claims to  
 12 have had before he swore under oath he knew  
 13 nothing about the incident. Even that person  
 14 testified at pages 43 to 44 and 116 of his  
 15 deposition that it was a common occurrence on the  
 16 job site.  
 17 So, my question is are you  
 18 now changing your earlier testimony from today  
 19 where you agreed that the condition we've been  
 20 speaking about was a common condition?  
 21 MS. KALOCSAY: I'm objecting  
 22 to the form of the question. And I'm going to  
 23 ask that you read that back, because that's  
 24 probably one of the longest questions I've ever  
 25 heard.

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1 J. Randle, P.E.  
 2 MR. CLARK: Okay. I'm going  
 3 to withdraw the question and ask --  
 4 MS. KALOCSAY: That's  
 5 really --  
 6 MR. CLARK: Okay. I'm going  
 7 to ask a different question.  
 8 BY MR. CLARK:  
 9 Q. Do you recall testifying earlier that  
 10 you agreed it was a common condition on the job  
 11 site?  
 12 MS. MULHERN: Objection to  
 13 form.  
 14 Jerry, can you just clarify,  
 15 when you say "it," just can you clarify what you  
 16 are referring to? Because I think that we're  
 17 getting a little confused with what we're talking  
 18 about here.  
 19 BY MR. CLARK:  
 20 Q. Okay. I'm going to withdraw the  
 21 pending question. And let's focus on Dave Vill's  
 22 deposition testimony at pages 45 to 46.  
 23 And this is where he was  
 24 asked -- and we went over this earlier -- Why  
 25 were these rocks permitted to be on the job? Why

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1 J. Randle, P.E.  
2 weren't they graded off? Why didn't you have  
3 someone pick them up or why didn't you bring --  
4 And then he interrupts and  
5 says, It's part of the fill, sir. The rocks are  
6 part of the fill. They're part of the job. The  
7 rocks are part of the fill. Like I said, the job  
8 was a demo site. The material that was used on  
9 the site was part of the material that was  
10 crushed. We went over that testimony.  
11 We went over Don Hoiland's  
12 testimony where he testified beginning at page  
13 165 about how he would walk the site with Dan  
14 Graham and complain to him about the rocks and  
15 that it was a hazard because, you know, someone's  
16 going to end up twisting an ankle or who knows  
17 what could happen.  
18 So, my question to you is are  
19 you now disputing that that was a common  
20 condition on the job site?  
21 MS. MULHERN: Objection to  
22 form.  
23 MS. KALOCSAY: Join.  
24 THE WITNESS: Yeah. I mean,  
25 what you just said, no, I'm not.

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1 J. Randle, P.E.  
2 But you were talking about  
3 putting stone across the whole multiple-acre site  
4 as something that should happen. And I disagree  
5 with that.  
6 BY MR. CLARK:  
7 Q. Well, the whole site is a different  
8 story and we can talk about that.  
9 Because do you know why -- do  
10 you know why they use the demolished concrete as  
11 fill instead of carting it off the site and  
12 bringing in import fill? Do you know why they  
13 did that?  
14 MS. MULHERN: Objection to  
15 form.  
16 THE WITNESS: I have an  
17 opinion or, I mean, I've been involved in  
18 developing New Jersey projects. New Jersey  
19 generally wants you to reuse materials on-site.  
20 They don't want them to be carted off-site if  
21 possible.  
22 BY MR. CLARK:  
23 Q. Does cost go into that at all in this  
24 case?  
25 MS. MULHERN: Objection to

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1 J. Randle, P.E.  
2 form.  
3 THE WITNESS: Cost in  
4 environmental impact.  
5 BY MR. CLARK:  
6 Q. No, but cost.  
7 Like, doesn't it cost money  
8 to cart the material off-site and then import  
9 material instead?  
10 A. It costs more to export materials  
11 than to crush them and keep them on-site.  
12 Q. Okay.  
13 A. And it's also more environmentally  
14 friendly for crushed materials to be reused on  
15 project sites.  
16 Q. Okay. Fair enough.  
17 But it also saves the  
18 developer and the contractor money.  
19 If I heard you correctly, it  
20 costs more to get rid of the stuff. Right?  
21 A. Yes.  
22 Q. Okay. Because Healy from AJD about a  
23 month and two weeks after the incident sent an  
24 email to Esposito -- we didn't find any emails  
25 where they talked about the incident or

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1 J. Randle, P.E.  
2 preventing the incident or anything in that  
3 regard.  
4 But we found this email from  
5 December 15th of 2017 from Keith Healy to Matthew  
6 Esposito saying, Matt, keep in mind that AJD will  
7 be looking for a credit on line item number nine,  
8 earth work, dash, import fill.  
9 Does that -- assuming the  
10 email I just read to you is correct, does that  
11 seem to comport with your testimony that it does  
12 save them money to leave the stuff there rather  
13 than import fill?  
14 MS. MULHERN: Objection to  
15 form.  
16 You can answer.  
17 MS. TUTELO: Objection to  
18 form.  
19 THE WITNESS: I  
20 really -- I -- what you just said sort of doesn't  
21 matter to what my opinion was.  
22 It costs less to keep product  
23 on-site -- you know, concrete, crushed concrete,  
24 recycled concrete, on-site than it would be to  
25 take it off-site, especially in New Jersey.

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1 J. Randle, P.E.  
 2 They -- you know, they don't want -- local  
 3 jurisdictions don't want you to truck recycled  
 4 concrete around projects -- I mean around their  
 5 state. That's the way it is.  
 6 So, yeah. I mean, I -- you  
 7 know, it's cheaper to keep it on-site than it is  
 8 to export it.  
 9 I have no idea what  
 10 Esposito's bid was, how their agreement was  
 11 structured around this concept. I don't know how  
 12 that conversation ended up. It really doesn't  
 13 have any part of, like, my analysis.  
 14 BY MR. CLARK:  
 15 Q. When you said it's cheaper to keep it  
 16 rather than cart it off, especially in New  
 17 Jersey, did you ever see the movie Back to School  
 18 with Rodney Dangerfield?  
 19 A. Triple Lindy? Yes.  
 20 Q. Yeah. Where he says, And I don't  
 21 know if you know who runs that business, but it's  
 22 not the Boy Scouts. Do you remember that line?  
 23 A. If I'm -- it sounds right.  
 24 Q. Is that somewhat what you're talking  
 25 about in terms of it's especially expensive in

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1 J. Randle, P.E.  
 2 New Jersey --  
 3 A. No.  
 4 Q. -- carting business and all that?  
 5 A. No.  
 6 MS. MULHERN: Objection to  
 7 form.  
 8 THE WITNESS: I don't think  
 9 they have landfills. I'm talking about landfill  
 10 space in cities. Because they have to take it  
 11 out of state at times. It's expensive.  
 12 BY MR. CLARK:  
 13 Q. Oh, okay.  
 14 A. Yeah. No. New Jersey's particularly  
 15 observant of this type of thing. They do not  
 16 want truckloads of gravel running around their  
 17 state, going out of state.  
 18 Q. So, in any event, do you think laying  
 19 down gravel in the access road -- we're not  
 20 talking about the whole site. We're just talking  
 21 about the access road -- would have been a  
 22 reasonable way to make the hazard safe?  
 23 MS. MULHERN: Objection to  
 24 form.  
 25 MS. KALOCSAY: Join in the

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1 J. Randle, P.E.  
 2 objection.  
 3 MS. TUTELO: Join.  
 4 THE WITNESS: So, let me  
 5 unpack this. You're asking if they had put stone  
 6 down --  
 7 Like I said, I was  
 8 comfortable with the condition of the site. It  
 9 was rolled tight. I read that it was maintained  
 10 regularly, that it was --  
 11 So, you know, I -- could it  
 12 be safer? Again, anything is possible. Anything  
 13 could be made safer.  
 14 Having put stone down across  
 15 the project site, I really didn't consider that.  
 16 I -- I'd have to ponder this for a minute.  
 17 What thickness are we  
 18 talking? Did they roll it? Is there other  
 19 materials in it. You know, is there fabric  
 20 underneath? So, what size aggregate is it?  
 21 BY MR. CLARK:  
 22 Q. Okay. Well, we don't need to  
 23 hyper-analyze it.  
 24 A. Is it crush and run, like a CR -- you  
 25 know, some kind of CR --

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1 J. Randle, P.E.  
 2 I have a lot of questions  
 3 that I'd like some guidance on, you know, in  
 4 terms of understanding the question.  
 5 I've walked on projects where  
 6 stones -- you know, stone access roads were  
 7 challenging to walk on because the staggers were  
 8 too large.  
 9 So, like I said, based on my  
 10 review of the site, it was -- it was generally  
 11 rolled tight. It was -- you know, it was not  
 12 rutted up, which is always a good sign.  
 13 Like I said earlier, I -- the  
 14 site is generally clean and, you know, flat.  
 15 Q. So, you testified that if you were  
 16 the owner and a worker came to you and complained  
 17 about that condition, you would say, Go speak to  
 18 someone else.  
 19 Now, if you were the general  
 20 contractor or the super for the general  
 21 contractor and the worker came and complained  
 22 about the condition of the site, would you have  
 23 done anything to make it safe?  
 24 MS. MULHERN: Objection to  
 25 form.

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1 J. Randle, P.E.  
2 You can answer.  
3 THE WITNESS: Yeah. I think  
4 I already answered that. You know, I'd treat it  
5 as an action item and I would evaluate the  
6 circumstances around the complaint.  
7 BY MR. CLARK:  
8 Q. Okay. "An action item."  
9 So, what would you do to make  
10 it safe?  
11 Would you have the rocks  
12 picked up? Would you have it back-bladed? Would  
13 you have rocks put there and spread like they did  
14 so they had a nice area by their administrative  
15 trailer or something else to accomplish the  
16 action item?  
17 MS. MULHERN: Objection to  
18 form.  
19 MS. KALOCSAY: Objection to  
20 form.  
21 MS. MULHERN: You can answer.  
22 MS. TUTELO: Join.  
23 THE WITNESS: Maybe it was a  
24 circumstance where Hoiland needed to be retrained  
25 about what it means to be on a construction site

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1 J. Randle, P.E.  
2 as a construction professional.  
3 BY MR. CLARK:  
4 Q. So, your first reaction would be to  
5 blame the worker?  
6 Rather than make the  
7 condition safe and do something about it, you  
8 would say, Hoiland, you're an idiot, you need  
9 more training.  
10 That would be your response  
11 to it?  
12 MS. MULHERN: Objection to  
13 form.  
14 MS. KALOCSAY: Objection to  
15 form.  
16 BY MR. CLARK:  
17 Q. And when you say that, when we go to  
18 your hierarchy -- or AJD's hierarchy where, in it  
19 does it say -- it says identify hazard, eliminate  
20 hazard, manage hazard.  
21 But you would skip the  
22 eliminate and manage and say blame the worker?  
23 MS. KALOCSAY: Objection to  
24 form.  
25 MS. MULHERN: Objection to

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1 J. Randle, P.E.  
2 form.  
3 THE WITNESS: No.  
4 MS. TUTELO: Join.  
5 THE WITNESS: It's all  
6 about --  
7 BY MR. CLARK:  
8 Q. So, what would you do to make it  
9 safe?  
10 You said it's an action item.  
11 What would you do to make it  
12 safe?  
13 And when we talk about that,  
14 we can go to Vill's deposition, at page 44, where  
15 he said, Well, let's -- Question: Let's put  
16 the -- looking at the -- if someone complained to  
17 you in these photos in P-4, would that be your  
18 reaction, in terms of, Hey, we're not eating off  
19 this, it's a job site, let's just deal with it,  
20 or would you say we need to make it safe?  
21 And he elected to say, I  
22 would say let's get it safe.  
23 So, what would you do?  
24 MS. KALOCSAY: Objection to  
25 form.

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1 J. Randle, P.E.  
2 MS. MULHERN: Objection to  
3 form.  
4 MS. TUTELO: Join.  
5 THE WITNESS: Okay. So,  
6 again, we're talking the possibility of a worker  
7 coming to me and saying, Let's make it safe, and  
8 the fact that you're suggesting that nothing was  
9 done on a regular basis to maintain the road.  
10 Is that sort of make-believe  
11 we're going on or where are we --  
12 BY MR. CLARK:  
13 Q. Well --  
14 A. Like I said, I would -- you know, my  
15 evaluation of the project was that the site was  
16 clean, the site was rolled.  
17 If you step -- if you go back  
18 to AJD's slide show, step three is the  
19 management. Again this is all levels of  
20 reasonableness. To eliminate the hazard what  
21 does it take?  
22 Well, you know, part of it is  
23 managing any kind of potential hazard. And like  
24 I've said in my report, it hasn't been proven  
25 that this was a hazardous condition.

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1 J. Randle, P.E.  
 2 So, what do we do. We -- you  
 3 know --  
 4 BY MR. CLARK:  
 5 Q. Well, maybe at the time your report  
 6 was written, it wasn't proven it's a hazardous  
 7 condition. But we now have sworn testimony from  
 8 you talking about the hazardous condition. So,  
 9 maybe that's where your supplemental reports come  
 10 in.  
 11 But in any event, go ahead, I  
 12 apologize for --  
 13 MS. MULHERN: Objection to  
 14 form --  
 15 MS. KALOCSAY: Objection.  
 16 MS. TUTELO: Objection.  
 17 MS. MULHERN: -- to whatever  
 18 that was.  
 19 And, also, please let  
 20 Mr. Randle finish his complete response.  
 21 THE WITNESS: Yeah. I never  
 22 said the area where Hoiland fell was a hazardous  
 23 condition.  
 24 BY MR. CLARK:  
 25 Q. Yes, you did. You had me circle the

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1 J. Randle, P.E.  
 2 rock in P-4, which we did, and created a new  
 3 exhibit for you because you said, yes, that's a  
 4 tripping hazard. And we circled it. And you  
 5 said a four- to six-inch-large rock could be a  
 6 tripping hazard. So --  
 7 MS. MULHERN: Objection.  
 8 MS. KALOCSAY: Objection. It  
 9 completely misrepresents the testimony.  
 10 MS. MULHERN: Objection to  
 11 form.  
 12 BY MR. CLARK:  
 13 Q. See, this is where the whole client  
 14 thing comes in. Like, you know, Robson, clients,  
 15 you want to help your clients. You started off  
 16 by saying, I'm defending the owner here today.  
 17 So, when confronted with  
 18 these facts, you become mindful of, Oh, who is my  
 19 client, who am I defending, as opposed to --  
 20 that's where also the prior reports thing comes  
 21 in. Like, we want to get the prior reports and  
 22 kind of compare because, like you say, it's all  
 23 about a fact-finding mission.  
 24 So, you'll have to -- at  
 25 trial, when we have this picture up in front of

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1 J. Randle, P.E.  
 2 the jury and you testify under oath that that's  
 3 clean and good, you know, the jury gets to  
 4 evaluate that testimony and credibility.  
 5 MS. KALOCSAY: Was that a  
 6 question --  
 7 MS. MULHERN: No. There's no  
 8 question pending.  
 9 MS. KALOCSAY: -- or just a  
 10 statement? That was just a statement? Oh, okay.  
 11 MR. CLARK: It sounds like it  
 12 was bickering with the witness, actually. So,  
 13 yes.  
 14 MS. KALOCSAY: There you go;  
 15 you got that.  
 16 MR. CLARK: I don't think  
 17 bickering with the witness qualifies as a  
 18 question. But I digress.  
 19 BY MR. CLARK:  
 20 Q. So, let's just go back and try to get  
 21 back on track here.  
 22 So, Vill says if he were  
 23 confronted with -- because Hoiland complained to  
 24 Graham, Graham did not deny he complained to him.  
 25 And Vill says, I would say let's get it safe.

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1 J. Randle, P.E.  
 2 And as far as I understand  
 3 your testimony, you would say, Let's blame the  
 4 worker and tell him he needs more training.  
 5 Did we get that wrong or  
 6 would you do --  
 7 A. You got that wrong.  
 8 MS. MULHERN: Objection to  
 9 form.  
 10 BY MR. CLARK:  
 11 Q. Okay. So, what would you do?  
 12 A. So, again, you asked me this before  
 13 this little diatribe here. And what I said was  
 14 as a construction professional, I'd create an  
 15 action item and, you know, I would evaluate what  
 16 was happening on the project.  
 17 Q. Okay. Then what?  
 18 Would you eliminate those  
 19 rocks by ordering it to be bladed or --  
 20 A. Okay. So, like I said in my report,  
 21 for you to -- for it to be stated somehow that  
 22 there's someone who is going to be catching rocks  
 23 as rocks are rolled over by semis, like the truck  
 24 that Hoiland was walking down the site showing  
 25 where to go, if your contention is that someone

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1 J. Randle, P.E.  
2 needs to be there to rake rocks all day, that's  
3 not reasonable. That's not a standard. Okay?  
4 What is a standard is the  
5 fact that we have a safe -- safety program, we  
6 have competent people, we train -- the people  
7 were trained on-site, including Hoiland. Hoiland  
8 was a trainer himself. So, the proper people  
9 were engaged on this project to perform the work.  
10 And, you know, that's part of  
11 managing -- managing the potential hazard.  
12 Right? There's no 100 percent safe. There  
13 isn't. But there's levels of reasonableness is  
14 what happens on projects.  
15 So, like I said, what I'm  
16 seeing on this project, Grand LHN, the other  
17 participants acted reasonably.  
18 BY MR. CLARK:  
19 Q. That's very nice.  
20 But the question is what  
21 would you do?  
22 Vill said he would make it  
23 safe.  
24 What would you do?  
25 You're talking about

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1 J. Randle, P.E.  
2 reasonableness and Grand LHN and trying to rehash  
3 your opinions in your report. But we're looking  
4 for an answer to this question. Vill answered  
5 it. He said, I would say let's get it safe. You  
6 said, I would make an action item. But we're now  
7 trying to find out what that action item would  
8 be.  
9 MS. MULHERN: Objection to  
10 form.  
11 Are we going into  
12 possibilities here? Because I thought that you  
13 instructed Mr. Randle to not testify concerning  
14 possibilities. And I just need that to be  
15 clarified.  
16 THE WITNESS: Yeah. I mean I  
17 analyzed the facts that I was presented.  
18 MR. CLARK: Is that a  
19 lifeline to the witness? Did he call for a  
20 lifeline there?  
21 THE WITNESS: No. My purpose  
22 is to analyze the fact pattern that's presented.  
23 And you see my purpose. That's my purpose.  
24 My purpose isn't to audit the  
25 project. That's not my role. My role is to

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1 J. Randle, P.E.  
2 understand the standards for the different  
3 participants in Hoiland's, you know, claimed fall  
4 incident.  
5 So, you know, for me to go  
6 off and do some kind of safety audit wasn't part  
7 of what I was to do.  
8 Could I do it? Sure,  
9 absolutely. But that's not -- that's not why I'm  
10 here.  
11 BY MR. CLARK:  
12 Q. Okay. So, if you were confronted  
13 like Graham was, Vill says he would make it safe,  
14 you're not sure what you would do? You don't  
15 know what you would do?  
16 A. That's not what I said.  
17 I said I would evaluate the  
18 situation, create an action item and go from  
19 there. And part of that action item could have  
20 included a multitude of things.  
21 Q. Could one of it -- well, can you give  
22 us an example of three things the action item  
23 would have included?  
24 You've already said one of  
25 the action items would be to blame the worker and

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1 J. Randle, P.E.  
2 get him retrained.  
3 What other multitude --  
4 A. I'd evaluate the site to make sure --  
5 MS. MULHERN: Objection to  
6 form.  
7 THE WITNESS: -- to make sure  
8 that the roadway was rolled tight. I would  
9 evaluate and make sure that there weren't ruts or  
10 big dips or drops. I would evaluate the site and  
11 make sure the wash rack was still in place.  
12 BY MR. CLARK:  
13 Q. Okay. When you say "ruts," is that  
14 like the ruts that we see in photo number one of  
15 P-4?  
16 A. No.  
17 MS. MULHERN: Objection to  
18 form.  
19 BY MR. CLARK:  
20 Q. What are those? Aren't those truck  
21 tire ruts?  
22 A. Okay. That's -- what I'm defining as  
23 rutted is a dozer.  
24 And, again, you know --  
25 BY MR. CLARK:



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1 J. Randle, P.E.  
 2 Q. A dozer? What did you say?  
 3 A. Yeah. Sure. Like a bulldozer or  
 4 some other type of equipment.  
 5 Q. Well, what are these ruts?  
 6 A. Like I said --  
 7 Q. It actually looks like he's lying in  
 8 the middle of a dozer rut.  
 9 MS. MULHERN: You're  
 10 interrupting Mr. Randle's response.  
 11 BY MR. CLARK:  
 12 Q. Isn't that a dozer rut right there?  
 13 A. Like I said, it's all about  
 14 reasonableness. You know, what was on that site  
 15 is not unexpected. I didn't -- I don't consider  
 16 this a hazardous condition.  
 17 Q. I know. And you consider photo  
 18 number two a clean condition. You testified to  
 19 that, too, on P-4.  
 20 A. The site's generally clean. I don't  
 21 know -- you know, that's what I've said.  
 22 Q. How about this big rut standing  
 23 behind the left foot of Vill and Graham -- the  
 24 left feet of Vill and Graham here, this big one?  
 25 What about that? You're cool with that one?

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1 J. Randle, P.E.  
 2 MS. MULHERN: Objection to  
 3 form.  
 4 THE WITNESS: Okay. Like I  
 5 said, we can make anything more safe, but you  
 6 can't achieve a hundred percent safety.  
 7 And for your contention that  
 8 there should be someone catching rocks -- and  
 9 remember I said this; I'll be saying it again.  
 10 It's your contention that someone should be  
 11 catching rocks as they roll off the entry pad or  
 12 as Hoiland's directing his driver down the access  
 13 road to show him where to go, if your contention  
 14 is that the expectation is that the GC or somehow  
 15 the developer should be out there performing that  
 16 duty is unfounded.  
 17 BY MR. CLARK:  
 18 Q. Where is that contention of mine?  
 19 You keep saying I have this  
 20 contention that people should pick up rocks.  
 21 Where is that?  
 22 I don't see that anywhere.  
 23 I've been asking you about  
 24 grading out the site like they did by their  
 25 trailer.

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1 J. Randle, P.E.  
 2 I mean, that's  
 3 probably -- that Jeep right there is probably a  
 4 Jeep of someone from AJD. It's probably Vill's,  
 5 Graham's or one of the guys that worked out of  
 6 that trailer. And they had a nice little thing  
 7 there so they had a smooth path to walk.  
 8 Who is talking about going  
 9 around and picking up rocks?  
 10 Why didn't they just extend  
 11 the grading out into the roadway?  
 12 MS. MULHERN: Objection to  
 13 form.  
 14 BY MR. CLARK:  
 15 Q. Do you know why they didn't do that?  
 16 A. I think we're breaking the rule.  
 17 We're talking possibilities again.  
 18 No. And I don't know why  
 19 they didn't pave the whole site either.  
 20 Again, it's not my purpose.  
 21 We could talk till the day is long about your  
 22 possibilities that you would like me to walk  
 23 down. It's not why I'm here.  
 24 (Pause.)  
 25 Q. So, what action items would you do if

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1 J. Randle, P.E.  
 2 you saw workers in -- well, like, if you saw  
 3 workers in unprotected trenches like is shown in  
 4 P-9?  
 5 Would you say those workers  
 6 need more training or what?  
 7 Or is that perfectly  
 8 acceptable to you, too?  
 9 MS. MULHERN: Objection to  
 10 form.  
 11 MS. TUTELO: Objection to  
 12 form.  
 13 THE WITNESS: That is not  
 14 acceptable to me.  
 15 BY MR. CLARK:  
 16 Q. Do you know what Esposito testified  
 17 to when we showed him this stuff? He goes, Well,  
 18 I don't know how deep that trench is. And I'm  
 19 like --  
 20 I mean, first of all, it's  
 21 clearly over that guy's head. Right? Do you  
 22 see?  
 23 MS. MULHERN: Objection.  
 24 MS. KALOCSAY: Objection to  
 25 form.

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1 J. Randle, P.E.  
2 MS. TUTELO: Objection.  
3 BY MR. CLARK:  
4 Q. That's photo number two from P-9.  
5 Do you see that?  
6 MS. KALOCSAY: Objection.  
7 THE WITNESS: I see the  
8 photo.  
9 BY MR. CLARK:  
10 Q. Do you say the trench is, like,  
11 clearly over the guy's head?  
12 MS. KALOCSAY: Objection to  
13 form.  
14 MS. MULHERN: Objection to  
15 form.  
16 THE WITNESS: Yes.  
17 BY MR. CLARK:  
18 Q. Are you going to equivocate on that  
19 one? Okay. Go ahead.  
20 MS. KALOCSAY: Objection to  
21 form.  
22 THE WITNESS: I haven't  
23 analyzed this picture.  
24 BY MR. CLARK:  
25 Q. So, if you're on the site and you see

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1 J. Randle, P.E.  
2 this, you're going to say, Oh, we need to analyze  
3 this?  
4 You really need to analyze  
5 this to determine the safety issue with this  
6 photo?  
7 MS. KALOCSAY: Objection to  
8 form.  
9 MS. MULHERN: Objection to  
10 form.  
11 THE WITNESS: That's not what  
12 I said.  
13 BY MR. CLARK:  
14 Q. Okay. So, let's start.  
15 First of all, do you see the  
16 worker in the middle portion of the picture with  
17 the black --  
18 A. Let me cut this off. I've already  
19 told you I would have stopped what was happening  
20 and stepped in.  
21 This does not have anything  
22 to do with the incident that I'm here to opine  
23 on.  
24 MS. KALOCSAY: I was just  
25 going to say isn't it outside of the scope of the

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1 J. Randle, P.E.  
2 opinions he's given in this case?  
3 THE WITNESS: Very outside.  
4 BY MR. CLARK:  
5 Q. Didn't you give opinions about  
6 Esposito in your report?  
7 I mean, first of all, not  
8 that a deposition is, like, limited in that  
9 regard. There's two limitations. It's privilege  
10 and court order.  
11 But, in any event, in your  
12 report didn't you give opinions about Esposito?  
13 Didn't you do something like  
14 if it's a hazard, then it's their fault? Or was  
15 that the other expert? I forget.  
16 MS. KALOCSAY: But they were  
17 talking about the pebble, Jerry, not about this.  
18 BY MR. CLARK:  
19 Q. Didn't you give opinions about  
20 Esposito?  
21 A. Yes. I gave an opinion about  
22 Esposito. And I think you almost got close to  
23 it. But I said that --  
24 Q. Yeah. You said if it's a hazard,  
25 it's their fault.

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1 J. Randle, P.E.  
2 A. No.  
3 MS. MULHERN: Objection to  
4 form.  
5 THE WITNESS: I said they  
6 would be considered the creating employer. I  
7 don't --  
8 BY MR. CLARK:  
9 Q. Oh. When you say they would be  
10 considered the creating employer, that's where we  
11 go back -- that's -- that's P-10. Right?  
12 MS. KALOCSAY: No. Objection  
13 to form.  
14 MS. MULHERN: Objection to  
15 form.  
16 MR. CLARK: Ms. Kalocsay, if  
17 you're going to testify, we're going to have to  
18 swear you in.  
19 MS. KALOCSAY: I'm not going  
20 to testify. But it's just like --  
21 MR. CLARK: I thought he gave  
22 a no answer to that.  
23 MS. KALOCSAY: You've been  
24 testifying throughout this whole deposition. We  
25 should have sworn you in.

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1 J. Randle, P.E.  
 2 BY MR. CLARK:  
 3 Q. So, when you said they'd be the  
 4 creating employer, you're referring to things  
 5 like are shown in P-10, when they dug up the road  
 6 for the gas main. Is that right?  
 7 MS. KALOCSAY: Objection to  
 8 the form.  
 9 THE WITNESS: I'm sorry. I  
 10 zoned out. Can you re-ask the question?  
 11 BY MR. CLARK:  
 12 Q. You gave an opinion in your report  
 13 about the Esposito subcontractor. Correct?  
 14 A. As it relates to Hoiland's incident.  
 15 Yes.  
 16 Q. Okay. And you characterized them as  
 17 a creating employer under OSHA's multi-employer  
 18 work site policy. Correct?  
 19 A. If there was a dangerous condition  
 20 that has been proven, then they would have been  
 21 considered the creating employer.  
 22 Q. And when you said they are the  
 23 creating employer, you mean they would have  
 24 created the hazardous condition at issue.  
 25 Correct?

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1 J. Randle, P.E.  
 2 A. If a hazard -- if a dangerous  
 3 condition was determined, that's what my  
 4 analysis -- that's where my analysis went.  
 5 Q. And, so, they would have created it  
 6 by, as depicted in P-10, having dug up the access  
 7 road, thus disturbing the soil and, in addition,  
 8 being the contractor in charge of building and  
 9 maintaining the access road.  
 10 Is that essentially the  
 11 genesis of your opinion that they would be  
 12 considered a creating employer under those  
 13 circumstances?  
 14 MS. KALOCSAY: Objection to  
 15 the form.  
 16 MS. MULHERN: Objection to  
 17 form.  
 18 MS. TUTELO: Join.  
 19 THE WITNESS: Esposito was  
 20 the site contractor. They created the  
 21 rolled-down access area or access road, whatever  
 22 you want to call it. So, they did create the  
 23 condition.  
 24 BY MR. CLARK:  
 25 Q. Okay. Oh, yeah.

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1 J. Randle, P.E.  
 2 So, back to where we were,  
 3 which is photo number two of P-9.  
 4 Do you see the worker in the  
 5 trench sort of in the middle of the picture with  
 6 the black helmet?  
 7 A. Yes.  
 8 Q. Okay. And it appears that that  
 9 trench is well over his head. Correct?  
 10 MS. MULHERN: Objection to  
 11 form.  
 12 MS. TUTELO: Join.  
 13 MS. KALOCSAY: Join.  
 14 THE WITNESS: Yeah. Like I  
 15 said, I have not analyzed this photo. And you're  
 16 seeing something and I'm -- I've had cases with  
 17 photos involved where it's very challenging at  
 18 times to understand perspective. And I'm not  
 19 going to -- like it was said, this is outside of  
 20 my scope, so --  
 21 BY MR. CLARK:  
 22 Q. Oh, you've never done a  
 23 trench-collapse case?  
 24 A. Oh, sure I have.  
 25 Q. Oh. So, you've written reports in

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1 J. Randle, P.E.  
 2 trench-collapse cases, even though that was out  
 3 of the scope of your expertise?  
 4 MS. MULHERN: Objection to  
 5 form.  
 6 MS. TUTELO: Objection.  
 7 MS. KALOCSAY: That's not  
 8 what he said.  
 9 MR. CLARK: He just said it's  
 10 out of his scope.  
 11 MS. KALOCSAY: Out of the  
 12 scope of what he was doing in this case.  
 13 THE WITNESS: This did not  
 14 cause anything related to Hoiland. I'm not  
 15 sure --  
 16 BY MR. CLARK:  
 17 Q. Yeah. But, Mr. Randle, I mean, come  
 18 on, you're a reasonable person.  
 19 I mean, we asked Esposito  
 20 about this picture. He denied there was a  
 21 hazard. He denied there was anything wrong with  
 22 it. And if you can't trust the contractor to  
 23 follow OSHA's trench-safety rules, which is the  
 24 granddaddy of all hazards, which causes, as you  
 25 know, death on job sites and it's really, really

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1 J. Randle, P.E.  
2 dangerous, how can we trust them to put this back  
3 the way it's supposed to be, like you testified?  
4 MS. MULHERN: Objection to  
5 form.  
6 MS. KALOCSAY: Join.  
7 MS. TUTELO: Join.  
8 MS. MULHERN: If there's any  
9 way for you to respond to that, you can.  
10 THE WITNESS: I don't know  
11 what the question is.  
12 BY MR. CLARK:  
13 Q. Isn't safety, like, about a culture?  
14 MS. KALOCSAY: Objection to  
15 form.  
16 THE WITNESS: Some label it  
17 that way, sure.  
18 BY MR. CLARK:  
19 Q. When we talk about -- when we talk  
20 about the values set forth in the site-specific  
21 safety plan where AJD says they're firmly  
22 committed to --  
23 By the way, so, you say  
24 you're, like, against the zero accident policies.  
25 Right?

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1 J. Randle, P.E.  
2 MS. MULHERN: Objection to  
3 form.  
4 MS. TUTELO: Objection.  
5 MS. KALOCSAY: Join. Join.  
6 BY MR. CLARK:  
7 Q. You testified you can never make a  
8 site a hundred percent safe and achieve zero  
9 accidents. Right?  
10 MS. TUTELO: Objection to  
11 form, mischaracterizes his testimony.  
12 MS. MULHERN: Objection to  
13 form.  
14 THE WITNESS: Yeah. The goal  
15 is -- the goal is no accidents, a hundred percent  
16 safe, sure.  
17 BY MR. CLARK:  
18 Q. But on your job sites that's never  
19 been achievable.  
20 Is that what you're telling  
21 us?  
22 MS. MULHERN: Objection to  
23 form.  
24 THE WITNESS: My projects  
25 were extremely safe.

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1 J. Randle, P.E.  
2 BY MR. CLARK:  
3 Q. But you testified on your projects  
4 you've had access roads where, like, you had  
5 real, like, trouble walking on them and stuff and  
6 it was, like, normal and acceptable to you.  
7 MS. MULHERN: Objection to  
8 form.  
9 THE WITNESS: It was a  
10 vehicle access road. It was a ring road around a  
11 school. So, there were other means for folks to  
12 walk.  
13 BY MR. CLARK:  
14 Q. In any event, you don't agree with,  
15 you know, a hundred percent safety and zero  
16 accidents. Is that right? It's something that's  
17 not achievable in your view?  
18 MS. MULHERN: Objection to  
19 form.  
20 THE WITNESS: We're going to  
21 try. You know, as construction professionals,  
22 we're going to try. No one likes accidents, no  
23 one likes injuries. It costs money. It's  
24 demoralizing.  
25 You know, I stand behind

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1 J. Randle, P.E.  
2 everything I'm saying here. There's always a  
3 goal. There's always an attempt. You know, we  
4 hire qualified people, we train them. We make  
5 sure that competent people are on-site, similar  
6 to Hoiland. We have them understand that this is  
7 a construction site and that there's -- there are  
8 things out there that could be problematic and  
9 that's why we train them. And that's why  
10 Hoiland's employers were to train them. And  
11 that's why we have --  
12 You know, AJD is a big boy.  
13 This is a big project. They hired qualified  
14 contractors. They had approval from the owner,  
15 their safety program. They had money in the  
16 budget for a safety program. A lot of things  
17 were beating along the right way. The ground  
18 was -- was firm. The ground was rolled tight.  
19 So, yeah, I mean, like I  
20 said, I -- I'm comfortable with how, you know,  
21 the fact pattern on this case was presented in  
22 terms of this incident.  
23 BY MR. CLARK:  
24 Q. If AJD's a big boy, running a big job  
25 site, \$238 million job site to be exact, can we

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1 J. Randle, P.E.  
 2 expect and shouldn't we expect that the  
 3 principals that are running the job site actually  
 4 have safety training?  
 5 MS. MULHERN: Objection to  
 6 form.  
 7 THE WITNESS: I would not  
 8 consider Graham a principal.  
 9 MS. TUTELO: Objection.  
 10 THE WITNESS: He's an  
 11 assistant superintendent.  
 12 BY MR. CLARK:  
 13 Q. In any event, the policy statement  
 14 here reflects or expresses core safety values.  
 15 Right?  
 16 A. AJD's, sure.  
 17 Q. And those core values recognize that  
 18 they should provide to the extent reasonably  
 19 expected an injury-free work environment, free of  
 20 recognized hazards and where workers are not  
 21 exposed to the unnecessary risk of harm. Right?  
 22 A. You've gotta -- I didn't catch those  
 23 words.  
 24 Could you reread that,  
 25 please?

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1 J. Randle, P.E.  
 2 MR. CLARK: Sure. Dolores,  
 3 can we please read back the question.  
 4 (The following was read by  
 5 the court reporter:  
 6 "Q. And those core values  
 7 recognize that they should provide to the  
 8 extent reasonably expected an injury-free work  
 9 environment, free of recognized hazards and  
 10 where workers are not exposed to the  
 11 unnecessary risk of harm. Right?")  
 12 THE WITNESS: That's not what  
 13 it says.  
 14 BY MR. CLARK:  
 15 Q. I didn't say that's what it says.  
 16 But those are -- I take that back. I did say  
 17 that that's what that says or I did imply or  
 18 reference that that is what it says.  
 19 But this policy statement in  
 20 1.2, this is reflective of core safety values.  
 21 Right?  
 22 A. AJD is making that statement here. I  
 23 don't think they use the word "core." This is  
 24 their site-specific health and safety plan.  
 25 Q. And are those core values essentially

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1 J. Randle, P.E.  
 2 that there should be an injury-free work  
 3 environment and where workers are not, you know,  
 4 unreasonably exposed to needless harm?  
 5 Is that essentially what  
 6 those core values are?  
 7 MS. KALOCSAY: Objection to  
 8 the form of the question.  
 9 THE WITNESS: The document  
 10 speaks for itself. I don't -- I'm not sure -- I  
 11 can tell you what it says.  
 12 BY MR. CLARK:  
 13 Q. Okay. Is P-9 -- the three photos in  
 14 P-9, are those reflective of a corporate culture  
 15 that takes worker safety seriously?  
 16 MS. KALOCSAY: Objection to  
 17 the form of the question.  
 18 MS. MULHERN: Objection to  
 19 form.  
 20 MS. TUTELO: Objection to  
 21 form.  
 22 THE WITNESS: If I were on a  
 23 project site and I witnessed this, I would call a  
 24 timeout and step back and ask all those involved  
 25 immediately to explain and -- explain the plan of

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1 J. Randle, P.E.  
 2 how this work was to be completed.  
 3 BY MR. CLARK:  
 4 Q. Would that include if you were the  
 5 vice-president of the construction or the project  
 6 manager for the developer and had an on-site  
 7 trailer on-site and were there on a daily basis?  
 8 MS. MULHERN: Objection to  
 9 form.  
 10 THE WITNESS: Are you talking  
 11 to me personally?  
 12 BY MR. CLARK:  
 13 Q. Do you want the last question and  
 14 answer read back and the pending question?  
 15 Because the pending question was related to your  
 16 answer in the prior question. Would you like  
 17 them both read back?  
 18 A. I guess I just want some  
 19 clarification.  
 20 Are you asking about me  
 21 personally or are you asking about Punia?  
 22 Q. Well, the clarification I would give  
 23 or offer would be to read back the last question  
 24 and your response, as well as the pending  
 25 question.

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1 J. Randle, P.E.  
2 MS. MULHERN: He's saying he  
3 doesn't understand those questions. He needs  
4 clarification. So, reading it back is not going  
5 to help.  
6 MR. CLARK: I don't -- I  
7 didn't interpret what he said as not  
8 understanding the prior question, which he  
9 answered.  
10 MS. MULHERN: He asked for  
11 clarification. I'm not sure what else that can  
12 be interpreted as.  
13 MR. CLARK: You said that he  
14 did not understand the questions, plural. And  
15 there were two questions referred to. One is the  
16 pending question and the other is the prior  
17 question.  
18 MS. MULHERN: Which you said  
19 were contingent.  
20 MR. CLARK: And he answered  
21 the prior question --  
22 MS. MULHERN: Right.  
23 MR. CLARK: -- which he  
24 stated that he understood it.  
25 MS. MULHERN: Right. But

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1 J. Randle, P.E.  
2 then you asked a second and you said that one  
3 goes with the other and basically one is  
4 contingent on the other. So, I'm not sure he  
5 understands.  
6 Again, Mr. Randle, if you  
7 understand the question, you can respond. If you  
8 need clarification, ask counsel for it.  
9 THE WITNESS: I thought I  
10 did.  
11 You know what, am I speaking  
12 to me personally, my career? Are we talking  
13 about the standard for -- or the role the owner  
14 played in the 235 Grand project?  
15 MR. CLARK: Dolores, can we  
16 please read back the question where I asked him a  
17 question about the hazard that is depicted on the  
18 screen in P-9 and his answer as to what he would  
19 do. He gave an answer. He said I would do  
20 something.  
21 (The following was read by  
22 the court reporter:  
23 "Q. Okay. Is P-9 -- the  
24 three photos in P-9, are those reflective of a  
25 corporate culture that takes worker safety

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1 J. Randle, P.E.  
2 seriously?  
3 "A. If I were on a project  
4 site and I witnessed this, I would call a  
5 timeout and step back and ask all those  
6 involved immediately to explain and -- explain  
7 the plan of how this work was to be completed.  
8 "Q. Would that include if  
9 you were the vice-president of the  
10 construction or the project manager for the  
11 developer and had an on-site trailer on-site  
12 and were there on a daily basis?  
13 "A. Are you talking to me  
14 personally?")  
15 MR. CLARK: That's it.  
16 THE WITNESS: Okay. Are you  
17 speaking to me personally?  
18 I'm 18 years in the  
19 construction industry. You know, I bring a lot  
20 of value wherever I go on project sites.  
21 If I were the owner in this  
22 situation, me personally, would be different than  
23 the expectations for other owner entities because  
24 I'm -- you know, like I said, I've been building  
25 work a long time and now I'm a construction

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1 J. Randle, P.E.  
2 safety expert.  
3 So, I stand behind what I  
4 said. It doesn't matter what role I was. If  
5 I -- if I personally saw what was happening  
6 there, which, again, this is outside of my scope,  
7 this is outside of what I was asked to  
8 analyze -- I would call a timeout and figure out  
9 what -- you know, what the plan was.  
10 Is the expectation that Punia  
11 was going to walk around the project site and  
12 looks for these types of things and act as the  
13 general contractor or safety consultant or as the  
14 site contractor? That's not the expectation of  
15 Punia.  
16 BY MR. CLARK:  
17 Q. This is the principal of the Esposito  
18 defendant. His name is Matthew Esposito. And he  
19 said that the -- he said that the kind of thing  
20 that's depicted in P-9 was common on the job  
21 site.  
22 So, going back to P-9.  
23 There's P-9. And he said that this is common,  
24 that this is how they would install pipes on the  
25 job.

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1 J. Randle, P.E.  
 2 Is that a concern to you?  
 3 MS. KALOCSAY: Objection to  
 4 form, misrepresents the testimony.  
 5 MS. MULHERN: Objection to  
 6 form.  
 7 MS. TUTELO: Join.  
 8 THE WITNESS: I think I've  
 9 already -- I've sort of agreed with what you're  
 10 asking. I don't -- I'm not sure how much more I  
 11 can do that.  
 12 BY MR. CLARK:  
 13 Q. Well, we're taking it to the next  
 14 legal, though, because this is just one picture  
 15 that was taken --  
 16 A. Yeah. My --  
 17 Q. That was taken on the day of the  
 18 incident, actually, November 2nd of 2017.  
 19 A. My purpose didn't include analysis of  
 20 Esposito's role or their performance on the  
 21 project. My purpose was to evaluate Esposito's  
 22 role on the Hoiland incident.  
 23 Q. Yeah. But you testified safety is a  
 24 culture, it's a philosophy, it's a way of life on  
 25 a job site. It goes hand in hand with the

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1 J. Randle, P.E.  
 2 progress of the work. You don't get to say, Oh,  
 3 well, we're just going to microanalyze this one  
 4 little situation and call it a pebble, when  
 5 everyone knows it's not a pebble, you know. You  
 6 have to look at the whole picture of their  
 7 conduct, especially in a case where there's  
 8 punitive damages, which this case is.  
 9 And, so, we did talk about  
 10 the photo. You can say, Oh, that's a one-time  
 11 incident; you commented on that.  
 12 But here's my question:  
 13 Isn't it even worse where he  
 14 testified under oath, I said it was common to  
 15 install pipes.  
 16 Question: Like is shown in  
 17 these photos?  
 18 And the answer, Yes.  
 19 "These photos" being P-9.  
 20 Isn't that even more of a  
 21 concern, like a heightened concern?  
 22 MS. KALOCSAY: Objection to  
 23 form.  
 24 MS. MULHERN: Objection to  
 25 the form.

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1 J. Randle, P.E.  
 2 THE WITNESS: Okay. So, do  
 3 you understand what the scientific method is?  
 4 Are you aware of what that means?  
 5 BY MR. CLARK:  
 6 Q. Well --  
 7 A. You're not an engineer. Right?  
 8 Let me finish.  
 9 Q. I -- I -- wait. Hold on.  
 10 A. The way the report is written right  
 11 now --  
 12 MS. MULHERN: Mr. Clark,  
 13 don't interrupt him.  
 14 THE WITNESS: -- I follow the  
 15 scientific method.  
 16 (Unintelligible due to  
 17 overspeaking.)  
 18 THE COURT REPORTER: Whoa,  
 19 whoa, whoa. Wait, Stop. Mr. Randle, please.  
 20 BY MR. CLARK:  
 21 Q. Mr. Randle, I'm sure --  
 22 MS. MULHERN: Mr. Clark,  
 23 please let him complete his response. You don't  
 24 like to be interrupted, Mr. Randle does not like  
 25 to be interrupted. Let Mr. Randle say what it is

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1 J. Randle, P.E.  
 2 he's saying.  
 3 MS. KALOCSAY: He doesn't  
 4 want to hear the answer.  
 5 MS. MULHERN: Of course not.  
 6 MR. CLARK: The problem is  
 7 Mr. Randle asked me a question about whether I  
 8 knew about the scientific method.  
 9 Is he withdrawing that  
 10 question?  
 11 THE WITNESS: It wasn't a  
 12 question. I'm sorry. It was a kind of a  
 13 rambling statement.  
 14 BY MR. CLARK:  
 15 Q. All right. So, why don't you go  
 16 ahead and we'll all pretend you didn't ask me if  
 17 I know what the scientific method is.  
 18 A. Okay. So, the report process is I'm  
 19 given facts on a case. I'm asked the purpose.  
 20 The scientific method requires me to analyze the  
 21 facts surrounding my purpose. I create a  
 22 hypothesis. I check it.  
 23 It doesn't have to do with  
 24 analyzing things outside of that -- with -- outside  
 25 of parameters. It just -- I wasn't asked to

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1 J. Randle, P.E.  
2 evaluate how Esposito performed on the project.  
3 I wasn't asked to define how he defined safe. I  
4 was asked specifically what I was asked as part  
5 of my purpose in this incident.  
6 We spent a lot of time  
7 talking about possibility. Frankly, it's getting  
8 old. We need to stop that because it's  
9 not -- it's not part of anything -- you know,  
10 when you're asking me things outside of my scope,  
11 I'm just going to have to pull the string on my  
12 back and say it's outside the scope and we can  
13 just kind of end this quickly, hopefully.  
14 Like, I've already agreed  
15 with you that I would stop what was happening in  
16 that situation. Does that mean Esposito caused  
17 Hoiland's incident? No.  
18 Q. When you say that you employed the  
19 scientific method, in your analysis here, I'm  
20 reminded that you also said your report was  
21 peer-reviewed, meaning it was read by other  
22 people at Robson Forensic, as opposed to  
23 independent people without a conflict.  
24 So, I don't know how much the  
25 scientific method -- I don't know if we're -- I

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1 J. Randle, P.E.  
2 don't know if the scientific method that you're  
3 referring to is the one that would ordinarily be  
4 referred to when one learns about the scientific  
5 method.  
6 MS. MULHERN: Objection to  
7 whatever that was.  
8 MS. KALOCSAY: Yeah. How can  
9 he even answer that?  
10 MS. MULHERN: And there's no  
11 response needed, Mr. Randle.  
12 MR. CLARK: Was he directed  
13 not to answer a question or was there just not a  
14 question? I lost track.  
15 MS. MULHERN: There was no  
16 question.  
17 MR. CLARK: Oh, okay.  
18 MS. MULHERN: It's going on  
19 4:30. Can we just go off the record for a  
20 second.  
21 (Discussion was held off the  
22 record.)  
23 BY MR. CLARK:  
24 Q. Joe Punia said that one of the  
25 options to make the area safe would be to bring

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1 J. Randle, P.E.  
2 in an appropriate gravel and spread it. He says  
3 it can be done, yes.  
4 Do you agree with that or you  
5 would need to do some kind of scientific-method  
6 analysis --  
7 MS. KALOCSAY: Objection.  
8 BY MR. CLARK:  
9 Q. -- before you can give an opinion on  
10 that?  
11 MS. MULHERN: Objection to  
12 form.  
13 THE WITNESS: Yeah. That  
14 wasn't part of my purpose.  
15 BY MR. CLARK:  
16 Q. So, you don't know. Is that what  
17 you're saying?  
18 He said one of the options  
19 would be to bring in an appropriate gravel and  
20 spread it to eliminate the tripping hazard that  
21 you identified earlier, that being the rocks from  
22 the crushed concrete strewn about the access  
23 road.  
24 Do you agree that that's one  
25 way that it could be made safer?

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1 J. Randle, P.E.  
2 MS. MULHERN: Objection to  
3 form.  
4 MS. KALOCSAY: Objection to  
5 form.  
6 THE WITNESS: Yeah. I mean,  
7 it's not relevant to my purpose.  
8 BY MR. CLARK:  
9 Q. Thank you for giving an opinion on  
10 the quality of the question.  
11 But could you please provide  
12 an answer to the question?  
13 Now, your answer can be, I  
14 don't know if that's truthful. You can say I  
15 don't know. That's one option of answering a  
16 question. Of course, it has to be truthful.  
17 A. Yeah. Joseph Punia's assessment of  
18 stone and spreading it is not relevant to  
19 Hoiland's incident. It's not -- it's not part of  
20 my purpose either.  
21 Q. That sounds like you don't want to  
22 answer the question. You're saying my question  
23 is irrelevant and it's not part of your purpose.  
24 But the question still  
25 stands, which is he says one of the options would



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1 J. Randle, P.E.  
 2 be to bring in gravel and spread it.  
 3 What is your opinion in that  
 4 regard?  
 5 MS. MULHERN: Objection to  
 6 form.  
 7 MS. KALOCSAY: Join.  
 8 BY MR. CLARK:  
 9 Q. Would that be a viable option to  
 10 ameliorate the hazard?  
 11 MS. MULHERN: Objection to  
 12 the form.  
 13 THE WITNESS: Didn't we spend  
 14 about 25 minutes talking about this?  
 15 We can probably go back and  
 16 you can hear what I said then and I'll say it  
 17 now. You'd have to define the parameters. And  
 18 that would be -- again, even with that, it would  
 19 be outside of my purpose. Just to say let's  
 20 spread some stone, it's -- again, it's not  
 21 relevant to what happened on this incident.  
 22 BY MR. CLARK:  
 23 Q. This is the first time I asked you  
 24 about that testimony at 138.  
 25 Why do you think I brought

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1 J. Randle, P.E.  
 2 that testimony up previously? I didn't do that.  
 3 A. Are you asking me to give an opinion  
 4 about what you're thinking? I'm not sure I can  
 5 do that.  
 6 MR. CLARK: Okay. We'll have  
 7 the question read back.  
 8 (The following was read by  
 9 the court reporter:  
 10 "Q. This is the first time I  
 11 asked you about that testimony at 138.  
 12 "Why do you think I brought  
 13 that testimony up previously? I didn't do  
 14 that.")  
 15 BY MR. CLARK:  
 16 Q. The question is very simple.  
 17 Why do you think I brought up  
 18 this testimony at 138 previously? I am telling  
 19 you I didn't do that.  
 20 A. You had a line of questions  
 21 concerning stone and spreading it.  
 22 Q. That's true. But I didn't ask you  
 23 anything about his testimony at 138.  
 24 A. Okay. I don't -- so, you're asking  
 25 if I have an opinion about what Punia's thinking

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1 J. Randle, P.E.  
 2 and what he says? Or what are we doing?  
 3 Q. Punia says one of the options to make  
 4 the area safe is to put down gravel and spread  
 5 it, that it can be done, yes.  
 6 Do you agree with that or you  
 7 don't know or something else?  
 8 A. I don't know.  
 9 Q. Okay. Great.  
 10 A. Without further definition, no.  
 11 Without time to analyze, no.  
 12 Q. So, I'm at Punia's deposition  
 13 testimony page 207, at the bottom, at line 24.  
 14 And the question is, somewhat paraphrased, but it  
 15 says, Pretty much every picture from this job  
 16 site has rocks like the rock in P-4 here. And  
 17 you said that the rocks in the other picture were  
 18 either indigenous to the ground or part of the  
 19 concrete from the demolition. Is that right?  
 20 Answer: Yes.  
 21 Do you see that testimony?  
 22 A. Yes.  
 23 Q. And then it continues, So would that  
 24 be the same with respect to the rock on photo  
 25 number two of P-4, the larger-appearing one

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1 J. Randle, P.E.  
 2 behind the man kneeling in the orange vest and  
 3 white helmet?  
 4 Yes.  
 5 And then the question is,  
 6 Now, if I understood your testimony right, this  
 7 particular rock would be of some safety concern  
 8 to you.  
 9 Did we understand that  
 10 correctly in that regard?  
 11 And his answer is on 209  
 12 where he says, Yes.  
 13 Would that be a concern  
 14 because it could pose a tripping hazard or a  
 15 fall-down hazard to someone that might be walking  
 16 on the site and encounter it? Is that right?  
 17 Answer: Yes.  
 18 And then, Question: Well, do  
 19 you think that the rock below the left -- in the  
 20 picture it looks about a foot or two below the  
 21 left foot of Don's left foot, this one here I'm  
 22 circling, which is next to, it looks like a piece  
 23 of wood, could this rock pose a safety hazard of  
 24 falling down?  
 25 Answer: From the way the

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1 J. Randle, P.E.  
2 picture is -- the way it looks in that picture,  
3 yes.  
4 And then that kind of  
5 continues at 213, line 21. So, you agree that  
6 the rocks depicted in this photo, the ones you  
7 identified, could pose a safety hazard?  
8 Answer: Yes.  
9 My question to you is do you  
10 agree with that --  
11 MS. MULHERN: Objection to  
12 form.  
13 BY MR. CLARK:  
14 Q. -- that these rocks shown in photo  
15 two of P-4 are safety hazards --  
16 MS. KALOCSAY: Objection to  
17 the form.  
18 BY MR. CLARK:  
19 Q. -- tripping hazards?  
20 MS. MULHERN: Objection to  
21 form.  
22 THE WITNESS: No. On this  
23 construction site, it's not a hazardous  
24 condition.  
25 BY MR. CLARK:

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1 J. Randle, P.E.  
2 Q. So, you disagree with the principal  
3 of your client, Mr. Punia, who is the  
4 vice-president of construction for your client,  
5 Grand LHN, you disagree with him that those are  
6 tripping hazards and pose a safety risk on a job  
7 site.  
8 MS. MULHERN: Objection to  
9 form.  
10 BY MR. CLARK:  
11 Q. Is that right?  
12 A. Grand LHN isn't my client. It's  
13 Ms. Mulhern's -- Attorney Mulhern's law firm.  
14 And I -- I don't understand what you're saying.  
15 Do they steer my opinions? No. My opinions are  
16 my opinions.  
17 Q. So, I guess I misspoke. It's a  
18 client of your client.  
19 So, you disagree with the  
20 client of the client that the photos -- that the  
21 rocks shown in photo number two of P-4 pose a  
22 safety hazard on the job site. You disagree with  
23 that. Is that right?  
24 MS. KALOCSAY: Objection to  
25 the form.

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1 J. Randle, P.E.  
2 MS. MULHERN: Objection to  
3 form.  
4 THE WITNESS: This is  
5 irrelevant. I mean, I have my own opinions and I  
6 presented them in my report that you've received.  
7 BY MR. CLARK:  
8 Q. Do need the pending question read  
9 back to answer it?  
10 A. Do I disagree with Punia?  
11 My opinions are my opinions.  
12 If my opinions disagree with Punia, then they  
13 disagree with Punia.  
14 Q. So, you do disagree with Punia that  
15 the rocks shown in photo number two of P-4 pose a  
16 safety/tripping hazard on this job site. You  
17 disagree with that. Correct?  
18 MS. KALOCSAY: Objection to  
19 form.  
20 MS. MULHERN: Objection to  
21 form.  
22 THE WITNESS: My answer is  
23 the same. My opinions are my opinions and  
24 they're expressed in my work product.  
25 BY MR. CLARK:

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1 J. Randle, P.E.  
2 Q. Okay. Are you refusing to answer the  
3 question?  
4 When I ask you an opinion and  
5 you answer by saying my opinion --  
6 A. It's irrelevant. It has no bearing  
7 on my opinion.  
8 Q. -- my opinion -- don't give your  
9 opinion, that would be considered non-responsive.  
10 So, are you refusing to  
11 answer it?  
12 MS. MULHERN: Objection to  
13 form. I think the same question has been asked  
14 and answered multiple times.  
15 Mr. Clark, are you asking him  
16 if he disagrees with Mr. Punia's opinion in  
17 Mr. Punia's testimony?  
18 MR. CLARK: When a question  
19 is -- when a question is asked at a deposition  
20 and a witness says something, that does not mean  
21 the witness answered the question.  
22 So, I'm wondering if the  
23 witness is refusing to answer the question.  
24 THE WITNESS: No. It's not  
25 relevant to the case for me. I mean, there's 15

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1 J. Randle, P.E.  
 2 depositions. I'm -- you know, I wasn't asked as  
 3 part of my purpose if I agreed with the  
 4 developer. My purpose is pretty specific. It's  
 5 outside of -- outside of -- outside of my  
 6 purpose, it's outside of my scope. I don't see  
 7 any relevance to it.  
 8 BY MR. CLARK:  
 9 Q. The problem is witnesses at  
 10 depositions don't get to be the judge of what's  
 11 relevant and proper questions. They're required  
 12 to answer questions and give responsive answers  
 13 to the questions to the best of their ability,  
 14 unless they're directed not to by, I guess their  
 15 attorney, which would only be if there's a  
 16 privilege entered or a previously entered court  
 17 order.  
 18 So, I'll ask the question one  
 19 more time and then we'll just mark it as  
 20 something that we'll file an application with the  
 21 court to compel an answer and any attendant  
 22 relief.  
 23 Joe Punia testified at his  
 24 deposition, at pages 208 to 210 and 212 to 214,  
 25 that the rocks that he referenced depicted in

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1 J. Randle, P.E.  
 2 photo number two of P-4 are a hazard and a safety  
 3 issue and a tripping hazard.  
 4 Do you agree or disagree with  
 5 him in that regard?  
 6 A. Let me tell you what I said. I said,  
 7 as I've already said, my purpose is pretty  
 8 specific. I mean, we can go through my report in  
 9 detail and you can decide how that affects Punia.  
 10 My purpose was not to  
 11 evaluate Punia's statement. I'm not prepared  
 12 here today to pull out excerpts from a 250-page  
 13 deposition and for you to ask me if I agree with  
 14 one or another. It's not part of my purpose on  
 15 this -- on this report in this case.  
 16 Q. So, you don't know whether or not you  
 17 agree or disagree with him or you're just  
 18 refusing to answer because you feel it's  
 19 irrelevant?  
 20 A. Like I said, I did not -- based on my  
 21 analysis, there was no hazardous condition  
 22 presented to me.  
 23 Q. So, you disagree?  
 24 A. It's not what -- what forms my  
 25 opinion. You know, my opinion is that the

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1 J. Randle, P.E.  
 2 parties acted reasonably that I was asked to  
 3 opine on, and then I make an opinion about  
 4 Hoiland's actions.  
 5 Q. So, you disagree with Joe Punia that  
 6 the rocks referenced in his deposition testimony  
 7 at pages 208 to 210 and 212 to 214, which are the  
 8 rocks depicted on photo number two of P-4, you  
 9 disagree with him that those are hazardous  
 10 conditions that pose a safety/tripping hazard.  
 11 Is that correct, that you disagree with --  
 12 A. Yes. This is a construction site.  
 13 This is not -- there is no hazardous condition  
 14 here.  
 15 It hasn't been -- I'm not  
 16 here to prove your case. I'm not here to support  
 17 Punia's proving of your case. That's not what  
 18 I'm here to do. I'm here to understand the  
 19 facts, perform the scientific method and create a  
 20 report within the parameters of Rule 26. That's  
 21 what I did. That's my purpose.  
 22 Q. So, did you answer that question yes  
 23 and then gave your unrelated colloquy?  
 24 I thought I heard a yes in  
 25 there, but I'm not sure. And I'm trying to

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1 J. Randle, P.E.  
 2 figure out what the court reporter got as well.  
 3 I thought I might have heard a yeah and then you  
 4 went on. Was it a yes or a yeah?  
 5 (The following was read by  
 6 the court reporter:  
 7 "A. Yes. This is a  
 8 construction site. This is not -- there is no  
 9 hazardous condition here. It hasn't been -- "  
 10 MR. CLARK: Got it. So,  
 11 good. So, after the fifth time he finally  
 12 answered it. Okay. So, we got the yes.  
 13 BY MR. CLARK:  
 14 Q. Why did you write in your report that  
 15 this is a school construction project?  
 16 A. I noticed that. That was a typo.  
 17 Q. Doesn't your peer-review committee  
 18 pick up on that kind of thing?  
 19 A. It's not a committee. No, no. It's  
 20 formatting and languaging. So, it was a typo.  
 21 Q. Doesn't the scientific method that  
 22 you employed weed out that kind of thing?  
 23 A. In a perfect world, I guess it would.  
 24 Q. Do you think if it was a legitimate,  
 25 peer-reviewed piece, that a legitimate

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1 J. Randle, P.E.  
2 peer-review committee would have picked up on  
3 that?  
4 MS. MULHERN: Objection to  
5 form.  
6 THE WITNESS: Yeah. I think  
7 you need to read the intro to my --  
8 MS. TUTELO: Objection.  
9 THE WITNESS: -- report.  
10 Robson is engaged. You know,  
11 we don't -- there's not multiple parties involved  
12 or multiple firms involved. We're engaged to  
13 perform a stated purpose. It could be what it  
14 was stated here, it could be a multitude of  
15 things.  
16 BY MR. CLARK:  
17 Q. But could you imagine an article to  
18 be published in the Journal of Engineering and  
19 Science dealing with the proper construction of a  
20 large building and it was, like, a big military  
21 building and they wrote -- the author wrote that  
22 it was a school construction project, but really  
23 it was a construction of a military building.  
24 And then could you imagine if a peer-review  
25 committee missed that and it actually got

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1 J. Randle, P.E.  
2 published? Could you imagine something like that  
3 ever happening?  
4 MS. MULHERN: Objection to  
5 that question.  
6 What does that have to do  
7 with Mr. Randle's opinions in this case?  
8 And I know that we're coming  
9 up against, you know, the slated end time. So, I  
10 don't really want to waste time on questions.  
11 I mean, he testified it's a  
12 typo, Jerry. You know, I don't know what more  
13 there is for you to get from him on that.  
14 MR. CLARK: Well, he's the  
15 one that opened up the day to try to bolster his  
16 opinion that his report is peer-reviewed and that  
17 he employed the scientific method. So, I think  
18 that those questions speak to that.  
19 MS. MULHERN: And he  
20 testified it's a typo. I'm not sure there's much  
21 more there.  
22 MR. CLARK: Can we stipulate  
23 that this was not a peer-reviewed piece and that  
24 the scientific method did not -- was not utilized  
25 in arriving at it?

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1 J. Randle, P.E.  
2 MS. MULHERN: No, absolutely  
3 not.  
4 MS. TUTELO: Objection to  
5 form.  
6 MR. CLARK: Okay. Then we'll  
7 have to explore that further.  
8 MS. KALOCSAY: You have one  
9 minute it seems, so --  
10 (Pause.)  
11 MR. CLARK: Okay. I don't  
12 have any other questions at this time. Thank you  
13 for your time today.  
14 MS. MULHERN: Mr. Randle, you  
15 can log off.  
16 (Off the record.)  
17 BY MS. DEROGATIS:  
18 Q. Okay. Hi, sir I just have one  
19 question for you.  
20 A. Okay.  
21 Q. I just want to confirm that when you  
22 have referenced Grand LHN throughout your  
23 deposition, you were referring to Grand LHN III  
24 Urban Renewal, as is noted in page two of your  
25 report. Fair?

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1 J. Randle, P.E.  
2 A. Yes.  
3 MS. DEROGATIS: That's it.  
4 Thank you.  
5 THE WITNESS: Okay.  
6 MS. MULHERN: Does anyone  
7 else have any other questions?  
8 MS. KALOCSAY: No.  
9 MS. MULHERN: All right.  
10 You're finished. Thank you very much.  
11 THE WITNESS: All right.  
12 Have a good day.  
13 THE COURT REPORTER: All  
14 right, Counsel, I just need to get on the record  
15 who is ordering.  
16 So, Doug, are you?  
17 MR. ROSENZWEIG: Yes.  
18 Electronic copy only, please.  
19 THE COURT REPORTER: Mr. Coffey?  
20 MR. COFFEY: Same, electronic  
21 only.  
22 THE COURT REPORTER: Pauline?  
23 MS. TUTELO: Yes, electronic  
24 copy only. I'm sorry.  
25 THE COURT REPORTER: Robyn?

1 J. Randle, P.E.  
 2 MS. KALOCSAY: Yes, same.  
 3 THE COURT REPORTER: And,  
 4 Lisa?  
 5 MS. DEROGATIS: Not at this  
 6 time.  
 7 THE COURT REPORTER: Okay.  
 8 Thanks, everyone.  
 9 - - -  
 10 (Deposition concluded at 4:52 p.m.)  
 11 - - -  
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1 J. Randle, P.E.  
 2 CERTIFICATE  
 3 SUPERIOR COURT OF NEW JERSEY :  
 4 HUDSON COUNTY :  
 5 I, Dolores DeFilippis,  
 6 RMR-CCR-CLR, before whom the examination under  
 7 oath of said witness was taken, do hereby certify  
 8 that the witness, whose testimony appears in the  
 9 foregoing examination under oath, was duly sworn,  
 10 and that the transcribed deposition of said  
 11 witness is a true record of the testimony given  
 12 by the witness; that the proceedings herein are  
 13 recorded fully and accurately; that I am neither  
 14 attorney nor counsel for, nor related to any of  
 15 the parties to the action in which this  
 16 examination under oath was taken; and, further,  
 17 that I am not a relative of any attorney or  
 18 counsel employed by the parties hereto, or  
 19 financially interested in this action.  
 20  
 21

22 -----  
 23 DOLORES DeFILIPPIS, RMR-CCR-CLR  
 24 License No. 30X100216300  
 25

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