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IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CASE NO: 8:12 cv-02484-JSM-EAJ

LISA HERRERA AND DENNIS HERRERA
AS CO-PERSONAL REPRESENTATIVES OF
THE ESTATE OF ISABELLA HERRERA,
DECEASED,

Plaintiffs,

Vs.

HILLSBOROUGH COUNTY SCHOOL
BOARD; AND HILLSBOROUGH COUNTY
SCHOOL DISTRICT,

Defendants.

_____ /

DEPOSITION OF: JOHN FRANKLIN
DATE TAKEN: March 26, 2013
TIME: From 3:58 p.m. TO 6:20 p.m.
PLACE: Orange Legal
1000 West Kennedy Boulevard
Suite 200
Tampa, Florida 33606
TAKEN BY: The Plaintiff
REPORTED BY: Christine Risher, RPR
Court Reporter, Notary Public

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ALSO PRESENT:

John Toner, Videographer
Lisa Herrera
Dennis Herrera

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S T I P U L A T I O N S

It is hereby agreed and so stipulated by and between the parties hereto, through their respective counsel, that the reading and signing of the transcript are not expressly waived by the Deponent.

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1 P R O C E E D I N G S

2 - - - - -

3 VIDEOGRAPHER: Here begins the videotaped
4 deposition of John Franklin taken in the matter
5 of Case Number 8:12 cv-02484-JSM-EAJ,
6 Lisa Herrera and Dennis Herrera versus
7 Hillsborough County School Board.

8 The deposition is being held in the offices
9 of Orange Legal, Tampa, located at 1000 West
10 Kennedy Boulevard, Suite 200, Tampa, Florida
11 33606.

12 Today's date is March 26th, 2013, and the
13 time is 3:58 p.m. The court reporter is
14 Chris Risher. The video specialist is John Toner
15 on behalf of Orange Legal.

16 Will counsel, and all present, please
17 introduce yourself, afterwards the court reporter
18 will swear in the witness.

19 MR. COTTER: My name is Dan Cotter, and I'm
20 with the Maher Law Firm, and we represent the
21 plaintiffs, Lisa Herrera and Dennis Herrera, who
22 are with me here today.

23 MR. GONZALEZ: I'm Tom Gonzalez, I represent
24 the School Board of Hillsborough County.

25 MR. MURMAN: Jim Murman, also representing

1 the school board.

2 COURT REPORTER: Do you swear the testimony
3 you are about to give will be the truth, the
4 whole truth, and nothing but the truth.

5 THE WITNESS: I do.

6 THEREUPON,

7 JOHN FRANKLIN,

8 having been first duly sworn, was examined and testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MR. COTTER:

12 Q. Good afternoon. My name is Dan Cotter.

13 A. Good afternoon.

14 Q. Could you tell us your name, please?

15 A. John A. Franklin.

16 Q. And Mr. Franklin, where are you employed?

17 A. Hillsborough County Schools.

18 Q. And what is your position there?

19 A. General Manager Transportation Department.

20 Q. And how long have you been so employed?

21 A. Since June 2007.

22 Q. I'm going to be taking your deposition today and
23 ask you some questions about your background and about
24 your work as the transportation manager, specifically
25 about Isabella Herrera and the circumstances of her

1 death.

2 If there is any questions that I ask that you do
3 not understand, please stop me and advise me that I'm
4 not making myself clear, and I'll be happy to rephrase
5 my question. Is that agreeable?

6 A. Agreeable.

7 Q. And, similarly, if you give a response that I'm
8 having difficulty understand, I may also ask you to
9 rephrase your response or explain it to me. Is that
10 agreeable?

11 A. Agreeable.

12 Q. My hope and my goal here today is that you will
13 understand my questions, I will understand your answers,
14 unless we otherwise advise each other. Is that
15 agreeable?

16 A. Agreeable.

17 Q. Therefore, if you answer my question, I'm going
18 to assume you understand it. Is that agreeable?

19 A. Agreeable.

20 Q. Have you ever given a deposition before?

21 A. No.

22 Q. Is this the first time you've given a deposition?

23 A. Yes.

24 Q. All right. Can you tell me what, if anything,
25 you did in preparation for your deposition?

1 A. I just reviewed some of my information related to
2 our department procedures, and that's about it.

3 **Q. What did you bring here with you today?**

4 A. I brought the MO19 that is the original
5 transportation order for the students.

6 I brought some of our training materials that
7 allow for the training of our bus drivers and bus
8 attendant riders.

9 I brought a copy of my license. I brought an
10 E-mail from my secretary to me notifying me that
11 Corporal Brendan Fitzgerald from the Hillsborough County
12 Sheriff's Department wanted to see the video from the
13 bus, and I think that's about it.

14 **Q. Would you mind taking those documents out, and**
15 **we'll categorize them, as you've just described, and go**
16 **ahead and mark them?**

17 MR. GONZALEZ: Those are all copies, John?

18 THE WITNESS: No.

19 A. And I brought our SOP.

20 BY MR. COTTER:

21 **Q. Okay. Let's start, I guess with your license.**
22 **Do we need to make copies of these documents?**

23 A. Yes.

24 **Q. For the time being, we will identify them, but we**
25 **will not mark them. So your license we will make**

1 **Number 1.**

2 (Plaintiff's Exhibit 1 marked for
3 identification.)

4 MR. COTTER: These are from our previous
5 depositions.

6 BY MR. COTTER:

7 **Q. We'll put your license there as Number 1.**

8 **You said you have an MO19?**

9 A. Yes, sir.

10 **Q. What does that acronym stand for?**

11 A. That is an internal form that notifies
12 transportation to initiate services.

13 **Q. All right. That we're going to go mark as Number**
14 **2. I'll take that and have my client look at it while**
15 **we're going through here.**

16 **You said you had a copy of an E-mail from**
17 **Corporal Brendan from your secretary to you regarding a**
18 **contact from Corporal Brendan requesting the video from**
19 **the bus?**

20 (Plaintiff's Exhibit 2 marked for
21 identification.)

22 A. Brendan Fitzgerald, yeah.

23 **Q. We will make that Number 3.**

24 (Plaintiff's Exhibit 3 marked for
25 identification.)

1 A. This is the incident report that was sent out,
2 these are various training documents.

3 **Q. Hold on one second. Four we're going to make the**
4 **incident report that was sent out. And then you have**
5 **various training documents?**

6 (Plaintiff's Exhibit 4 marked for
7 identification.)

8 A. Uh-huh.

9 **Q. Show me those, please.**

10 A. These are various units relating to school bus
11 driver training.

12 **Q. All of these?**

13 A. Uh-huh.

14 **Q. Okay. All right. We're going to make the**
15 **training materials for bus driver's Number 5.**

16 **And then you had -- you said you have your**
17 **standard operating procedure manual?**

18 (Plaintiff's Exhibit 5 marked for
19 identification.)

20 A. Uh-huh.

21 **Q. We'll make that Number 6.**

22 (Plaintiff's Exhibit 6 marked for
23 identification.)

24 MR. GONZALEZ: You need to say yes or no.

25 THE WITNESS: Yes.

1 MR. GONZALEZ: It's hard for her to right
2 down.

3 BY MR. COTTER:

4 Q. We will come back to discuss these in more
5 detail. Thank you for bringing those with you.

6 Let me ask you, are there any other E-mails of
7 which Isabella Herrera is the subject of that you may
8 have either authored or received since the time of her
9 death?

10 A. No.

11 Q. And how do you know that with such certainty?

12 A. Because I have reviewed all of my documents, and
13 these are the only ones pertaining to 4296 that I have.

14 Q. And 4296 is the number of the bus --

15 A. Correct.

16 Q. -- that Isabella was a passenger in on
17 January 25th, 2012?

18 A. Correct.

19 Q. And do you keep communications related to
20 incidents that occur on your buses by virtue of the
21 number of the bus?

22 A. Could you please clarify "incidents"?

23 Q. Sure. Something unusual happens to a student on
24 a bus I would describe as an incident.

25 A. Okay. Unusual could go from any number of types

1 of things. Yes, we do have an internal incident
2 reporting procedure, to which I am a recipient of a
3 number of these electronic documents which detail
4 various incidents, which range from behavior issues,
5 health issues, and those type of things.

6 **Q. All right. So, for example, is what happened to**
7 **Isabella Herrera on January 25th, 2012, would that fit**
8 **the definition of an incident?**

9 A. Yes.

10 **Q. Was an incident report produced?**

11 A. Correct.

12 **Q. And is that what you've identified as Exhibit 4?**

13 A. Correct. Yes.

14 **Q. And if I'm reading this correctly, it identifies**
15 **the date, time, bus number, driver, Eileen Hay? She was**
16 **the driver of the bus.**

17 A. No.

18 **Q. Why would her name be there as the driver?**

19 A. It's a primary incident report.

20 **Q. What does that mean?**

21 A. What that means is that there are a number of
22 circumstances that require us to get immediate notice
23 out to different parties vis-à-vis the communications
24 office, staff at central office, myself, area field
25 operations offices, district safety.

1 So this is a preliminary report that is sent out
2 to those folks notifying them that there has been some
3 incident on a bus in case action is taken, parental
4 phone calls are received, those type of things.

5 **Q. And the description of this incident is that the**
6 **driver said that the student was having a medical**
7 **emergency, the student was transported by EMS?**

8 A. Uh-huh.

9 **Q. Yes?**

10 A. Yes.

11 **Q. Who authored this document?**

12 A. A communications technician in our central
13 dispatch area.

14 **Q. And that "to" section of the E-mail, in other**
15 **words, the recipients of this E-mail I conclude were**
16 **mailing lists of Area 5 personnel?**

17 A. Let me see it.

18 **Q. Winnie McCandless and then some group made up of**
19 **incident reports?**

20 A. Correct. As I said, there is multiple stake
21 holders that need to be notify when incidents take
22 places on buses, the area director, internal folks, as
23 well as roadside folks, which are not at our physical
24 site.

25 **Q. So who would receive -- who had received that**

1 **document?**

2 A. Without having the exact number of folks on here,
3 I couldn't specifically say, but I would ascertain that
4 myself, the operations manager, the district safety
5 folks who help us with our crashes and incidents, the
6 communications office, Cathy Valdes, the chief
7 facilities officer, my supervisor, as well as
8 Mr. Brinson. All were normal recipients on incident
9 reports.

10 **Q. All right. Who is your supervisor?**

11 A. Ms. Cathy Valdes.

12 **Q. Okay.**

13 MR. GONZALEZ: Is that's with an S on the
14 end?

15 THE WITNESS: (Nods head.)

16 BY MR. COTTER:

17 **Q. Okay. Now -- so I began that discussion by**
18 **asking you how you knew, with certainty, that you were**
19 **not the recipient of or author of any E-mails that were**
20 **generated as a result of what happened to**
21 **Isabella Herrera on January 25th. How do you know there**
22 **are no other E-mails?**

23 A. As I said, I've looked I have no other E-mails.

24 **Q. How have you gone about looking?**

25 A. I've done a simple search on my E-mails, and

1 there is nothing else.

2 **Q. A search by what?**

3 A. 4296, Sessums Elementary.

4 **Q. What about the student's name?**

5 A. No.

6 **Q. Why not?**

7 A. Because I think things were encapsulated with
8 4296.

9 **Q. What would have been the harm in checking by her**
10 **name?**

11 MR. GONZALEZ: Object to the form of the
12 question. You can answer.

13 (Cell phone rings.)

14 **Q. By the way, if you get any calls that you need to**
15 **attend to, feel free, we can take whatever breaks are**
16 **necessary.**

17 A. Let me turn this off.

18 The time lapse between the efforts that we began
19 with the post-investigation and law enforcement was a
20 very compressed amount of time, and then we began to
21 follow up with attorneys, Mr. Murman and Mr. Gonzalez.

22 Aside from that, there is no other reason to send
23 any E-mails relating to this case.

24 **Q. Can you tell us your current address please, your**
25 **home address?**

1 A. My current home address is 405 South Bermuda
2 Boulevard, Tampa, Florida 33605.

3 **Q. And your business address, please?**

4 A. 9455 Harney Road, Thonotosassa, Florida.

5 **Q. Can you tell me your educational background,**
6 **please?**

7 A. I have an associate's degree in liberal arts from
8 Jefferson Community College in Watertown, New York.

9 I have a bachelor's in art and political science
10 and history from The State University of New York at
11 Albany, and I have a master's in public administration
12 from Southwest Texas State University, San Marcos,
13 Texas.

14 **Q. What years were they obtained?**

15 A. I earned my associate's degree in '92. I earned
16 my bachelor's degree in '94, and my master's degree in
17 '96.

18 **Q. All right. Thank you. Can you give me a sense**
19 **or walk me through your employment and experience up**
20 **until the time that you became employed with**
21 **Hillsborough County?**

22 A. Post-secondary education?

23 **Q. Yes, sir.**

24 A. Okay. As soon as I was out of college I began a
25 job in the Work Force Development Board in San Marcos,

1 Texas, Round Rock, Texas. I was a financial manager
2 with the Office of the Attorney General, Child Support
3 Division for a time. I was hired as the assistant
4 director of transportation for San Antonio Independent
5 School District, then I was hired as the director of
6 transportation through the Southwest Independent School
7 District in San Antonio, Texas, and then I was hired as
8 the general manager of transportation for Hillsborough
9 County Schools Transportation.

10 **Q. Do you have a resume?**

11 A. No, I do not.

12 **Q. Okay. When was the last time you had a resume?**

13 **Would it have been at the time you --**

14 A. 2007.

15 **Q. 2007. Who did you replace here in Hillsborough**
16 **County, was it Ms. Strickland?**

17 A. Karen Strickland.

18 **Q. By the way, when you first started, did**
19 **Ms. Strickland make you aware of the Martin matter,**
20 **Eric Martin?**

21 A. No.

22 **Q. Are you familiar with that case?**

23 A. No.

24 **Q. You've not heard about Eric Martin who died in**
25 **2002?**

1 A. No.

2 Q. So as I understand it, you report to the chief
3 facilities officer?

4 A. Yes, sir.

5 Q. And that's Ms. Valdes?

6 A. Yes, sir.

7 Q. And she reports directly to the superintendent?

8 A. Yes, sir.

9 Q. And under you, you have four direct reports; is
10 that right?

11 A. Four direct managers. Yes, sir.

12 Q. Operations manager?

13 A. Yes.

14 Q. Assistant department manager for route and
15 planning?

16 A. Actually that person is a direct report to the
17 operations manager in our organizational tree.

18 Q. Do you have a manager for administrative
19 services?

20 A. Yes, sir.

21 Q. And a manager for fleet maintenance?

22 A. Yes, sir.

23 Q. And can you tell me those person's names as best
24 you recall in January of 2005?

25 A. Julia Saltzgaver, operations manager.

1 Q. Could you spell that, if you wouldn't mind?

2 A. S-a-l-t-z-g-a-v-e-r, first name, J-u-l-i-a.

3 The administrative manager is

4 Mr. Willie Campbell, C-a-m-p-b-e-l-l, and the fleet

5 manager is Mr. James Kennett, K-e-n-n-e-t-t.

6 Q. All right. Were all those people in place in

7 January of 2012?

8 A. Yes, sir.

9 Q. And which of those individuals had responsibility
10 for the training of bus operators and bus aides?

11 A. Mr. Willie Campbell is the administrative manager
12 who oversees our training program.

13 Q. All right. Can you tell me what you've done, if
14 anything, in preparation for the deposition today, other
15 than gather these documents?

16 MR. GONZALEZ: Asked and answered. You can
17 answer it again.

18 A. I've reviewed our protocols.

19 BY MR. COTTER:

20 Q. Nothing else?

21 A. That's it.

22 Q. Did you speak with any of your direct reports?

23 A. No.

24 Q. Can you tell me what your understanding of the
25 Rehabilitation Act of 1973 is, specifically Section 504?

1 A. I'm not familiar with that.

2 **Q. How about can you tell me your understanding of**
3 **The Education For All Handicapped Children Act of 1975?**

4 A. Not with a deep level of understanding of it, no.

5 **Q. What level do you have? Share it with me.**

6 A. If I have a question that I need to ask, we have
7 ESE experts in the school district that I can go to.

8 **Q. So, no familiarity with it?**

9 A. No.

10 **Q. And the Head Start Act, do you have any**
11 **familiarity with that?**

12 A. No, sir.

13 MR. GONZALEZ: What was that?

14 MR. COTTER: The Head Start Act.

15 BY MR. COTTER:

16 **Q. The Handicapped Children Protection Act of 1986,**
17 **can you tell me what your familiarity with that is?**

18 A. No.

19 **Q. And the Americans with Disabilities Act, can you**
20 **tell me your familiarity with that, please?**

21 A. I'm familiar with that.

22 **Q. Tell me your familiarity with respect to how it**
23 **impacts what you do in your work.**

24 A. In our work we rely heavily upon the school's ESE
25 department to give us what amounts to be a prescription

1 or an order for us to fill as the student service
2 provider.

3 So under normal circumstances, schools conduct
4 meetings of different stripes. They send us the M019s,
5 we set those up. We collaborate with the ESE department
6 frequently relating to any issues that come up and we
7 need to touch upon those folks expertise, and making
8 sure that we're providing good services to our students.
9 That's the general working model for the transportation
10 department.

11 **Q. I'm sorry. My question to you is what is your**
12 **familiarity with the Americans with Disabilities Act?**

13 A. My answer is that we work well with our
14 departments to make sure that we fulfill all aspects of
15 that.

16 **Q. And you -- are you finish?**

17 A. Uh-huh.

18 **Q. Yes?**

19 A. Yes.

20 **Q. Can you tell me your familiarity with the**
21 **individuals with Disabilities with Education Act?**

22 A. No.

23 **Q. Okay. Can you tell me the definition of an**
24 **orthopedic impairment?**

25 A. I'm sorry, I can't.

1 Q. Would you agree with me that Hillsborough County
2 has the eighth largest school district in the nation?

3 A. I would agree.

4 Q. And are you aware that approximately 29,000 of
5 its students are ESE students?

6 A. Yes.

7 Q. And would you agree with me that ESE training and
8 knowledge is imperative to ensure the safe
9 transportation for that group of vulnerable students?

10 A. I agree.

11 Q. And would you agree with me that the mission of
12 the school district is to provide an education that
13 enables each student to excel as a successful and
14 responsible citizen?

15 A. Yes, sir.

16 Q. Yes?

17 A. Yes.

18 Q. And can you explain to me what you view your role
19 is in fulfilling that mission?

20 A. My role is as a facilitator in the transportation
21 department for student support services. I'm here to
22 make sure that kids get to school safely. That we have
23 an appropriate substructure available with our buses,
24 with our routing, with the flow of information to our
25 drivers, our drivers are trained, and to make sure that

1 we facilitate parental concerns, and that we remain
2 compliant to the communities concerns. That's the
3 extend of what I do. I'm a student support service
4 provider?

5 **Q. And would you agree with me that in 2011**
6 **Hillsborough County Schools were suffering from a**
7 **significant shortage of bus drivers?**

8 A. Yes, I would say that we've had a significant
9 shortage of bus drivers.

10 **Q. And in 2011, 2012, your department in particular**
11 **was in the midst of a four-year reorganization plan;**
12 **isn't that correct?**

13 A. In '11 and '12?

14 **Q. Yes.**

15 A. In which respect? The reorganization plan had
16 been going on since 2006.

17 **Q. All right. So you were at the tail end of it?**

18 A. Well, there was different phases. There was an
19 internal organizational restructure. There was the
20 restructuring of how we provide services to students.
21 By '11, '12, most of that had come to an end.

22 **Q. One of the goals of that reorganization was for**
23 **your department to become more efficient; isn't that**
24 **true?**

25 A. Absolutely. Yes, sir.

1 Q. And that included a lot of consideration and
2 dialogue related to the reduction of bus stops,
3 reevaluating the necessity to bus children who lived
4 close to school and similar such issues?

5 A. Yes, sir.

6 Q. Would you agree with me that school bus
7 transportation staff should be thoroughly informed about
8 the specific needs of each individual child with a
9 disability?

10 A. I would have to ask you to clarify the word
11 "thoroughly".

12 Q. What do you understand the word thoroughly to
13 mean.

14 MR. GONZALEZ: Object to the form of the
15 question.

16 A. You asked me do I think they thoroughly need to
17 be notified, and there are confidentiality issues with
18 the ESE students.

19 BY MR. COTTER:

20 Q. Confidentiality issues --

21 A. You recognize that.

22 Q. -- which override their safety?

23 A. No, I'm asking you what you mean, a clarification
24 of thorough.

25 Q. I'm giving a deposition today.

1 MR. GONZALEZ: Hold on a second. We started
2 out this deposition by -- I think by you
3 extracting an agreement that if he didn't
4 understand something he could ask you and you can
5 explain it --

6 MR. COTTER: Right.

7 MR. GONZALEZ: -- And he is asking you to
8 explain it.

9 MR. COTTER: I'm involved in doing that.

10 MR. GONZALEZ: Well, you said that you are
11 not giving a deposition, so I --

12 MR. COTTER: No, I said I'm not going to be
13 answering questions today.

14 MR. GONZALEZ: I think you said you're not
15 giving the deposition. Go ahead. I'm sorry.

16 MR. COTTER: So, I'm not able to answer
17 questions today.

18 MR. GONZALEZ: You're saying you're not
19 going to --

20 BY MR. COTTER:

21 **Q. What I would like to do is to have you tell me**
22 **what your understanding of the word thoroughly, is.**

23 MR. GONZALEZ: Just one second if I could,
24 and the only reason I'm saying this is because of
25 the introduction you give on your depositions.

1 But are you saying you're not going to
2 explain the word thoroughly to him?

3 MR. COTTER: I'm asking him for what his
4 understanding of it is, and if it's different
5 we'll choose to elect a different word.

6 MR. GONZALEZ: I'm going to advise the
7 witness that since he is declining to explain the
8 word thoroughly to you, if you don't understand
9 the question, then please don't answer it.

10 THE WITNESS: Okay.

11 BY MR. COTTER:

12 **Q. Do you understand my question?**

13 A. I understand your question, but there are
14 different forms of information. We do want our bus
15 drivers to be informed, but I'm asking for clarification
16 on the word thoroughly, because we have a certain level
17 of understanding and knowledge in the transportation
18 department vis-à-vis these forms.

19 Thoroughly comes, as to the best of their
20 knowledge and training, and that's the extent of what
21 they know.

22 **Q. All right. Is the word sufficiently one that**
23 **you're comfortable with?**

24 A. Sufficiently is appropriate.

25 **Q. All right. So let me ask it this way. Do you**

1 agree with me that school bus transportation staff
2 should be sufficiently informed about the specific needs
3 of each individual child with a disability?

4 A. Yes, I do.

5 Q. And would you agree with me that it is essential
6 for school bus personnel transporting children with
7 disabilities to understand the nature and
8 characteristics of the child's disability?

9 A. I would.

10 Q. And would you agree with me that it is necessary
11 for people, such as yourself, who are managers of school
12 transportation systems to develop and implement driver
13 and attendant training programs to assist the drivers
14 and the attendants to be able to understand the steps
15 that they should take in an emergency situation?

16 A. Yes, within limitations.

17 Q. And what limitations would you be referring to?

18 A. We have training protocols in the transportation
19 department, and bus drivers are not doctors. Bus
20 drivers are not psychologists, and they are not nurses,
21 okay?

22 The information that is supplied by the folks who
23 sit in the various meetings that provide this
24 information to us are the experts.

25 We get this information and they supply this

1 information to us. We then prepare the bus drivers with
2 the information that is supplied from us from the
3 meetings that are conducted with medical professionals,
4 so on and so forth, at the schools.

5 **Q. I'm just wondering if you feel you need to be a**
6 **psychologist or a nurse or a doctor in order to be**
7 **trained as to how to call 911?**

8 MR. GONZALEZ: Object to the form of the
9 question. You can answer it.

10 A. There is no prerequisite training to be a nurse,
11 psychologist or doctor to call 911.

12 **Q. What about to perform CPR?**

13 A. No.

14 **Q. Now, have you had a chance to review the**
15 **videotape of the events that took place on January 25th,**
16 **2012?**

17 A. I have in the past, sir?

18 **Q. You have?**

19 A. Yes, sir.

20 **Q. In fact you are the person that arranged to turn**
21 **that tape over to Brendan Fitzgerald; is that right?**

22 A. Yes, sir.

23 **Q. In fact, I guess it's Officer or**
24 **Sheriff Fitzgerald had contacted your office, you**
25 **brought the E-mail reflecting the message requesting a**

1 **copy of that; is that right?**

2 A. Yes, sir.

3 **Q. And you actually required his office to produce a**
4 **subpoena for that; is that right?**

5 A. Yes, sir.

6 **Q. And why is that?**

7 A. District protocol.

8 **Q. What protocol is that?**

9 A. It stipulates that before we release a videotape
10 that we need to have subpoenas from the appropriate
11 state attorney's office.

12 **Q. Is that a part of the standard operating**
13 **procedure in the manual that you brought here?**

14 A. No.

15 **Q. Is it written down anywhere?**

16 A. I don't believe so, no.

17 **Q. Okay. Is it your rule, or is it a rule of the**
18 **school board, or just help me understand whose rule that**
19 **is?**

20 A. I think it's a procedural protocol just to make
21 sure that we are safeguards in terms of student
22 information.

23 **Q. The videotape, you say you've had an opportunity**
24 **to see it in the past?**

25 A. Uh-huh.

1 Q. Do you agree with me that, from your perspective,
2 that the aide Joanna Hamilton and the driver,
3 Tonia Pizzarro, acted in accordance with the policies
4 and procedures upon which they had been trained as
5 Hillsborough County employees?

6 A. Yes.

7 Q. Are you aware that there is a nine-minute delay
8 between the time that Ms. Hamilton identified a problem
9 with Isabella Herrera and the time 911 was called?

10 A. Yes.

11 Q. And that nine-minute delay is acceptable to you?

12 MR. GONZALEZ: Object to the form of the
13 question. You can answer.

14 A. Not acceptable, no.

15 BY MR. COTTER:

16 Q. You had just told me a minute ago, as I
17 understood it, that everything that is depicted on that
18 video shows a behavior by Ms. Hamilton and Ms. Pizzarro
19 that was in accordance with your policy and procedure,
20 yes?

21 A. Yes.

22 Q. And am I understanding you to say that despite
23 that, you feel it was unacceptable that there was a
24 nine-minute delay in contacting 911?

25 MR. GONZALEZ: Object to the form of the

1 question. You may answer.

2 A. They made earnest attempts to connect up. They
3 recognized that there was a student emergency, and they
4 attempted to call, by our safety protocol dispatch
5 office, to request assistance to get emergency services.

6 The video does not reflect two people that aren't
7 trying and engaged to assist this young child.

8 BY MR. COTTER:

9 **Q. And you agree with me, do you now, that there is**
10 **no question that in January of 2012 the policy for the**
11 **aide and the driver, in the event they had a medical**
12 **emergency of one of their passengers, was to contact**
13 **dispatch and allow dispatch to contact 911?**

14 A. Correct.

15 **Q. And that policy has been changed today?**

16 A. That procedure has been changed.

17 **Q. And why do you draw the distinction between a**
18 **policy and a procedure?**

19 A. Policy is board approved, procedures are
20 incumbent in department actions.

21 **Q. All right. And, so, when did this procedure get**
22 **changed?**

23 A. It was changed when we launched the new handbook,
24 officially in writing, and it was changed somewhere in
25 mid October vis-à-vis telephonic communication with the

1 bus drivers.

2 **Q. October 2012?**

3 A. Uh-huh.

4 **Q. And the new handbook, is that among the documents**
5 **that you brought here today?**

6 A. No, sir.

7 **Q. And why is that?**

8 A. I believe that the subpoena asked for what -- the
9 handbook while this incident took place.

10 **Q. All right. And the handbook that you're**
11 **referring to that you brought with you, is that a part**
12 **of the -- what we've marked as Number 6, standard**
13 **operating procedure?**

14 A. Yes, sir.

15 **Q. And the alert that you were referring to, can you**
16 **describe how that process works, please?**

17 A. The alert? The notification procedure in case a
18 driver has an incident on a bus requires a level of
19 assistance?

20 **Q. Yes.**

21 A. Okay. Our drivers are required to contact via
22 the radio, K6, which is our centralized dispatch office.

23 **Q. That's how the alert system works?**

24 A. That was the procedure.

25 **Q. Okay. I'm a bit confused. I want to make sure I**

1 understand. I had understood that some kind of an alert
2 went out to the various employees who worked in bus
3 transportation about this change. Am I misinformed
4 about that?

5 A. Okay. We're stepping back to the incidental or
6 the initial incident report that was sent out, once K6
7 had begun to understand what was going on down -- 4296.

8 So to go back and ask Linda Thomas, who was the
9 author of this incident report, that was sent out to the
10 various folks preliminarily, to notify various personnel
11 involved in the knowledge of transportation incidents.

12 Q. All right. Now, the distinction between the
13 procedure and the policy, has this changed in contacting
14 911? Is it something that is going to be recommended to
15 the board as a new policy, or is this just the
16 procedure?

17 A. It is simply a procedure, and the change only
18 dictated that drivers had carte blanche to call 911
19 directly, provided they were in compliance with the safe
20 driving plan requirements, and that their bus had been
21 pulled over to the side of the road, that the parking
22 brake was on, and they were in a safe location before
23 they picked up a wireless communication device and
24 called 911 directly.

25 Q. Now, what was the procedure or policy, you can --

1 please advise me which it was, in effect on
2 January 25th, 2012 with respect to your drivers and
3 aides being allowed to use a cell phone?

4 A. The procedure was that they are to pick up their
5 two-way radio receiver, call K6, which is centralized
6 dispatch, and report that they had a medical emergency,
7 and EMS services were needed.

8 And from there, then, the dispatch office could
9 then begin to provide assistance get school security
10 involved, let stakeholders no what's going on so we
11 could provide the full complement of assistance, if it's
12 required.

13 Whether it would be a behavior incident, calling
14 law enforcement, whether it's a medical emergency
15 incident requiring EMS, whether it's just we need a
16 school administrator to go out and help out, those are
17 the types of thing we're looking for.

18 Q. All right. And when you say stakeholder, are you
19 also including the parents in that group?

20 A. No.

21 Q. So I want to understand, because I'm not sure I
22 understand the answer to the question.

23 Was there a policy or procedure in effect in
24 January of 2012 that prevented or precluded your aides
25 and your drivers from using their cell phones in the

1 **course of their work for any purpose?**

2 A. There was no specific provision that prevented
3 them. However, there are some parameters encapsulated
4 in the safe-driver plan, which is a district document
5 that dictates how they operate their bus requirements
6 that they must adhere to, and there is a provision on
7 there about using a wireless communication device while
8 operating a bus.

9 **Q. And what does it say?**

10 A. What it effectively says is that you may not use
11 a wireless communication device while you're driving the
12 bus, period.

13 **Q. What about if you're an aide?**

14 A. The safe driver plan only addresses bus drivers.

15 **Q. And so were aides permitted, at that time period,
16 to use their cell phones in the course of their work?**

17 A. The district does not issue business cell phones
18 to anybody. So if an employee was so inclined to use
19 their personal cell phone for business purposes, that's
20 their own prerogative.

21 **Q. Right. Are you familiar with the National
22 Congress of School Transportation?**

23 A. Yes, I am.

24 **Q. Are you a member?**

25 A. No.

1 Q. Do you participate in any way with it?

2 A. No.

3 Q. What is your familiarity with it?

4 A. I'm familiar with the group that gathers in
5 Missouri to review any PT driven, national association,
6 pupil transportation driven legislative agendas and
7 things of that nature.

8 Q. Do you understand they meet approximately every
9 five years?

10 A. Uh-huh.

11 Q. Yes?

12 A. Yes.

13 Q. And you understand that each state is entitled to
14 send approximately five representatives from various
15 school districts within their state?

16 A. Yes.

17 Q. And since you've been the transportation manager,
18 you've never had anyone from Hillsborough County attend
19 that conference?

20 MR. GONZALEZ: Object to the form of the
21 question. You can answer.

22 A. No, sir.

23 BY MR. COTTER:

24 Q. And you're aware that the Congress promulgates
25 each time they have this periodic meeting document,

1 **which comes to be referred to as Best Practices For**
2 **School Transportation?**

3 A. Yes, sir.

4 **Q. Are you familiar with what those recommendations**
5 **are?**

6 A. Not specifically.

7 **Q. Now, were you a part of the process in**
8 **Hillsborough County that developed the writing-quality**
9 **IEPs?**

10 A. No.

11 **Q. Are you familiar with that at all?**

12 A. I'm familiar on a surface level what an IEP
13 committee is, but I don't participate in IEP committees.

14 **Q. So no one from your department at your request**
15 **participated in the writing-quality IEP project in**
16 **Hillsborough County?**

17 A. I'm not familiar with the writing quality IEP
18 project, the date of it. During my tenure I have not
19 been asked to send anybody to such a project.

20 **Q. Nor have you been asked to implement any of its**
21 **recommendations in your work?**

22 A. I'm not aware of the document, so I'm not aware
23 of any recommendations pertaining to transportation.

24 **Q. Now the SOP that you referred to that we've**
25 **identified as Exhibit 6 has an introductory section that**

1 has a glossary of terms, correct?

2 A. I don't know. I could look it up. I'm not -- I
3 haven't committed it to memory.

4 Q. And would you agree with me that the term
5 accident includes a major accident, an incident where
6 emergency or extended medical attention is required?

7 A. The word "accident"? Could you please repeat the
8 question?

9 Q. Sure. Would you agree with me that when we use
10 the word accident, I'm going to be asking you several
11 questions about what is to be done, what procedures or
12 policies are in place when an accident occurs on one of
13 your buses.

14 And I want to know if you'll agree with me that
15 the term major accident includes an incident where
16 emergency or extended medical attention is required?

17 A. I wouldn't agree to that characterization as a
18 major accident, requires major -- is also an incident
19 which requires major medical emergency service.
20 Incidents and accidents can be different.

21 Q. Right. Well, I'm referring to accidents.

22 A. Okay.

23 Q. And I'm reading from the Hillsborough County
24 Public Schools Safety, Health and Environmental Program,
25 school board approved July 11th, 2006. Are you familiar

1 with that document?

2 A. I am.

3 Q. So you --

4 MR. GONZALEZ: Hold on one second. I think,
5 because you referred him to the SOPs, and I think
6 specifically to Exhibit 6.

7 This is a different -- you represented that
8 the definition that you were giving him was from
9 the glossary, so now you're asking him from a
10 different glossary?

11 MR. COTTER: Yes.

12 MR. GONZALEZ: Okay. I just wanted to make
13 sure, because I think the question was confusing.
14 I'm sure it wasn't intentional.

15 MR. COTTER: We never received that document
16 before.

17 MR. GONZALEZ: No, no, no, but you referred
18 to it in your question, is what I'm saying.

19 MR. COTTER: Okay. I'm not sure that I did,
20 but I'm --

21 MR. GONZALEZ: Well, can we read back --

22 MR. COTTER: I'm just trying to get --

23 MR. GONZALEZ: Read back --

24 MR. COTTER: Does it really matter?

25 MR. GONZALEZ: Well, apparently, it does to

1 you, because you said --

2 MR. COTTER: I'll let you know what matters
3 to me, okay?

4 MR. GONZALEZ: Okay. And then you'll go
5 ahead and ask the question again?

6 MR. COTTER: Yeah.

7 MR. GONZALEZ: Thank you.

8 MR. COTTER: Sure.

9 BY MR. COTTER:

10 **Q. So for purposes of our discussion here, would you**
11 **agree with me that the Hillsborough County Public School**
12 **Safety Health and Environmental Program, school board**
13 **approved July 11, 2006, has a definition for accident,**
14 **which includes a major accident, an incident where**
15 **emergency or extended medical attention is required?**

16 A. I'm not completely familiar with every aspect of
17 that manual.

18 **Q. All right.**

19 A. I have a reference copy.

20 **Q. It's your understanding, is it not, that the**
21 **superintendent of the school system is the chief**
22 **executive officer of the board?**

23 A. Is the chief executive officer of the board?

24 **Q. Yes.**

25 A. I -- she is the chief executive officer of the

1 school district. I'm not quite sure what her
2 relationship is to the school board.

3 **Q. Again, I'm just reading from the manual.**

4 A. Okay.

5 **Q. The superintendent maintains administrative**
6 **oversight of the school system and has the**
7 **responsibility for the efficient operation of the**
8 **district. Would you agree with that?**

9 A. I would.

10 **Q. Including the transportation of its students?**

11 A. Yes, sir.

12 **Q. Now, would you agree with me that each general**
13 **manager, such as yourself, has full authority and**
14 **responsibility for the safety program implementation?**

15 A. Yes, sir.

16 **Q. And the general manager coordinates safety**
17 **concerns with assigned areas?**

18 A. Yes, sir.

19 **Q. Would you agree with me that on January of 2012**
20 **it was your responsibility to ensure that the**
21 **transportation employees, particularly the drivers and**
22 **the bus aides, knew how and where to obtain needed**
23 **medical help?**

24 A. Yes, sir.

25 **Q. And would you agree with me that accident**

1 investigation is a necessary and effective technique for
2 preventing or recurring or future accidents?

3 A. Yes, sir.

4 Q. Would agree with me that proper documentation of
5 student accident and injuries is imperative to evidence
6 the proper care of students while under district
7 supervision?

8 A. Yes, sir.

9 Q. Would you agree with me that it was the policy of
10 Hillsborough County Schools that an accident report
11 would be completed for all student injuries which occur
12 while under school staff supervision?

13 A. Yes, sir.

14 Q. And would you agree with me that the reports
15 should be completed regardless of how minor the injury
16 was?

17 A. Yes, sir.

18 Q. Would you agree with me that when injuries
19 require medical attention or when a parent is contacted,
20 a copy of the injury report should be forwarded to the
21 district safety office?

22 A. Yes, sir.

23 Q. And would you agree with me that when injuries
24 require the use of emergency medical response, that the
25 district safety office will be called immediately?

1 A. Yes, sir.

2 Q. Let me show you this document, which we can mark
3 as Exhibit Number 7.

4 (Plaintiff's Exhibit 7 marked for
5 identification.)

6 MR. GONZALEZ: The red tab is part of it?

7 MR. COTTER: No.

8 BY MR. COTTER:

9 Q. Have you had a chance to look at it?

10 A. Yes, sir.

11 Q. Would you agree with me that that document,
12 Exhibit 7, was the document that was to be used to do an
13 accident report and investigation in January of 2012 for
14 Hillsborough County Transportation?

15 A. No, sir, this is a dated document.

16 Q. Dated what?

17 A. It predates what we're currently using.

18 Q. I'm talking about January 2012.

19 A. Yes, sir.

20 Q. Okay. What were you using in January of 2012?

21 A. We have a different document that has been
22 produced by the very department of the manual that
23 you're holding there, the Department of Safety.

24 Q. Where is that document for the incident involving
25 Isabella Herrera.

1 A. There was not one completed.

2 **Q. And the reason why there was not one completed?**

3 A. There was, to my understanding, the child was
4 alive when the child left the bus, the principal then
5 began, an area director, who are the points of contact
6 for communication with the parent, began to carry up the
7 districts prerogative here.

8 We were notified that the child had expired.
9 Corporal Fitzgerald contacted me. We had looked at the
10 video. We had seen that the driver and rider had made
11 an earnest attempt to contact 911, and in the end the
12 child had not expired on the bus, to my understanding,
13 and the corporal reiterated to us that they saw no
14 negligent behavior on behalf of the bus driver and the
15 rider.

16 **Q. And the specific sheriff that you're referring to**
17 **that you attribute those remarks to?**

18 A. It's in the E-mail here,
19 Corporal Brendan Fitzgerald.

20 **Q. Now, did we not agree earlier that an incident or**
21 **major accident included an incident where emergency of**
22 **extended medical attention was required?**

23 MR. GONZALEZ: Object to the form of the
24 question. You can answer.

25 BY MR. COTTER:

1 A. Yes, sir.

2 Q. So why didn't you have your staff conduct the
3 required incident report and investigation?

4 MR. GONZALEZ: Object to the form of the
5 question. You can answer.

6 A. I don't have an answer. It wasn't done.

7 BY MR. COTTER:

8 Q. Let me show you what has been marked as
9 Exhibit 8. Can you tell me what that document is,
10 please?

11 (Plaintiff's Exhibit 8 marked for
12 identification.)

13 A. I'm not familiar with it. Loss Summary 200 Log.

14 Q. Have you ever seen it before?

15 A. No, sir.

16 Q. Are you familiar with the Florida Administrative
17 Code, Rule 381-60?

18 A. No, sir.

19 MR. GONZALEZ: I'm sorry, can you read that
20 cite again for the Florida Administrative Code.

21 MR. COTTER: Sure. Rule 381-60.

22 MR. GONZALEZ: May I see that?

23 MR. COTTER: (Complies.)

24 BY MR. COTTER:

25 Q. So we are clear, Mr. Franklin, it is true, is it

1 not, that no accident or injury report was generated as
2 a result of what happened to Isabella Herrera on
3 January 25th, 2012; is that true?

4 A. Not true. This report right here was generated.

5 Q. What you're saying is Exhibit 4?

6 A. Yes.

7 Q. Okay. You said this is the new form that is used
8 to substitute for 7?

9 A. No, that was -- that's a preliminary report.

10 Q. Preliminary report?

11 A. Yes, sir.

12 Q. No final report was done?

13 A. Within the date and time context within a week or
14 so of this, no. Aside from the fact that we had looked
15 at the video, we knew that a health circumstance had
16 taken place on the bus, we wanted to make sure that our
17 driver and rider had performed correctly.

18 Law enforcement obviously paid us a visit, so we
19 knew that there was a high level of seriousness
20 associated with the situation.

21 Q. No final report?

22 A. I believe that throughout the last few months
23 additional attention has been paid, the matter has been
24 investigated by other departments in the district, but
25 the transportation department has not conducted any

1 additional investigation because of the fact that we had
2 looked at the video, law enforcement had come in, and we
3 saw no wrongdoing with our bus driver.

4 **Q. My question was pretty simple. No final report,**
5 **correct?**

6 A. Not from the transportation department.

7 **Q. No, who are these other district offices that you**
8 **say are currently investigating this matter?**

9 A. HR.

10 **Q. HR?**

11 A. Uh-huh.

12 **Q. Who in particular?**

13 A. Mr. Joe Perez, manager of professional standards.

14 **Q. What is the nature of his inquiry?**

15 A. I don't know.

16 **Q. How is it that you're aware that he is conducting**
17 **an investigation?**

18 A. Because we provided the facts as we had them,
19 which would include the videotape.

20 **Q. What other documents would you have provided him?**

21 A. That's it, the videotape.

22 **Q. Okay. Why -- what is it that Mr. Perez is**
23 **looking at?**

24 A. I couldn't speak for him. He wanted to look at
25 the same things that I did, I'm assuming, which is

1 employee conduct in making sure that they were -- had
2 acted appropriately on the bus.

3 **Q. And when did this occur?**

4 A. I'm not sure.

5 **Q. Is he the only department you referred to?**

6 A. I don't know. I'm not -- he is the only
7 department that I've referred anything else to, but I
8 don't what other department are doing any other actions
9 related to this case in the school district.

10 I'm not aware of any other departments who are
11 actively investigating this matter in the school
12 district.

13 **Q. Now, you would agree with me, would you not, that**
14 **in January of 2012 it was not a requirement of your**
15 **department to have your drivers and aides certifies in**
16 **conducting CPR?**

17 A. Yes, sir.

18 **Q. Pardon me?**

19 A. Yes, sir.

20 **Q. You agree?**

21 A. Yes.

22 **Q. And you also agree that your buses were not**
23 **equipped with ADPs or defibrillators?**

24 A. Yes, sir.

25 **Q. Now, would you agree with me that in January of**

1 2012 it was your responsibility to ensure that all
2 employees, who were in direct supervision of children,
3 were provided with basic knowledge of first aid
4 techniques most commonly used in emergency treatment?

5 A. No, sir. That is not part of our training
6 protocol to train all bus drivers in first aid
7 technique.

8 Q. Were you aware of a policy at Hillsborough County
9 Schools in January of 2012 that the district safety
10 office would ensure that all of its employees were
11 provided with basic knowledge of first aid techniques
12 most commonly used in emergency treatment?

13 A. I'm not aware of district safety protocols. I'm
14 aware of that manual, but not of that specific protocol.

15 Q. Were you aware that the site administrator or
16 principal of each facility what was to determine the
17 number of personnel to receive certified first aid
18 training including CPA and defibrillator training?

19 A. Yes, sir.

20 Q. Were you aware that first responders were to be
21 designated as persons having first aid, CPR and
22 defibrillator training?

23 A. I'm not aware of that.

24 Q. Who from your department is responsible for
25 evaluating specific transportation needs for ESE

1 **students?**

2 A. Specific transportation needs relative to our
3 compliance levels are our supervisors, myself, the
4 operations manager, bus drivers, riders.

5 **Q. I'm not referring to compliance, I'm referring to**
6 **evaluating the specific transportation needs for**
7 **particular students.**

8 A. No one in my department conducts that task.

9 **Q. And who from your department is responsible for**
10 **attending IEP meetings?**

11 A. No one.

12 **Q. I take it from your response that there was no**
13 **involvement on the part of your department in evaluating**
14 **the specific transportation needs for Bella?**

15 A. Correct.

16 **Q. And I take it from that response that your**
17 **department played no role in determining what the**
18 **transportation needs for assisting Bella in transport**
19 **were?**

20 A. Correct.

21 **Q. And I take it from your response that your**
22 **department relies on ESE staff to communicate a**
23 **student's transportation needs?**

24 A. That is correct.

25 **Q. Who in your department is responsible for**

1 **determining and accommodating the needs of ESE students**
2 **regarding transportation?**

3 A. Who determines the need for accommodating? I
4 have to put that in a category of we receive the order
5 or told if a student needs a wheelchair lift, we provide
6 a bus with a wheelchair lift.

7 Those are the type of compliance items that the
8 IEP committees instruct us to comply with, and we
9 provide -- there are a few other things that we do.

10 **Q. The order that you refer to is the M019?**

11 A. Yes, sir.

12 **Q. We've marked that as Exhibit 2?**

13 A. Yes, sir.

14 **Q. Let's go ahead and look at that, since you're**
15 **referring to it.**

16 **Tell me the information that is contained in the**
17 **order regarding Bella, please.**

18 A. The information in the order for Bella is,
19 obviously, her name, her mainframe street address, which
20 would be where we would select the bus stop near her
21 residence of record.

22 There is a few other items on here, her school,
23 and that's essentially it.

24 **Q. There is no information in Exhibit 2, the M019,**
25 **is there, Mr. Franklin, that describes Bella's specific**

1 **ESE transportation needs?**

2 MR. GONZALEZ: Object to the form of the
3 question.

4 A. Except for the fact that she needs a wheelchair
5 lift.

6 BY MR. COTTER:

7 **Q. Other than that?**

8 A. No, sir.

9 **Q. You would agree with me, would you not, that some**
10 **ESE students require additional and/or specific**
11 **transportation needs to ensure their safety?**

12 A. Yes, sir.

13 **Q. And in Bella's case, none of those were**
14 **communicated to you?**

15 MR. GONZALEZ: Object to the form of the
16 question.

17 A. Those -- those decisions were not articulated on
18 this.

19 BY MR. COTTER:

20 **Q. Again we're referring to the M019, which you**
21 **refer to as the order --**

22 A. Yes, sir.

23 **Q. -- Exhibit 2?**

24 MR. GONZALEZ: Object to the form of the
25 question.

1 BY MR. COTTER:

2 Q. And you would agree with me, would you not, that
3 the transportation needs of ESE students, including
4 students such as Bella, are different in many instances
5 than those of regular education students?

6 A. I would agree.

7 Q. And you would agree with me that the district is
8 responsible for ensuring that students such as Bella are
9 not only safe while they are at school, but safe in the
10 transportation to and from school?

11 A. I would agree.

12 Q. And you would agree with me, generally, that ESE
13 students require more services to ensure their safety
14 during transportation on school buses?

15 A. More services? We only perform what is put on
16 this document, so this is all that we perform. We don't
17 -- when you say more services -- of course you're not
18 answering questions, but we are there to transport the
19 students safely back and forth to school.

20 Q. All right. Who in your department has specific
21 training in ESE transportation issues?

22 A. Specific training? Aside from on-the-job
23 knowledge, aside from lots and lots of time spent with
24 the ESE specialists, I can't think of anybody.

25 Q. You've told me earlier, and I understand that it

1 was a district-wide policy, that in January of 2012 the
2 bus drivers and the attendants were directed to call
3 dispatch rather than 911, correct?

4 MR. GONZALEZ: Object to the form of the
5 question. You can answer.

6 A. Yes.

7 BY MR. COTTER:

8 Q. So, therefore, you would agree with me, would you
9 not, that it was imperative that the bus radio system
10 utilized to call dispatch would be working properly?

11 A. Correct.

12 Q. And checked often to ensure that it's working
13 property?

14 A. Correct.

15 Q. And at that time, who is responsible for
16 monitoring and ensuring that the bus radio system was
17 working properly?

18 A. Myself.

19 Q. And when did you first learn that there was a
20 problem on 4296 on January 25th, 2012?

21 A. There wasn't a problem on 4296.

22 Q. There was no problem that day?

23 A. I said there was no problem with the radio.

24 Q. Okay. There was no problem with the radio on
25 4296 on January 25th, 2012?

1 A. The radio transmitted. I'm not a communications
2 expert to say why that communication didn't reach all
3 the way up to Harney Road, but you -- obviously from the
4 video here, the radio was effectively working.

5 **Q. And so why is it that the driver was unable to**
6 **communicate what she wanted to have happen with respect**
7 **to Bella?**

8 A. I'm not sure.

9 **Q. Was that operator error?**

10 A. I wouldn't say so. You could hear that she was
11 keying the mic, but why the transmission didn't reach
12 all the way from the location it was at all the way to
13 301 and Harney -- or the repeater, pardon me -- I'm not
14 sure.

15 **Q. But you think it was some kind of a message,**
16 **transportation glitch?**

17 A. I'm not sure.

18 MR. GONZALEZ: Object to the form of the
19 question.

20 BY MR. COTTER:

21 **Q. Do you know the name of the driver that day?**

22 A. Yes, sir.

23 **Q. What is that name?**

24 A. Tonia Dole-Pizzarro.

25 **Q. And does she still work for the school system?**

1 A. No, sir.

2 **Q. When did she last work for the school system?**

3 A. I'm not 100 percent sure of her final resignation
4 date.

5 **Q. Can you approximate it for me, please?**

6 A. She resigned shortly thereafter. I believe
7 within a few months.

8 **Q. All right. Was that her first day on the job?**

9 A. I believe it was her third day on the job.

10 **Q. What training had she undergone?**

11 A. The training listed in these training documents.

12 **Q. Okay. And we will discuss that in more detail.**

13 **So as far as you were concerned, there was no**
14 **problem on bus 4296 with respect to the operation of the**
15 **radio that day?**

16 A. I'm not aware about the operation of the radio,
17 but I did hear the radio keying. I heard radio
18 transmission being transmitted.

19 From what I saw looking at the video, it was
20 transmitting. Why it didn't reach all the way to Harney
21 Road, I'm not sure.

22 **Q. Did you ever cause an inquiry to be made as to**
23 **the dispatch office to see whether they heard the**
24 **message?**

25 A. Yes.

1 **Q. And what did you learn?**

2 A. I learned that the system at the time was
3 multiple ports sharing few channels, okay, and that with
4 that system, it's not digital, it's not trunked, it --
5 there was competing stations trying to get to K6.

6 And, so, while I'm not a telecommunications
7 expert, my layman's opinion is that.

8 **Q. Just so I understand what you're saying is you're**
9 **suggesting that there were multiple calls with limited**
10 **capacity to listen to each one simultaneously, so some**
11 **didn't go through?**

12 A. Yes.

13 **Q. And who did you get that information from?**

14 A. That was direct observation from the video.

15 **Q. Okay. I just asked you a minute ago if you spoke**
16 **to somebody at dispatch to confirm if there was an issue**
17 **there that day, and I thought you said yes you had.**

18 A. Uh-huh.

19 **Q. Who is it that you spoke to?**

20 A. Linda Thomas.

21 **Q. Linda Thomas? Is she still there today?**

22 A. In that position? No.

23 **Q. What is her today?**

24 A. Field compliance inspector.

25 **Q. What was her position that day?**

1 A. Communications technician.

2 **Q. All right. And was that conversation never**
3 **reduced to writing?**

4 A. Conversation reduced to writing?

5 **Q. Did that go into some kind of document, any kind**
6 **of E-mail or a report of any nature?**

7 A. No.

8 **Q. What steps were taken to fix that problem?**

9 A. The radio system was replaced in August of 2012.

10 **Q. Okay. And what was it replaced with?**

11 A. It was replaced with a digital trunking system.

12 **Q. How is that different?**

13 A. That's different because we had been able to
14 separate the number of buses on each channel. We have
15 more channels so that we can move an emergency situation
16 over to a separate channel.

17 We're able to separate the maintenance folks
18 doing road calls onto a separate channel, and so we have
19 much better communication, as well as a complete
20 evaluation process by a communications company as to all
21 the requirements that this transportation department
22 requires in order to have this many buses operating
23 during peak times with full communication.

24 **Q. Did you ever learn what the nature of these**
25 **competing calls were?**

1 A. No, sir.

2 **Q. What would be the criteria for a driver calling**
3 **dispatch, what source of issues would generate a call**
4 **from a driver to dispatch?**

5 A. Drivers would call dispatch for a number of
6 reasons, which could include but are not limited to
7 concerns with the bus stop, crash reports, student
8 behavior issues, parents trying to board a bus, crashes
9 not involving a school bus. Those are just a few.

10 **Q. All right. And do calls to the dispatch require**
11 **any kind of a report or a log at the dispatch end?**

12 A. If the matter had some level of consequence, then
13 one of these preliminary reports is done.

14 **Q. Exhibit 4?**

15 A. That's correct.

16 **Q. Now, with regard to bus 4296, was it owned by**
17 **Hillsborough County Schools?**

18 A. Yes, sir.

19 **Q. Do you know when it was purchased?**

20 A. Not off the top of my head.

21 **Q. Do you know what modifications would have been**
22 **made for ESE use?**

23 A. The bus had a wheelchair lift installed in the
24 back.

25 **Q. Would that have been installed at the time of**

1 purchase?

2 A. Yes, sir.

3 Q. At that time were you purchasing both new and
4 preowned vehicles, or just new vehicles?

5 A. We strictly buy brand new buses.

6 Q. And who was the vendor that you were using at the
7 time?

8 A. It predates my hire. I don't know.

9 Q. The -- what predates your hire?

10 A. The purchase of this vehicle.

11 Q. All right. Who is the company that you are using
12 now?

13 A. Normally there is a mixture of Thomas, Navistar,
14 IC and Blue Bird.

15 Q. Where are they located?

16 A. The companies or the buses?

17 Q. The companies.

18 A. The companies, the bus sales companies are
19 located in Florida.

20 Q. All right. And do you have any reason to know
21 whether those companies have been added since you
22 started in 2006?

23 A. Have the companies been added?

24 Q. In other words, are they vendors that you brought
25 in to your work. I'm trying to understand. You said

1 you don't know who the vendor was prior to your starting
2 this job. Have you added new vendors, or were these
3 vendors in existence when you started your job?

4 A. We've had some change of vendors.

5 Q. Okay.

6 A. We've tried to move to standard bus procurement
7 procedure. We're trying to strictly stick with
8 international corporation buses, and the vendor has
9 changed.

10 Q. And in January of 2006, did the district purchase
11 insurance for the operation of the buses?

12 A. Yes.

13 Q. Who is that insurance with?

14 A. I'm not over the insurance program. We are a
15 self-insured, and that's about as much as I know about
16 the insurance program.

17 Q. What is your understanding, if any, about what
18 the insurance was that was purchased for the school
19 buses, what it covered, who it was purchased with?

20 A. I don't know.

21 Q. Now, are you saying that the training for Antonio
22 Tonia Dole-Pizzarro would be reflected in Exhibit 5?

23 A. I would say for the attendant training component.

24 Q. All right. Let me look at that, please. Thank
25 you.

1 **How does that -- does this document from**
2 **Exhibit 5, does this reflect the entirety of the**
3 **training that Ms. Pizzarro would have undergone?**

4 A. No, sir. This is a document pertaining to
5 Ms. Hamilton.

6 **Q. This is for the aide, Ms. Hamilton?**

7 A. These are the documents pertaining to
8 Ms. Pizzarro.

9 **Q. Okay. I appreciate that distinction.**

10 **The one that I have in my hand is because she is**
11 **an aide, the more significant number of documents is**
12 **because she is a driver?**

13 A. Ms. Dole-Pizzarro, yes, sir.

14 **Q. So explain to me if you can what one would expect**
15 **in terms of a new hire, a new driver/hire, how that**
16 **training works, how long it takes, what a new driver**
17 **does before they are actually put on a bus to transport**
18 **children?**

19 A. New drivers are brought in. They go through the
20 application process. Up front, they have to pass a
21 criminal history background check. They have to produce
22 copies of their full driving-record history.

23 Driving-record histories are evaluated by the driver's
24 license section over at district safety, they do a full
25 check.

1 Once they've passed those three criteria and
2 we've interviewed them, then they may be introduced into
3 a classroom setting, which is where we begin to go over
4 various proponents, which include bus inspections, first
5 aid, use of the radio, radio communication, students
6 with special needs.

7 At the same time, concurrently, if they are in
8 possession of a Class B CDL with a PS&T endorsement, we
9 will begin case managing them through getting that.

10 So there is a bus driver, a physical bus driver
11 training component, and then there is a, you know,
12 driving the vehicle, and then there is a how do I manage
13 students. How do I read a route. How do I use my
14 radio. How do I inspect my bus before I go out. What
15 requirements are there for me to post-trip inspect my
16 bus once I've taken my bus out. They are also given a
17 full physical as well as a pre-employment drug test.

18 Normally we're looking within 60 to 80 hours,
19 depending upon the level of need, what kind of license
20 the person brought in, whether they came here with a
21 regular operator's license, or whether they brought some
22 level of CDL with them, so training times vary.

23 **Q. Can you give me a sense of what the window might**
24 **be from the time a person applies and they go through**
25 **all this process that you've described?**

1 A. Depending upon the availability of the class,
2 we're probably looking at one to two weeks to get them
3 in, if there is a class available, two to three weeks if
4 they came in with licenses and we can get them
5 acclimated and trained and moved onto a bus, as well as
6 mentored for three days before they start on the bus.

7 **Q. Have you had a chance to look through**
8 **Ms. Pizzero's personnel file?**

9 A. No, sir.

10 **Q. How about Ms. Hamilton's?**

11 A. No, sir.

12 **Q. Would you expect to see in each of the personnel**
13 **file evidence that they participated in these trainings?**

14 A. I would.

15 **Q. And, in fact, the school district had a policy of**
16 **listing jobs, specific training, in each employees**
17 **record, did they not?**

18 A. I believe so, yes.

19 **Q. Let me show you what has been marked as Exhibit**
20 **Number 9.**

21 **Is that the document that you're familiar with**
22 **which shows the training that drivers and aides undergo**
23 **that you would expect to see in their personnel file?**

24 (Plaintiff's Exhibit 9 marked for
25 identification.)

1 A. No, sir. This isn't the document that's used.

2 **Q. All right. Is there one that looks something**
3 **similar to that?**

4 A. No, sir.

5 **Q. What is used, then?**

6 A. We have a document in the personnel jacket which
7 shows that they've taken the trainings and some of the
8 tests that they've taken.

9 **Q. What does that document look like?**

10 A. I don't have one with me.

11 **Q. How is it different than what I'm showing you**
12 **from the school board manual?**

13 A. The physical description?

14 **Q. Yeah, or maybe getting at it this way, it**
15 **captures the same information?**

16 A. Yes.

17 **Q. All right. That's fine. Thank you.**

18 A. It's just a summary.

19 **Q. Now just so I'm clear on this process that you**
20 **have referred to, does a -- when you say mentor, what**
21 **does that mean?**

22 A. Once a driver has gone through class we like to
23 have them spend some time with another driver trying to
24 learn, basically, from someone who has got a little bit
25 more experience, to give them some on the road

1 experience relative to operating the bus with students
2 on the bus, getting a feel for left to right directions.

3 **Q. I take it in Ms. Pizzero's case that didn't**
4 **occur?**

5 A. I'm not aware if it did or did not.

6 **Q. Well, she was on her third day on the job, is**
7 **that what you said?**

8 A. Uh-huh.

9 **Q. There was no mentor with her on the bus at that**
10 **time, correct?**

11 A. Correct.

12 **Q. So can we agree that she did not have a mentor**
13 **with her that day?**

14 A. The third day, yes, sir.

15 **Q. So you weren't able to meet that aspiration in**
16 **her case?**

17 A. Correct.

18 **Q. Do you have any idea, as you testify here today,**
19 **what Ms. Pizzero's experience was prior to January 25th,**
20 **2012 transporting special-needs children?**

21 A. I don't know.

22 **Q. And do -- does the training that you say that she**
23 **underwent specifically address the transportation of**
24 **special-needs children?**

25 A. It addresses, yes.

1 Q. Okay. We'll take a look at that in a few
2 minutes.

3 Do you know what Ms. Hamilton's experience was
4 transporting special-needs children prior to
5 January 25th, 2012?

6 A. She was a seasoned aide.

7 Q. She was a seasoned aide with special-needs
8 children?

9 A. Bus attendant trainer -- bus attendant rider,
10 pardon me.

11 Q. With ESE students?

12 A. Yes, sir.

13 Q. Now, who from your department spoke with
14 Ms. Pizzarro following the incident with Bella on
15 January 25th, 2012?

16 A. It immediately began a law enforcement
17 investigation.

18 Q. Who from your department spoke with them?

19 A. Nobody.

20 Q. Who spoke with Ms. Hamilton from your department
21 after the incident?

22 A. No one from my office spoke with either one of
23 them.

24 Q. You identified earlier Exhibit 4, the incident
25 report. I want to ask you, aside from that report,

1 **Number 4, or just to be clear, you did not author Number**
2 **4; is that right?**

3 A. Correct.

4 **Q. Okay. Who did you communicate with about the**
5 **incident on January 25th, 2012?**

6 A. I can't recall.

7 **Q. Would you have spoken to the superintendent's**
8 **office?**

9 A. No, sir.

10 **Q. The school board's office?**

11 A. No.

12 **Q. School board attorney's office?**

13 MR. GONZALEZ: Object to the form of the
14 question. Don't answer the question if you talk
15 about communications with the attorney.

16 MR. COTTER: I didn't ask him about the
17 nature of the communication, I just asked him who
18 he communicated with that day.

19 A. I don't recall communicating with anybody.

20 BY MR. COTTER:

21 **Q. All right. But you specifically say you didn't**
22 **speak with the superintendent's office that day?**

23 A. No, sir.

24 **Q. You didn't speak with anyone from the school**
25 **board that day?**

1 A. I can't recall speaking with anybody.

2 Q. And you didn't speak with either the driver or
3 the attendant?

4 A. No, sir.

5 Q. And to this day, you never have spoken to either
6 about what happened to Bella on January 25th, 2012?

7 MR. GONZALEZ: Well, again, does that
8 include the attorneys from the school board.

9 MR. COTTER: No, I'm talking about --

10 BY MR. COTTER:

11 Q. You have never spoken to Ms. Hamilton or
12 Ms. Pizzarro about happened that day?

13 A. Let me take a moment here for reflection.

14 Q. Sure.

15 A. I believe that I have.

16 Q. Okay. What circumstances?

17 A. Mr. Murman's firm needed me to contact them, and
18 I did.

19 Q. Okay. Was that to get contact information?

20 A. That was related to phone records.

21 Q. All right. Do you have phone records? Do you
22 have Ms. Hamilton's phone records in particular?

23 A. I do not.

24 Q. We're going to go ahead and take a break. We'd
25 like to have an opportunity to take through some of

1 **these records.**

2 (Recess taken from 5:27 until 5:37.)

3 BY MR. COTTER:

4 **Q. Mr. Franklin, could you walk me through how an**
5 **aide is trained as compared to how a driver is trained?**

6 **You gave us a very descriptive process for the**
7 **drivers. I would like you to walk me through what is**
8 **done, similarly, for the aides, please.**

9 A. The riders are -- submit an application. They
10 obviously have to go through a criminal history
11 background check.

12 They are then placed into a pool, and as
13 supervisors need to bolster the number of bus riders
14 that they need in their particular area, they are at
15 liberty to interview potential bus attendant riders.

16 If they feel that the applicant has the
17 appropriate demeanor or knowledge to be a bus attendant
18 rider, then that recommendation is given to the
19 administration section.

20 The administration section then places the rider
21 into a day of classes, and then that individual then is
22 then eligible to go onto a bus and begin work.

23 **Q. All right. And how long does that process take?**
24 **You gave us an idea of how quickly or slowly that might**
25 **work in the case of a driver, what about a rider?**

1 A. The best case scenario between application and
2 training interview process, probably a week and a half
3 two weeks. In some cases it could take three to five
4 months.

5 **Q. All right. Why would it take so long? Is that**
6 **for waiting for the results of the background checks?**

7 A. No, need. We might not need bus attendant riders
8 as much as we need in the area that they live in.

9 **Q. All right. The total amount of hours that are**
10 **spent in training for a rider once they go through this**
11 **training that you described, what would that include?**

12 A. It's around eight hours.

13 **Q. What about for a driver?**

14 A. You're looking at the better part of 62 hours.

15 **Q. Does that 62 hours include the three days of**
16 **mentors?**

17 A. No.

18 **Q. Now, when did you learn that Bella died?**

19 A. I believe three to four days afterwards it was
20 mentioned to me.

21 **Q. Who told you?**

22 A. I can't recall.

23 **Q. Do you recall what it is that you were told?**

24 A. I can't recall.

25 **Q. Are there any other documents that you're aware**

1 that exist regarding the incident that took place on
2 4296 on January 25th, 2012, other than what you've told
3 me about today?

4 MR. GONZALEZ: Object to the form of the
5 question.

6 A. Not in my possession.

7 BY MR. COTTER:

8 Q. Are you aware of an incident in 2011 where an ESE
9 student was left on a bus all day?

10 A. Yes.

11 Q. All right. What investigation was done about
12 that incident?

13 A. Can I ask for a little more specificity?

14 Q. Sure. Explain to me what process your department
15 undertook to investigate that matter.

16 A. Do you know the child's name?

17 Q. I have the name here with me, but the driver may
18 be more recognizable to you, because I believe that
19 criminal charges were brought against her;
20 Sarah Juanita Thomas.

21 A. Sarah Juanita Thomas?

22 Q. If I'm recalling correctly.

23 A. That's the driver's name?

24 Q. I think so. Does that ring a bell?

25 A. No, sir.

1 **Q. Do you recall the incident or not?**

2 A. Involving a driver named Sara Juanita Thomas I'm
3 not.

4 **Q. It may have been an aide rather than a driver.**

5 A. A bus aide? I don't recognize the name,
6 Sarah Juanita Thomas associated with a kid being left on
7 a bus.

8 **Q. Do you recall the incident, 2011?**

9 A. An incident?

10 **Q. Where a child was left on a bus all day, and**
11 **criminal charges were brought against the aide as a**
12 **result of the incident?**

13 A. Ah, now I do recall. I do recall. Yes, sir.

14 **Q. Tell me what you recall about it.**

15 A. I don't recall the attendant's name off the top
16 of my head.

17 What I recall is that the child remained on the
18 bus after the driver and the rider had been dropped off.
19 The driver exited the bus, the child remained on the
20 bus. The child was discovered once the driver returned
21 back to the parking location, picked up the attendant,
22 and then they discovered the child.

23 **Q. Okay. My question to you is what investigation**
24 **did your department do as a result of that incident?**

25 A. Our department did not conduct the investigation.

1 The matter was referred immediately to DCF, so that once
2 it was referred to DCF it was in law enforcement's
3 hands.

4 **Q. So the answer is no investigation was undertaken**
5 **by your office?**

6 A. Correct.

7 **Q. Now, am I correct that criminal charges have also**
8 **recently been filed against another transportation staff**
9 **member regarding an incident where a special-needs child**
10 **was purportedly kicked off the bus by the driver?**

11 A. That person is no longer employed with the
12 Hillsborough County Schools.

13 **Q. When did that incident occurred?**

14 A. I believe September 28, 2012.

15 **Q. All right. And was that a driver or an aide?**

16 A. That was a bus driver.

17 **Q. Do you know the driver's name?**

18 A. Wilkerson.

19 **Q. And what investigation did your office undertake,**
20 **if any, in connection with that incident?**

21 A. Once the nature of the allegation was learned, we
22 immediately pulled the videotape and immediately
23 referred to law enforcement.

24 **Q. And when did you take those actions?**

25 A. As soon as I was notified.

1 **Q. When was that?**

2 A. I believe that I was notified on Monday morning.

3 **Q. This week?**

4 A. No. I don't have a calendar in front of me. It
5 look place on Friday morning, I was notified on the 1st
6 of October to the immediate action.

7 **Q. When you say you took immediate action, you're**
8 **saying that you pulled the videotape, you looked at it**
9 **and referred it to law enforcement; is that correct?**

10 A. As well as removed the driver and the bus
11 attendant rider from any further exposure with students.

12 **Q. Does that mean firing him or suspending him or**
13 **what? What does that mean?**

14 A. What that means is that we have the capability to
15 remove them from bus driver and bus route duty and put
16 them in a non-driving position, or a position that does
17 not put them onto a bus. They are used off the bus.

18 **Q. What did you do with that particular driver?**

19 A. That particular driver worked at our central
20 transportation office where there are no students.

21 **Q. For how long?**

22 A. Until she was terminated.

23 **Q. When was that?**

24 A. I believe she was terminated at the January 16,
25 2013 board meeting.

1 Q. And was that a decision by the board?

2 A. Obviously it was approved by the board. It was
3 recommended by the school district.

4 Q. Now, for the two incidents that we've discussed,
5 the 2011 incident involving the student that was left on
6 the bus all day, was there a report that was done as a
7 result of that?

8 A. I'm assuming law enforcement concluded a report.

9 Q. A report by your staff?

10 A. No.

11 Q. What about this more recent incident with the
12 driver who kicked the student off the bus? Was there a
13 report done by your office?

14 A. No, sir. Our protocol is to call law enforcement
15 and then refer to the Office of Professional Standards
16 which is another department in the district that
17 conducts investigations.

18 Q. Is that Mr. Perez's office?

19 A. Yes, sir.

20 Q. Was that done in both the incident involving the
21 student who was left on the bus all day, as well as the
22 student who was kicked off the bus?

23 A. Yes, sir.

24 Q. Both of those were referred to Mr. Perez's
25 office?

1 A. Yes, sir.

2 Q. But you did not refer the incident involving
3 Bella to Mr. Perez's office?

4 A. No, sir.

5 Q. But it's your understand that he has initiated
6 his own investigation into the conduct of the two
7 employees in connection with the incident with Bella?

8 A. Information was referred to him. I don't know
9 what he had done.

10 Q. When you say information was referred to him,
11 you're saying information was provided to him at his
12 request, you didn't refer the matter to his office?

13 A. Correct.

14 Q. Now, how does your department keep track of
15 incidents involving students with injuries?

16 A. How do we track students with injuries?

17 Q. How do you track incidents that result in
18 students receiving injuries?

19 A. We report, we don't track.

20 Q. When you report, who do you report to?

21 A. We report to the office of communications, public
22 affairs, the principal, the area director, the field
23 operation staff that oversees the bus drivers in that
24 particular part of the county, my superior and district
25 safety.

1 Q. Are those the people that are listed on Exhibit 4
2 in the to section of the E-mail?

3 A. Yes, sir.

4 Q. All right. And is that the document that you
5 used to make this report that you are describing?

6 A. May I ask you for some specificity?

7 Q. Sure. I think the document says incident report?

8 A. Okay.

9 Q. Is that the document that you use to make the
10 report to the individuals that you've described for me
11 when there is an incident that results in a student
12 injury?

13 A. Yes. That's a preliminary report.

14 Q. And what is the criteria that is used by you and
15 your staff to determine whether a preliminary report is
16 followed up and developed into a final report or a some
17 supplemental report?

18 A. Employee -- questionable employee conduct that
19 relates to student injury. Sometimes parental concerns.

20 Q. Let me see if I'm understanding this correctly.

21 If you get a report of an injury to a student
22 that happens in connection with transportation on one of
23 your buses, we can expect that one of these preliminary
24 reports as reflected in Exhibit 4 is going to be
25 generated?

1 A. Uh-huh.

2 Q. Yes?

3 A. Yes.

4 Q. And then you or someone on your behalf will look
5 into that matter and determine whether the injury could
6 be a result of some possible wrongdoing by staff
7 members?

8 A. Correct.

9 Q. And if the answer is no, there is no further
10 report that is done?

11 A. Correct.

12 Q. And if the answer is yes, or possibly yes, then
13 you're going to look into it further?

14 A. And/or refer to law enforcement.

15 Q. And the things, the steps that you take in the
16 interim, looking into it further may include trying to
17 see if there is videotape of that incident?

18 A. Yes, sir.

19 Q. And, possibly, talking to the driver and/or the
20 aide or any witnesses?

21 A. Possibly. Yes, sir.

22 Q. And talking to the parent?

23 A. Generally part of the investigation may or may
24 not include talking to the parent.

25 Q. All right. Now -- so getting back to my question

1 about tracking, that perhaps is an unartful word. Do
2 you keep a file by month, by week, by year of these
3 documents that are generated that are reflected in
4 Exhibit 4?

5 A. No.

6 Q. Why not?

7 A. The district safety office collects student
8 injury reports.

9 Q. How do they maintain them, if you know?

10 A. I don't.

11 Q. But it's your understanding they do -- they do
12 maintain them?

13 A. I'm not speaking for the district safety office.
14 We send our reports to district safety.

15 Q. Why is it that you don't keep a copy of what you
16 send?

17 A. It's not our job.

18 Q. And is there an E-mail or electronic system that
19 maintains each of these E-mail reports that go out? In
20 other words, could someone go back into your system
21 chronologically, day-by-day, week-by-week,
22 month-by-month and see whether such a report is
23 generated at any given point in time?

24 A. I'm not the ideas administrator, but I would
25 assume so.

1 **Q. Who would be the person to talk to to obtain that**
2 **answer, so far as you know?**

3 A. So far as I know it would be either Rick Leno,
4 the data manager, or Steve Haggerty, director of
5 communications.

6 **Q. And you may have already clarified this for me,**
7 **and if you did, I apologize, but are their circumstances**
8 **under which this incident report would go -- would also**
9 **be delivered to members of the school board?**

10 A. I'm required to report to my boss.

11 **Q. Your superior, Ms. Valdes?**

12 A. Correct.

13 **Q. And what she does beyond that you are not --**

14 A. Correct. In my chain of command I answer to
15 Ms. Valdes.

16 **Q. Would you agree with me that investigating**
17 **incidents, such as the three that we've described here**
18 **today involving student injuries, is imperative to**
19 **ensuring safety?**

20 A. Yes, absolutely.

21 **Q. And you would agree with me that the incident**
22 **that occurred on 4296 on January 25, 2012 with Bella was**
23 **a major event?**

24 MR. GONZALEZ: Object to the form of the
25 question.

1 A. I'm not characterized as an expert on a major
2 event.

3 BY MR. COTTER:

4 **Q. The word we used earlier, major accident?**

5 MR. GONZALEZ: Object to the form of the
6 question.

7 A. You say it's a major event. I'm not sure that I
8 would characterize. It's an incident that happened, we
9 follow up on it, but major event isn't a word that I
10 would use in transportation description.

11 **Q. Is there anything much more major than a death?**

12 A. I'm not an expert at what caused this child to
13 expire. I have no direct knowledge of that.

14 **Q. After Bella's death have there been any policy or
15 procedure changes in your department's operation?**

16 A. Yes. As I shared earlier, we reiterated the fact
17 that our bus drivers have the authorization, if they
18 would like, to use their personal cell phone to call 911
19 should they deem it necessary, provided they are in
20 compliance with the safe driver plan.

21 **Q. Any other changes that he haven't discussed?**

22 A. Not that I'm aware of in the transportation
23 department.

24 **Q. You mentioned the new manual.**

25 A. Yes, sir. We've -- we retooled the department

1 procedure as well as launched a new radio system.

2 **Q. All right. We've mentioned the change regarding**
3 **calling 911. We've mentioned the new radio system.**

4 **And what else is included in the manual that**
5 **might actually represent a change?**

6 A. There is a very clear direct set of parameters by
7 which the bus drivers can abide by in stipulating their
8 regular emergencies or medical emergencies or
9 unauthorized passengers or such things as a signal zero,
10 which is a weapon on a bus. We've clarified that.

11 We have clarified such things as the importance
12 of even an allegation of a student bringing a weapon on
13 a bus must be reported immediately so that we can get a
14 threat assessment team available. The digital camera
15 systems are included in the new manual.

16 As we transition from the analog systems to the
17 digital systems, some of that is in there, the new radio
18 system. The sign-on alarms on the buses is in there
19 also, relative to our GPS system.

20 **Q. What about CPR training for your riders and**
21 **drivers?**

22 A. That is not required in our new safety protocol.

23 **Q. All right. Now, when did you first watch the**
24 **video involving Bella?**

25 A. I can't recall specifically, but probably a day

1 and a half or so after the situation.

2 **Q. Did you recall who you watched it with?**

3 A. I can't recall.

4 **Q. Do you recall who you discussed it with?**

5 A. I can't specifically recall. I probably would
6 have discussed it with the operations manager.

7 **Q. All right. I just want to be clear what**
8 **Exhibit 6 is. You brought it here today. You**
9 **identified it as a standard operating procedure manual.**
10 **You said it was updated in 2002.**

11 **Just help me understand what this document**
12 **represents, please?**

13 A. This document represents a lot of department
14 procedures, up to and including a lot of the things that
15 are included in our current manual; fuelling station
16 locations, pay, various procedures relating to incidents
17 on a bus, crashes, student management techniques.

18 There are a lot of various items related to how
19 drivers and riders conduct business and transportation.
20 Field trips.

21 **Q. All right. Now, the new manual that you've told**
22 **us about, is that a subset of this number, Exhibit**
23 **Number 6, or does it replace Number 6.**

24 A. The new manual replaces this document.

25 **Q. This document right here?**

1 A. Yes, this book.

2 Q. All right. Now, in this document, Exhibit 6,
3 there is a section under Roman Numeral six indicating
4 driving exceptional education students, and that goes on
5 for, it looks like about a total of two pages. What
6 does that section represent?

7 A. I'd have to look at it. It represents various
8 aspects of serving students with specialized
9 transportation.

10 Q. I did a quick look at that since I have not seen
11 that before. But my quick review indicates that that's
12 the only section specific to procedures related to
13 children with special needs or ESE students. Do you
14 think I'm wrong in that assessment?

15 A. Your correct. However, you must remember that
16 information comes in also via the M019.

17 Q. Sure. So there is a phrase in there that is
18 utilized called red alert, and am I understanding this
19 correctly that the intention of that phrase was that it
20 was to be used by the driver when calling dispatch to
21 indicate that a child on the bus was having a medical
22 emergency?

23 A. No. Red alert is a term that is applied by an
24 IEP committee and reported to transportation, and then
25 transportation then ensures that whatever parameters

1 those IEP committees have determined in the fragileness
2 of the child or the health issues of the child, is
3 reported to us.

4 A lot of times it's provision of air conditioning
5 services, when to call EMS, those types of things.

6 **Q. And you would expect to see those provisions on**
7 **an M019, correct?**

8 A. If the student has been deemed red alert.

9 **Q. And we already agreed that none of those**
10 **provisions appeared on Bella's M019, correct?**

11 A. I'm not in a position to ascertain whether she
12 was red alert. It appears that she was not considered a
13 red-alert student.

14 **Q. Thank you. Will you pass that back, please?**

15 A. Sure.

16 **Q. Thank you. Are you familiar with the phrase**
17 **related service transportation?**

18 A. Related service transportation? Transportation
19 is a related service.

20 **Q. So you're familiar with what that concept means?**

21 A. Yes, sir.

22 MR. GONZALEZ: Object to the form of the
23 question.

24 BY MR. COTTER:

25 **Q. Can you tell me what policies and procedures you**

1 understand that Hillsborough schools had in place in
2 January of 2012 to address the provision of the related
3 service transportation for students with disabilities?

4 MR. GONZALEZ: Object to the form of the
5 question.

6 A. I'm not part of determining whether a student --
7 what related services a child needs.

8 BY MR. COTTER:

9 Q. So you don't know?

10 A. I don't know.

11 Q. Can you describe your pre-service and in-service
12 training program for administrative staff, not your
13 drivers or your riders, but your administrative staff
14 working for -- working with students with disabilities?

15 A. We have a number of collaboration meetings,
16 transportation meetings with ESE supervisors, as well as
17 the routing staff and various members of the supervisory
18 staff. I don't remember the frequency, but I believe
19 they meet once a month.

20 There is frequent conversations between
21 transportation and the ASE counterparts to make sure
22 that all questions are answered, any assistance that is
23 needed in replying with a response to a parent. All
24 those things apply.

25 Q. The driver training and rider training that you

1 described for us, I take it that was all pre-service
2 training?

3 A. This training?

4 Q. Yes, sir?

5 A. That's pre-service, and we do have in-services.

6 Q. And the in-services would similarly be reflected
7 in the inside jacket of the personnel file?

8 A. Yes, sir.

9 Q. Now do you and your staff attend national
10 conferences that address transporting students with
11 disabilities?

12 A. We have, yes.

13 Q. Which conferences?

14 A. They are the -- I attended the -- I'll have to
15 recall -- Peggy Burn spoke in Orlando. I've sent folks
16 to child safety restraining training classes in Orlando,
17 I want to call it the National Training School
18 Consortium or something to that effect, but multi-day
19 training classes I've attended, as well as members of my
20 staff.

21 Q. All right. I'm referring specifically to
22 conferences that address transporting children with
23 special needs.

24 A. That's what this is.

25 Q. And what records and documentation would you have

1 of that?

2 A. I have some form of proof that I attended, as
3 well as three members of my staff in child safety
4 restraining training.

5 Q. If I'm understanding your responses here
6 correctly, there is no formal training for your drivers
7 or riders for dealing and working with students who have
8 orthopedic impairment and utilize a wheelchair?

9 A. Specific orthopedic? No, sir.

10 Q. Who from your office would have been directly
11 responsible to receive, review and assure that the
12 driver and the rider serving Isabella Herrera were
13 trained to provide appropriate transportation?

14 A. The operations manager directly oversees the
15 field operations supervisor and ensures that the bus is
16 dispatched appropriately.

17 Q. That gentleman's name that you gave us earlier?

18 A. Mr. Willie Campbell, that's administrative
19 manager, there is Julia Saltzgaver.

20 Q. All right. To your knowledge, was the related
21 service transportation addressed in accordance with the
22 school district's written transportation policies and
23 procedures for Isabella during the school year for 2011
24 and 2012?

25 A. Mr. Cotter, can you repeat that again, please?

1 Q. Sure. To your knowledge, and you may not know
2 the answer to this because you told me you didn't have
3 much information on the related service issue, but was
4 the related service --

5 MR. GONZALEZ: Object to the form.

6 Q. -- was the related service transportation
7 addressed in accordance with the school district's
8 written transportation policies and procedures for
9 Isabella in 2011 and 2012?

10 A. The related services is determined by the IEP
11 committee. There would be no compliance with the
12 transportation procedure.

13 Q. Are you familiar with the Florida Administrative
14 Code Section 6A-3.0141 regarding the state requirements
15 for employment of school bus operators?

16 A. I'm familiar with it, not every aspect of it,
17 though.

18 Q. Can you tell me what your familiarity is, what
19 your understanding of the state rules are?

20 A. State rules? I'm not directly aware of it.

21 Q. Are you aware that the Florida Administrative
22 Code also has a section that states the responsibilities
23 of school districts for student transportation of
24 children with special needs?

25 A. Am I aware that this -- that this has a provision

1 for that?

2 **Q. Are you familiar with the provisions of the**
3 **Florida Administrative Code Section 6A-3.0171,**
4 **responsibilities of school districts for transportation?**

5 A. Indirectly, yes, sir.

6 **Q. Can you share with me what's your understanding**
7 **of those responsibilities are?**

8 A. The transportation department is in charge of
9 providing services to students who live more than two
10 miles from school, or less than a state defined hazard,
11 and that students with specialized transportation
12 services, students in all that setting, we're required
13 to transport NCOB students, and we are required to
14 transport.

15 **Q. Are you familiar with the Florida Administrative**
16 **Code Section 6A-3.0171?**

17 A. No, sir, not directly.

18 **Q. Are you familiar with that provision of the code**
19 **that deals with the responsibilities of the director of**
20 **supervisor of transportation?**

21 A. No, sir, not directly.

22 **Q. Have you ever had occasion to receive or review**
23 **the school bus driver's manual, critical incident**
24 **procedures published by The Florida Department of**
25 **Education?**

1 A. No.

2 Q. Were you aware that there was such a manual?

3 A. I'm not aware of that.

4 Q. Did you know that if it was promulgated in April
5 of 2005?

6 A. No, sir.

7 Q. Did you know that the manual specifically
8 addresses and teaches the training of riders and drivers
9 to call dispatch or 911 first if a suspected medical
10 emergency occurs?

11 A. I did not know that.

12 Q. Did you know that emergency, included within its
13 definition, is a student experiencing breathing
14 problems?

15 A. (Nods head.)

16 Q. No?

17 A. I do not. We have our safety protocol in
18 Hillsborough County Schools.

19 Q. Were you aware that this manual published by The
20 Florida Department of Education in 2005 included
21 training for drivers and riders to evaluate a student to
22 determine whether their airway was blocked, and to
23 provide a protocol in the event that the student was
24 having difficulty breathing?

25 A. It's not our safety protocol.

1 Q. Were you aware that this manual was considered to
2 represent the best practices for drivers and riders in
3 the State of Florida?

4 A. I'm not aware of that.

5 Q. Was there some reason that you could not have
6 utilized this manual on this training with your drivers
7 and riders?

8 A. We have our safety protocol.

9 Q. My question to you is there some reason why you
10 would not want to use the best practices published by
11 The Florida Department of Education for your drivers and
12 riders?

13 A. No answer.

14 Q. Is it a financial issue?

15 A. No.

16 Q. What was the response?

17 A. We have a safety protocol. We use the safety
18 protocol.

19 Q. I just -- I'm wanting to understand why you
20 wouldn't want to consider using the best practices
21 published by The Florida Department of Education?

22 MR. GONZALEZ: Object to the form of the
23 question.

24 A. Our procedures mirror what you just mentioned.

25 BY MR. COTTER:

1 Q. They don't mirror what I just --

2 MR. GONZALEZ: Wait a minute, you don't need
3 to argue with him, because they do in fact mirror
4 what you read to him.

5 So if you want to show it to him, that's
6 fine, but you don't get to argue with him.

7 Can I see the document.

8 MR. COTTER: I haven't marked it as an
9 exhibit.

10 MR. GONZALEZ: So you're telling me that
11 you've been questioning the witness, but you
12 won't show him the exhibit after you made
13 representation --

14 MR. COTTER: I don't have an exhibit.

15 MR. GONZALEZ: You have the document there
16 that you want --

17 MR. COTTER: Do you want to have a
18 discussion off the record?

19 MR. GONZALEZ: No, I don't. I want to have
20 it on the record, because -- because I think
21 you're engaging in improper questioning, and all
22 I'm asking you is do you have a document that you
23 can refer to it, and the only question is whether
24 you'll show it to me or not, and you said --

25 MR. COTTER: I'll go ahead and mark it as an

1 exhibit, okay?

2 MR. GONZALEZ: Thank you.

3 MR. COTTER: We'll make it Number 10.

4 (Plaintiff's Exhibit 10 marked for
5 identification.)

6 BY MR. COTTER:

7 **Q. Let me show you what has been marked as page 4 of**
8 **Exhibit Number 10. Will you read the top line for me**
9 **where it says medical concerns?**

10 A. Medical concerns: Call dispatch or 911 first if
11 you suspect a medical emergency. You can always cancel
12 the call if the situation is not as serious as it
13 seemed.

14 **Q. Okay. So in January of 2012 your staff members,**
15 **your riders and drivers, were not permitted to call 911,**
16 **correct?**

17 A. No.

18 **Q. That's not correct?**

19 A. That's not correct.

20 **Q. They were permitted to call 911?**

21 A. There was nothing that prohibited them from
22 calling 911. Our safety protocol said that they should
23 call dispatch first --

24 **Q. Okay.**

25 A. -- under the assumption that we don't give them a

1 district cell phone to use.

2 Number two, they are prohibited from talking on a
3 wireless communication while they driving.

4 So we have provided a communication tool for the
5 bus drivers to use, and we are requiring them to use
6 that communication tool.

7 **Q. That communication tool only allows them to call**
8 **dispatch, correct?**

9 A. Correct.

10 **Q. Thank you. May I have that back, please?**

11 **Look at number five and tell us what that says**
12 **please.**

13 A. Are you talking about in the highlighted --

14 **Q. Yes, sir.**

15 A. The level of consciousness (ABCs): Evaluate
16 student. Call dispatch or 911 for assistance. Follow
17 the level of consciousness guide.

18 Airway Blocked: If yes, use rescue breathing.
19 Tilt the head and chin. B, breathing. No. If no start
20 CPT procedures if trained. C, circulation and pulse.
21 No. If no, start chest compressions, CPR if trained.

22 **Q. You had no similar procedures in place did you?**

23 A. Correct.

24 **Q. May I have that back, please?**

25 A. (Witness complies.)

1 MR. COTTER: That's all the questions I have
2 for you today. I do reserve the right to reopen
3 this deposition at a later time, and -- if need
4 be.

5 MR. GONZALEZ: Based on?

6 MR. COTTER: Based on the production of
7 documents, the same issue as before.

8 MR. GONZALEZ: It's not the same issue as
9 before, only in the sense you haven't requested
10 those documents.

11 You keep putting these things on the
12 record --

13 MR. COTTER: I didn't say I requested these
14 documents, I said the same issue as before, I
15 haven't seen this.

16 MR. GONZALEZ: So you're reserving the
17 right --

18 MR. COTTER: I'm going to look into that
19 issue, and I'll get back to you, and if there is
20 an issue, we'll work it out.

21 CROSS-EXAMINATION

22 BY MR. GONZALEZ:

23 **Q. Mr. Franklin, are you aware of any information**
24 **that the School Board of Hillsborough County, Florida**
25 **had with respect to Isabella Herrera suffering from an**

1 **orthopedic impairment?**

2 A. No, sir.

3 **Q. Are you aware of any information that indicated**
4 **that any additional procedures or safeguards were**
5 **necessary with respect to the transportation of**
6 **Isabella Herrera?**

7 A. No, sir.

8 **Q. And in reading from Exhibit Number 10, I just**
9 **want to make sure given the representations, the second**
10 **paragraph in the introduction says: Although these**
11 **guidelines reflect the best practices of several of the**
12 **Florida School District Transportation Departments, are**
13 **you familiar with what departments they are referring**
14 **to?**

15 A. No.

16 **Q. And going to page 5 of this document, one of the**
17 **things for level of consciousness with respect to the**
18 **evaluation of number 1, A, is airway blocked, yes, if**
19 **yes, use rescue breathing, tilt the head, lift chin.**

20 **Are you aware of any information that either the**
21 **driver or the aide on the bus on which Isabella Herrera**
22 **was traveling was aware of any blockage in her airway?**

23 A. No, sir.

24 **Q. With respect to breathing and the answer being**
25 **no, are you aware of any information that either the**

1 driver or the aide with respect to whether the child was
2 not breathing as opposed to having trouble breathing?

3 A. No, sir.

4 Q. And with respect to circulation or pulse, are you
5 aware of any information the driver or the aide had with
6 respect to whether the child had a pulse at the time?

7 A. I am not.

8 Q. And I note that the document talks about
9 administering CPR if trained. Do you know whether the
10 aide and/or the driver in this case were trained in CPR?

11 A. I do not know. It's not a department
12 requirement.

13 MR. GONZALEZ: Nothing further.

14 MR. COTTER: Thank you very much for coming
15 today.

16 MR. GONZALEZ: Thank you Mr. Franklin.
17 We'll read.

18 MR. COTTER: We'll order this one also.

19 MR. GONZALEZ: Copy.

20 (The deposition concluded at 6:20 p.m.)

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CERTIFICATE OF OATH

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, Christine Risher, RPR, Notary Public, State of Florida, do hereby certify that JOHN FRANKLIN personally appeared before me and was duly sworn.

WITNESS my hand and official seal this 31st day of March, 2013.

Christine Risher

Christine Risher, RPR
Notary Public - State of Florida
Commission No: EE 839278
Commission Expires: December 26, 2016

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CERTIFICATE OF REPORTER

STATE OF FLORIDA
COUNTY OF HILLSBOROUGH

I, Christine Risher, RPR and Notary Public, do hereby certify that I was authorized to and did stenographically report the foregoing deposition of JOHN FRANKLIN; that the review of the transcript was requested; and that the foregoing Pages 4 through 98, inclusive, are a true and complete record of my stenographic notes.

I further certify that I am not a relative or employee of any of the parties, nor am I a relative or counsel connected with the parties' attorneys or counsel connected with the action, nor am I financially interested in the outcome of the action.

DATED this 31st day of March, 2013.

Christine Risher

Christine Risher, RPR
Notary Public - State of Florida

R&S - March 31, 2013

THOMAS M. GONZALEZ, ESQUIRE
Thompson, Sizemore, Gonzalez & Hearing, P.A.
201 North Franklin Street
Suite 1600
Tampa, Florida 33602

In re: March 26, 2012 Deposition of John Franklin
Lisa Herrera vs Hillsborough County School Board

Dear Mr. Gonzalez:

This letter is to advise that the transcript for the above-referenced deposition has been completed and is available for review. Please contact our office at (800)275-7991 to make arrangements for read and sign or sign below to waive review of this transcript.

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter, as considered reasonable under Federal Rules; however, there is no Florida Statute to this regard.

The original of this transcript has been forward to the ordering party and your errata, once received, will be forwarded to all ordering parties for inclusion in the transcript.

Sincerely,

Christine Risher, RPR, Court Reporter
Orange Legal

Cc: [Courtesy copy all ordering parties]

Waiver:

I, _____, hereby waive the reading & signing of my deposition transcript.

Deponent Signature

Date

*Federal Civil Procedure Rule 30(3)/Florida Civil
Procedure Rule 1.310(e)

ERRATA SHEET

DO NOT WRITE ON TRANSCRIPT - ENTER CHANGES ON THIS PAGE

IN RE: Lisa Herrera vs Hillsborough County School Board
CASE NO: 8:12 cv-02484-JSM-EAJ
DATE: March 26, 2013
DEPONENT: John Franklin

PAGE: LINE: CORRECTION: REASON FOR CHANGE:

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated in it are true.

Date

John Franklin

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