

Vincent J. Trosino
September 6, 2006

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IN THE DISTRICT COURT OF GRADY COUNTY

STATE OF OKLAHOMA

DAVID L. WATKINS, JR., and)
BRIDGET WATKINS, individually)
and as representatives of a)
class of similarly situated)
individuals,)
)
Plaintiffs,)
)
vs.) CASE NUMBER
) CJ-2000-303
)
)
STATE FARM FIRE & CASUALTY)
COMPANY, and DANNY WALKER,)
and other similarly situated)
agents of State Farm Fire &)
Casualty Company,)
)
Defendants.)

* * * * *

VIDEOTAPED DEPOSITION OF VINCENT J. TROSINO

TAKEN ON BEHALF OF THE PLAINTIFFS

ON SEPTEMBER 6, 2006

IN BLOOMINGTON, ILLINOIS

* * * * *

REPORTED BY: MELINDA R. NIEVEZ, CSR, RPR

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1 APPEARANCES:

2 MR. JEFF D. MARR, Attorney at Law, LAW
3 OFFICE OF JEFF D. MARR, 4301 S.W. 3rd, Oklahoma
4 City, Oklahoma 73108, appearing on behalf of the
5 Plaintiffs.

6 MR. JOHN WIGGINS, Attorney at Law, of the
7 firm, WIGGINS, SEWELL & OGLETREE, 3100 Oklahoma
8 Tower, 210 Park Avenue, Oklahoma City, Oklahoma
9 73102, appearing on behalf of the Plaintiffs.

10 MR. ANTON J. RUPERT, Attorney at Law, of
11 the firm, CROWE & DUNLEVY, 1800 Mid-America Tower,
12 20 North Broadway, Oklahoma City, Oklahoma
13 73102-8273, appearing on behalf of the Defendants.

14 MR. STUART D. KENNEY, Attorney at Law,
15 STATE FARM INSURANCE COMPANIES, One State Farm
16 Plaza, Bloomington, Illinois 61710, appearing on
17 behalf of the Defendants.

18 ALSO PRESENT: Ms. Kelsey Moore, Legal Assistant,
19 Law office of Jeff D. Marr

20 VIDEOGRAPHER: Mr. Jon Womastek, Courtroom Video

21 * * * * *

22 C O N T E N T S

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PLAINTIFFS' EXHIBIT LIST

- (3) Affidavit ----- 5
- (4) Verdict Form on Class Questions ----- --
(Attached)

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

It is hereby stipulated and agreed by and between the parties hereto, through their respective attorneys, that the videotaped deposition of VINCENT J. TROSINO may be taken on behalf of the Plaintiffs, on this, the 6th day of September, 2006, in the City of Bloomington, State of Illinois, before Melinda R. Nieves, Certified Shorthand Reporter within and for the State of Oklahoma, pursuant to notice and court order.

It is further stipulated and agreed by and between the parties hereto, through their respective attorneys, that all objections, except as to the form of the question and the responsiveness of the answer, are reserved until the time of the trial, at which time they may be made with the same force and effect as if made at the time of the taking of this deposition.

* * * * *

1 (PROCEEDINGS BEGIN AT 1:32 P.M.)

2 WHEREUPON,

3 VINCENT J. TROSINO,

4 after having been first duly sworn, deposes and says
5 in reply to the questions propounded as follows:

6 DIRECT EXAMINATION

7 BY MR. WIGGINS:

8 Q Would you state your name, please, sir.

9 A Vincent J. Trosino.

10 Q Mr. Trosino, you understand you're
11 appearing here to give sworn testimony under court
12 order?

13 A Yes, I do understand that.

14 Q Did you realize that your counsel tried
15 unsuccessfully with our Oklahoma Supreme Court to
16 keep you from coming here today? Were you aware of
17 that?

18 A I was aware that in the scheduling there
19 was a conflict issue, and I signed an affidavit, I
20 believe, basically saying that other people had more
21 knowledge of this case than I do.

22 Q Your affidavit was to get you out of
23 giving sworn testimony at all in this case, wasn't
24 it?

25 A I -- I -- my understanding of the

1 affidavit was to basically say I'm not the most
2 effective person in which to give this testimony.

3 Q Was it your understanding it was to get
4 you out of giving sworn testimony at all in this
5 case?

6 A On that basis, yes.

7 Q Is that the affidavit you're referring to
8 that I've marked as Plaintiffs' Exhibit 3?

9 A Yes, it is.

10 Q And isn't it true, sir, that the reason
11 given in that affidavit is that you're just ignorant
12 on the issues in this case and don't have anything
13 relevant to add?

14 A I didn't see the word "ignorant."

15 Q How would you describe your extent of
16 knowledge, then, on this case?

17 A I have only generalized knowledge of the
18 claims adjusting operations of State Farm. I was
19 aware of the trial and verdicts entered May 25,
20 2006, in the Watkins case in Oklahoma. However, I
21 do not have personal knowledge of the specific
22 insurance claim of the Watkinses or any other class
23 member in the case.

24 Q All right. Is that your sworn testimony
25 today, sir, as we sit here, that you have no

1 knowledge on the nature and extent and type of
2 claims that the class members have made in this
3 case?

4 A Other than what my attorneys have talked
5 to me about and the general understanding of the
6 type of case, I stand by my affidavit.

7 Q Can you answer my question? Do you have
8 any knowledge of what the class members claim in
9 this case, sir?

10 MR. RUPERT: Other than what you've
11 learned from your attorneys.

12 THE WITNESS: On a general basis, yes.

13 Q (BY MR. WIGGINS) And when did you first
14 come by that knowledge?

15 A On a very high-level, broad basis. It was
16 after I returned to the office following this
17 Watkins case. I understood that we had lost the
18 case, and then I had a broad understanding of the
19 findings.

20 Q So it wasn't until after May 25, 2006,
21 that you had any knowledge of the class members'
22 claims in this case? Is that your sworn testimony,
23 sir?

24 A No, it's not. I had awareness, as I do on
25 a number of lawsuits, that this lawsuit was out

1 there and existed.

2 Q Now would you answer my question? When
3 did you first have knowledge of the class members'
4 claims?

5 A I don't recall when that first knowledge
6 came to me.

7 Q What's your best estimate, sir?

8 A I don't have a best estimate. But this --
9 this, again, would be part of the -- the general
10 flow of review of the fact that we had a number of
11 lawsuits out there, some of which were categorized
12 in the class action category. I would be aware of
13 that, but I don't have a recall of when that came to
14 my attention.

15 Q Can you give us a year?

16 A I don't know when this case was filed.

17 Q Are class action lawsuits by your
18 company's own policyholders something that comes
19 within your area of responsibility, Mr. Trosino?

20 A At a very high level in terms of my
21 position and title. Claims, underwriting, pricing,
22 all of those areas are broadly under my area of
23 responsibility.

24 Q So is that a yes?

25 A Yes.

1 Q What are your positions with the Mutual
2 company?

3 A I am president, vice chairman, and chief
4 operating officer of State Farm Mutual.

5 Q So you're right below Mr. Rust?

6 A Correct.

7 Q What are your positions with the Fire
8 company, the defendant in this lawsuit?

9 A I'm vice chairman of the board of State
10 Farm Fire & Casualty Company.

11 Q So you're right below Mr. Rust?

12 A Yes.

13 Q And what's Ms. Hood's position, the lady
14 we're going to talk with tomorrow, in the Mutual
15 company?

16 A She's our senior officer, our vice
17 president in charge of claims, both auto and fire.

18 Q Is she -- does she answer to you?

19 A She reports to a senior executive vice
20 president.

21 Q Does she answer to you?

22 A No. She does not, directly.

23 Q Is she lateral to your position?

24 A No, she's not.

25 Q Would you have the ability to instruct

1 Ms. Hood to do something that you felt was in the
2 best interest of the Mutual company?

3 A Yes. I would have the ability to do that.

4 Q How about the Fire company? What's
5 Ms. Hood's position in the Fire company?

6 A She's a vice president of the Fire
7 company.

8 Q Would you have the ability to instruct
9 Ms. Hood to do something if you felt it in the best
10 interest of the Fire company?

11 A Yes, I would.

12 Q To what extent do you believe the Mutual
13 company owes a duty to its policyholders to ensure
14 that the Fire company treats its insureds, its
15 policyholders, fairly and in good faith?

16 A Well, at State Farm we expect everyone in
17 the organization to treat policyholders fairly,
18 so -- and professionally. It's not broken down by
19 auto, fire, or health or anything else. Everyone
20 has that responsibility.

21 Q And, indeed, there's common management
22 between the Mutual company and the Fire company, as
23 we've just discussed, isn't there?

24 A Yes, there is.

25 Q And you've held all of your positions that

1 you've just gone through with me from May 3, 1999,
2 the Oklahoma tornado date, right up to today,
3 haven't you?

4 A Yes.

5 Q Have you ever, sir, instructed Ms. Hood to
6 do one thing with respect to claims that you felt
7 should be done to protect Oklahoma policyholders?

8 A I work through the senior executive vice
9 president she reports to, and we review claims, we
10 review underwriting, we review all such matters, and
11 they are professionally capable, trained, and
12 responsible to take the actions that are necessary.

13 Q Would you answer my question now, please?

14 A Would you restate your question, please?

15 Q Have you ever, sir, instructed Ms. Hood to
16 do one thing that you felt she needed to do which
17 you felt would be in the best interest of Oklahoma
18 policyholders? Can you draw to mind one thing that
19 you've said, Susan, you need to go do this?

20 A No. I do not have one thing I could point
21 to. We don't operate in that manner.

22 Q Okay. Now, to serve Oklahoma
23 policyholders, how quickly should State Farm correct
24 a pattern of practice which is found to be
25 intentional and malicious bad faith treatment of its

1 policyholders?

2 A As soon as reasonably possible, once that
3 is found to be the case.

4 Q And how quickly is "as soon as reasonably
5 possible"?

6 A Well, in such a matter it would require a
7 pretty thorough investigation to be sure we are
8 dealing with the facts. And once we complete that
9 investigation, we should take immediate action.

10 Q Well, let's assume a five- to six-year
11 discovery period of workup by class action litigants
12 against your company, alleging a bad faith,
13 intentional malicious treatment of them by your
14 company, and it resulted in a five-week trial when
15 those allegations were thoroughly tested, which
16 resulted in a unanimous jury verdict finding that,
17 indeed, your company engaged in intentional and
18 malicious bad faith treatment of class members.
19 Would that, sir, be enough time for your company to
20 then react, as you have just sworn it should do
21 immediately, to correct a pattern of practice?

22 A Well, that whole time period you are
23 referring to, you use the word "alleged," and that
24 was, in fact, the case. It was alleged until a
25 decision was made by the Court, and I don't know

1 that they fully explored all the issues. I don't
2 know what went on there. But I do know the findings
3 of the Court and what it was. And as a result, we
4 have taken actions to review, analyze, and study
5 those issues, and we've taken other actions as well.

6 Q So you believe the time line I just gave
7 you and the hypothetical -- if you'll assume them to
8 be true for my questions, that those things really
9 did happen -- you believe that's just not enough for
10 you to react immediately, as you have just sworn
11 should be done?

12 A Well, that's not what I said.

13 Q Well, is it --

14 A I'm not -- I'm -- I'm going to state again
15 that the assumptions you've made may be valid for
16 your question, but they were alleged issues until
17 the Court came down with its findings and the jury
18 findings.

19 Q Did I state any assumption which is
20 contrary to your understanding now?

21 A Now?

22 Q Yes.

23 A You asked me to assume that the time
24 period from the tornado --

25 Q Yes. Five to six years.

1 A -- to the trial --

2 Q Yes.

3 A You asked me to assume that those
4 allegations were true.

5 Q That time line.

6 A I wouldn't have taken action on the
7 assumption that those allegations were true. If we
8 had any evidence that they were, of course, whether
9 a jury trial was finished or not, we would have
10 taken action.

11 Q All right. Would you tell the jury under
12 oath, then, in your capacity as the various
13 positions you've said you hold to protect Oklahoma
14 policyholders, what you did during that five- to
15 six-year period that this case was on file to
16 investigate the truthfulness of those allegations
17 yourself, to carry out your duty?

18 A I didn't do it myself. That's not what I
19 do. But I expected the vice presidents of claims,
20 who were there at the time, to do what is necessary,
21 to look at our processes and procedures to be sure
22 that they were appropriate.

23 Q Are you aware of anything that was done
24 during this five- to six-year period that you could
25 testify to now?

1 A Other than the fact that people would look
2 at those allegations and consider them, I can't give
3 you any specifics.

4 Q Do you believe that you, Mr. Rust, and
5 Ms. Hood should be held personally accountable and
6 responsible to Oklahoma policyholders?

7 A We should be held accountable to all
8 policyholders to carry out our responsibilities
9 appropriately.

10 Q So is that a yes?

11 A Yes.

12 Q What have you done to prepare for this
13 deposition today?

14 A I had met with our lawyers and listened to
15 what they had to tell -- tell me about it, and I've
16 thought a lot about this deposition coming forward,
17 as I would in any deposition. Other than that, I
18 tried to review in my mind what I knew about the
19 Watkins case, and here I am.

20 Q Have you looked at a single page of paper?

21 A I have.

22 Q What have you looked at?

23 A I've looked at information that -- on the
24 findings coming out of that case.

25 Q The Watkins jury verdict?

1 A The Watkins jury verdict, yes.

2 Q Okay. What else?

3 A I have looked at our results -- our
4 current results of our Fire and Casualty Company
5 year-to-date. I have looked at the claim reports on
6 catastrophe claims that we had out of 2005.

7 Q Okay. You said the cat reports of 2005,
8 and then what did you say just before that?

9 A Just our current financial reports.

10 Q And why did you look at your current
11 financial reports to prepare for this deposition?

12 A Well, it wasn't just to prepare for this
13 deposition. The current report just came out and I
14 looked at it, and it includes catastrophe reports in
15 it.

16 Q How did you think that would help you
17 prepare for this deposition?

18 A Well, I had no idea what line of
19 questioning would occur here, and I wanted to be
20 fresh on my knowledge of our operational reports.

21 Q Okay. And you said you looked at the
22 catastrophe for 2005?

23 A Yes.

24 Q What catastrophe?

25 A The various catastrophes we had

1 throughout, the major ones, of course -- Wilma,
2 Rita, Katrina -- but we had other catastrophes as
3 well.

4 Q Did you review any information that would
5 help you give testimony concerning State Farm's use
6 of Haag since the Watkins verdict?

7 A Say that again. Did I look at --

8 Q Yes. You told me you've reviewed some
9 documents concerning financial reports --

10 A Yes.

11 Q -- for the 2005 catastrophe.

12 A Right.

13 Q I'm having trouble, in my mind,
14 understanding how that would equip you to give
15 testimony today. So I'm asking you, did that -- did
16 some of that documentation concern State Farm's use
17 of Haag --

18 A No.

19 Q -- since the --

20 A No.

21 Q -- Watkins verdict?

22 A No, it did not.

23 Q Did it concern your use of Renfroe?

24 A No, it did not.

25 Q Well, how, as you understand these issues,

1 did those documents equip you to give testimony
2 today? What did it freshen you up on?

3 A The reason I did that is my past
4 experience of depositions. Lines of questioning
5 went to financial results, and I wanted to be fresh
6 on that.

7 Q Okay. Did it tell you that State Farm has
8 paid Haag over a million dollars a year for the last
9 ten years --

10 A No.

11 Q -- for its service?

12 A I saw no such report.

13 Q Are you hearing that for the first time
14 right now?

15 A Yes.

16 Q Does that surprise you?

17 A No. It doesn't necessarily surprise me.

18 Q Does it surprise you that in the Oklahoma
19 catastrophe State Farm paid Haag an average of three
20 times as much for an engineering report of a class
21 member as it would have cost State Farm to hire a
22 local Oklahoma engineer for the same report? Does
23 that surprise you?

24 A I have no way of making that kind of
25 comparison, so I don't -- I hear what you say, but I

1 don't have that information for me to evaluate that.

2 Q You can assume it. Does it surprise you
3 that State Farm, cost-conscious as you say you are,
4 would pay an out-of-state engineering firm three
5 times as much for an engineering report from what it
6 would cost for local talent?

7 A No. It doesn't surprise me.

8 Q Why?

9 A Because we look for the most qualified
10 people to provide us vendor support, whether it be
11 in that area or a consultant to our systems
12 operation. When we need system support, we'll look
13 to somebody like IBM Global and not to the local
14 system support person who handles small business,
15 for example.

16 Q So you believe that Haag's expertise is
17 superior to Oklahoma talent?

18 A I believe that our people would evaluate
19 and hire those that they've had good experience with
20 or know to be professional and capable.

21 Q Is that your belief on why State Farm
22 would fly Haag around the country for engineering
23 opinions rather than get local talent in other
24 states across the country?

25 A I don't know about flying people across

1 the country, but we would use a vendor that had the
2 professional expertise that was required. If we
3 felt that their past experience was good for us and
4 qualified, we would -- we would hire them.

5 Q So as you sit here today, sir, do you
6 believe it makes good business sense for State Farm
7 to pay Haag approximately three times more for an
8 engineering report over local talent in a given
9 state in adjusting a catastrophe loss?

10 A It could make good business sense, yes.

11 Q Well, do you believe it does, knowing what
12 you know now?

13 A I'm not in the position to evaluate that.
14 There are people who work with these folks and
15 understand their capabilities and their experience,
16 and what value that brings to the process could
17 answer that better than I can.

18 Q Well, do you have an opinion on that,
19 knowing what you know now?

20 A My opinion would be that Susan Hood and
21 those under her area of responsibility should be
22 able to have an awareness of that evaluation and
23 come to a good business conclusion. I know they are
24 conscious of quality performance. I know they're
25 conscious of cost effectiveness, so I would expect

1 them to -- to do that.

2 Q Do you have an opinion, knowing what you
3 know now, as we sit here today, September 2006,
4 whether it makes good business sense for State Farm
5 to pay Haag approximately three times more for an
6 engineering report over what it would cost for an
7 Oklahoma engineering opinion?

8 A My answer is the same.

9 Q You have no opinion?

10 A Not -- my answer is the same, that the
11 knowledge that I have right now --

12 Q Yes.

13 A -- only changes what I knew before I
14 walked in this room, by the assumptions that you
15 presented in what you just said. And my stance on
16 that is until I had more information and I knew that
17 our people had properly evaluated this, I'm going to
18 stand behind their decision to use Haag as the most
19 effective engineering people that they could -- they
20 could find.

21 Q All right. I'm going to ask you a
22 question straight out right now.

23 A Okay.

24 Q Knowing what you know now, as we sit here
25 today, September 2006, in your position with the

1 company, do you have any regrets with State Farm's
2 use of Haag in the handling of the May 3, 1999
3 catastrophe? Yes or no.

4 A I may have.

5 Q Do you?

6 A As a result of the findings of the Court
7 and the jury, it certainly raises the issue of why
8 we have an investigation underway.

9 Q Do you have regrets, as we sit here now?

10 A I will know that when I see the results of
11 our investigation of the Haag Engineering reports.
12 I have not seen those.

13 Q As we sit here now, today, right now, do
14 you have regrets? If the tornados happened today,
15 would you use Haag today in Oklahoma?

16 A No, we would not. Because the Haag -- use
17 of Haag is on a moratorium. They've been suspended
18 for any new assignments --

19 Q All right.

20 A -- until we complete the investigation.

21 Q How about Renfroe?

22 A I know our people have looked at Renfroe
23 on the same basis of consideration as to the use of
24 their independence, and it is under evaluation. I
25 don't know the result of that, so I can't answer at

1 this moment.

2 Q Well, please answer my question, then.
3 Would you authorize the use of Renfroe today? If
4 May 3, '99 happened today in Oklahoma, right now,
5 would you use them? Would you authorize them?

6 A I don't authorize the use of them. Our
7 claims people make that decision.

8 Q Okay. Would you instruct not to use them,
9 then?

10 A I wouldn't on the basis of what I know
11 today, because I don't have the results of that
12 evaluation that they have underway with Renfroe.

13 Q So you would let Renfroe be used today,
14 knowing what you know now?

15 A I would allow the people in charge of that
16 responsibility to make their decision.

17 Q Okay. Now, can you tell us -- I'm going
18 to get back to whether you have any regrets, knowing
19 what you know now. Do you or not, for the use of
20 Haag and Renfroe, May 3, '99? Do you regret it?

21 A I only have regret that the findings of
22 the jury was what it was, and that's a terrible
23 finding.

24 Q Do you disagree with the jury verdict,
25 sir, knowing what you know now?

1 A I would love to disagree with the jury
2 verdict, but I am not in a position to disagree with
3 it. The system -- the court system worked and the
4 jury system worked. I believe in our system, and
5 it's going to lead us to investigate that as fully
6 as possible.

7 Q Well, then why did your company -- why did
8 you permit your company in a media release to say
9 you disagree with the jury verdict?

10 A I don't know that I -- I'm not aware of a
11 media release that said we disagree with the jury.
12 I don't know what the wording is. We certainly are
13 going to exercise the full process, our lawyers
14 will, of reviewing this case.

15 Q Why didn't you instruct that the media be
16 told right after the Watkins jury verdict that your
17 company was investigating Haag and declaring a
18 moratorium and investigating Renfroe, rather than
19 say you disagreed with the verdict?

20 A I didn't feel the need to say that to the
21 general public. We just did what we needed to do.

22 Q Do you think your policyholders should be
23 kept in the dark after a national publicity jury
24 verdict that your company supposedly is doing an
25 internal investigation into the truthfulness behind

1 the verdict?

2 A Our company is not supposedly doing the
3 investigation. We are doing the investigation. And
4 a panel of peers are going to be reviewing all the
5 Haag Engineering reports, and we'll wait for that
6 result.

7 Q Why -- tell the jury why State Farm, if it
8 truthfully did happen right after the Watkins jury
9 verdict -- why you would not have publicly announced
10 that, rather than wait until today's depositions to
11 tell us when you're under oath pursuant to court
12 order.

13 A In terms of the process that we undergo,
14 we -- we do lots of things that we don't then
15 immediately announce to the public. We don't have a
16 forum to do that. We didn't expect the need to do
17 that. We were going to pursue what we have to do,
18 and what we have to do is take a look and correct
19 anything that's wrong. And if we have to make
20 people whole, we'll make them whole. But it's not
21 about a PR effort.

22 Q What discussions were had, sir, on whether
23 or not to tell your policyholders and the public
24 about this internal investigation following the
25 Watkins verdict?

1 A I had no discussion on that.

2 Q Well, whose decision was it to keep it
3 secret?

4 A It's not a decision to keep anything
5 secret. It's just something we didn't do.

6 Q Well, whose decision was that not to do
7 it?

8 A The decision assumes that it's a process
9 that was under consideration, and I was not involved
10 in any such discussion.

11 Q Do you feel that your company has any
12 obligation to supplement any discovery responses in
13 this case with this investigation, rather than tell
14 us about it today, pursuant to court order?

15 A I don't understand that question.

16 Q Yeah. Do you feel your company has any
17 obligation to supplement any discovery responses?

18 MR. RUPERT: I'm going to object as
19 calling for a legal conclusion. Answer it if you
20 can, sir.

21 THE WITNESS: I don't know what the legal
22 response to that would be.

23 Q (BY MR. WIGGINS) Well, let me ask it a
24 different way. Do you believe it's fair to your
25 policyholders, that it's okay not to tell these

1 class members about this internal investigation
2 until you're here giving a deposition today,
3 pursuant to court order, which you tried to get out
4 of? Do you think that's okay?

5 A I think what we've done and what we've
6 been advised to do by our lawyers is fine.

7 Q Okay. Now, do you feel any obligation
8 directly, any personal obligation to the Oklahoma
9 class members in this case?

10 A I feel a personal obligation to all of our
11 policyholders.

12 Q Including these class members?

13 A Including these class members.

14 Q All right. Would you, if they asked you
15 to, be willing to come to Oklahoma to participate in
16 the trial of this matter? Would you be willing to
17 do that if we gave you plenty of notice?

18 A I'd respond to the direction of our
19 general counsel and our lawyers.

20 Q But would you personally, just from a
21 moral or ethical standpoint -- if the policyholders
22 asked you to come and gave you plenty of notice,
23 would you personally be willing to do it? With the
24 understanding if your lawyers told you to do
25 otherwise, but would you personally be willing to do

1 it?

2 MR. RUPERT: I'm going to object, because
3 it will be a decision of the company and his
4 counsel. But go ahead and answer if you can, sir.

5 THE WITNESS: I'm fine with it.

6 Q (BY MR. WIGGINS) So you would be
7 personally willing to do it?

8 A If our lawyers had no objection, I would.

9 Q Okay. Have you talked to any witness that
10 testified in the Watkins trial?

11 A I'm not aware of the witnesses that
12 testified, so I could have, but I don't know that.

13 Q Well, have you talked to anyone about the
14 Watkins trial?

15 A Only our lawyers.

16 Q So like Frank Haines, then. You haven't
17 had any discussion?

18 A I've had no discussion with him.

19 Q Have you talked to Mr. Rust about these
20 depositions?

21 A Generally, we spoke about the fact that we
22 were going to have these depositions and possibly
23 going to trade the times in which we were going to
24 appear. And I knew that he was visiting with our
25 lawyers separately from me visiting with our

1 lawyers, that kind of awareness.

2 Q Have you and Mr. Rust had any
3 conversations beyond that?

4 A About the fact that we were going to have
5 these depositions, yes.

6 Q About the substance?

7 A The substance being the Watkins case?

8 Q Yes.

9 A Yeah. Yes.

10 Q About the investigation of Ms. Hood, have
11 you talked about that, you and Mr. Rust?

12 A The investigation of Ms. Hood?

13 Q That she's doing.

14 A We were both aware of this investigation
15 that she's got underway.

16 Q Have you talked to Mr. Rust --

17 A Yes.

18 Q -- about it?

19 A Yes.

20 Q Well, tell us what you've talked about.

21 A Just the fact that we had taken the
22 actions of -- Ms. Hood and her people have taken the
23 actions following the Watkins case to suspend or put
24 a moratorium on the use of Haag Engineering for any
25 new assignments, that they were investigating the

1 Renfroe allegations, and that we had a peer review
2 council -- an independent council setting up a peer
3 review panel to look at the Haag Engineering
4 reports.

5 Q So you're swearing that Ed Rust knew what
6 you just said about an independent peer review
7 council before today? You've talked to him about
8 it?

9 A I talked to him about that today.

10 Q When?

11 A It was when he got back to the office.

12 Q When? How long ago?

13 A Was it -- an hour ago possibly.

14 Q Is it your sworn testimony, Mr. Trosino,
15 that, to your knowledge, that is the first the head
16 of your company knew about this independent council
17 is when you told him an hour ago?

18 A I did not -- I do not know what he knew
19 when. Purposely, he talks to the lawyers, I talk to
20 the lawyers, and we don't talk about what we said to
21 each other or the lawyer in the preparation of these
22 depositions.

23 Q Would you answer my question, please?

24 A Do I have knowledge that this was the
25 first time -- is that the question --

1 Q Yeah.

2 A -- that he was aware of?

3 Q Yeah. Did the head of your company --
4 you're the number-two guy.

5 A Yeah.

6 Q Did the number-one guy know about this
7 independent council that you've just sworn to before
8 an hour ago?

9 A I don't believe he knew about that. He
10 knew that there was an investigation underway and
11 not the specifics.

12 Q How long have you known about it?

13 A I knew -- I can't give you a date. I knew
14 that following the Watkins decision that our -- the
15 head of our claims operation and their people were
16 going to initiate an investigation. Beyond that, I
17 didn't know anything about the specifics of that
18 until a couple of days ago.

19 Q And how did you find out about it?

20 A I asked about that, just what was
21 involved, what do we have underway.

22 Q Who did you ask?

23 A Susan Hood.

24 Q Why?

25 A Because she has the most knowledge of what

1 that response would be.

2 Q Well, what prompted you to ask her? Your
3 deposition coming up?

4 A Yes.

5 Q Can you explain why Ed Rust wouldn't ask
6 her?

7 A No, I can't explain that.

8 Q Well, after you were armed with this
9 knowledge about this council a couple of days ago,
10 why didn't you tell Mr. Rust?

11 A I was preparing for my deposition. He was
12 preparing for his. I didn't think to go over and
13 review that with him.

14 Q Where were you when you talked to Ms. Hood
15 a couple of days ago?

16 A In my office.

17 Q So you called her into your office?

18 A Yes.

19 Q Make any notes?

20 A No.

21 Q Are you aware of a single note, piece of
22 paper, report, e-mail, computer-stored information,
23 minutes, journal, diary, anything in writing
24 memorializing when Ms. Hood's investigation started?

25 A I am aware of a communication to our

1 agency -- or our operations vice presidents and
2 division managers that a moratorium on the use of
3 the Haag Company was in place.

4 Q What would I ask for to see a copy of
5 that? What would I call it?

6 A I don't know. I didn't see it. I was
7 made aware of that.

8 Q So you don't know if it was oral or
9 written?

10 A I honestly don't know that. I just know
11 that it was communicated.

12 Q Now would you answer my question? Do you
13 need the court reporter to repeat it for you?

14 A Yes. That would be good.

15 (The requested portion was read by the
16 court reporter.)

17 THE COURT REPORTER: "Are you aware of a
18 single note, piece of paper, report, e-mail,
19 computer-stored information, minutes, journal,
20 diary, anything in writing memorializing when Ms.
21 Hood's investigation started?"

22 THE WITNESS: No, I don't have
23 information.

24 Q (BY MR. WIGGINS) So if someone were to
25 say to you, Mr. Trosino, you need to prove by

1 written documents that your company has set up an
2 independent investigation of Haag and Renfro
3 shortly after the Watkins verdict, is it your sworn
4 testimony, John, I can't do it, because there isn't
5 anything?

6 A No. That's not what I said. I'm not --

7 Q Okay. What would --

8 A I'm not aware --

9 Q What would you show me?

10 A I'm not aware of such a written
11 document --

12 Q So then your answer --

13 A -- but I'm aware that the investigation
14 activities were begun.

15 Q Okay. But please answer my question. If
16 you were limited that you had to prove your case by
17 written material that this investigation, sure
18 enough, started within a few days of the Watkins
19 verdicts, would you come up short and just say, I'm
20 aware of nothing, as you sit here today?

21 A Sit here right now? I wouldn't know what
22 the document looked like or if it existed. That's
23 correct.

24 Q All right. So in any of the meetings, any
25 of the committees where over this last three-month

1 period the Watkins verdicts were talked about, there
2 were never any minutes, notes, personal or
3 corporate, taken so far as you know; is that true?

4 A Yes. I don't know of any. I wasn't in
5 meetings of that nature, so I have no knowledge of
6 notes or minutes or --

7 Q Okay. Now, do you think that's good
8 business for a company as large as State Farm to
9 keep nothing in writing?

10 MR. RUPERT: I want to object. I don't
11 believe he said that. He said he wasn't in the
12 meetings.

13 Q (BY MR. WIGGINS) Well, in any of the
14 meetings you participated in, you all don't keep
15 minutes, do you?

16 A No. Not -- no. There's so many meetings.
17 No, we do not.

18 Q Right. And you don't keep any personal
19 diary or notes to help you on down the road remember
20 what you all talked about; is that true?

21 A That's right. I have no diaries. None.
22 No, I don't.

23 Q So do you think that's good business for a
24 company as big as State Farm?

25 A Well, frankly, I think that our 84-year

1 history at State Farm shows that we run a very good
2 business, and 79 million policyholders and account
3 holders support that, and --

4 Q Well, you have --

5 A -- we continue to, I think, run a very
6 good business.

7 Q Well, has your company ever been
8 judicially found to be fraudulent in its treatment
9 of its own policyholders, insofar as its
10 recordkeeping is concerned, sir?

11 A Judiciously -- judicially found to be
12 fraudulent?

13 Q Yes, sir. Yes, sir. In its
14 recordkeeping.

15 A I can't come up with a case. I don't
16 know.

17 Q You're unaware of any sanctions by Courts
18 concerning your recordkeeping?

19 A Concerning our recordkeeping?

20 Q Yes, sir.

21 A I'm not sitting here aware of that, no.

22 Q Okay. What has Ms. Hood told you about
23 what she has managed to accomplish in three months
24 of alleged investigating?

25 A Well, first of all, the investigation

1 includes an action step, which was to place the Haag
2 organization in a moratorium mode, where we are not
3 assigning any new claims for their engineering
4 expertise or reports. So that was an immediate
5 action step.

6 The comments you made about Renfroe is, we
7 continued to look at the allegations there related
8 to Renfroe and that we are considering whether our
9 guide -- or whatever communication they have with
10 their claims management people -- is clear and
11 adequate in the hiring and assignment of
12 independents.

13 Q Will you please answer my question?

14 A I'm trying to.

15 Q Give me specifics on what she's managed to
16 do in three months.

17 A I can't -- I can't give you specifics on
18 that.

19 Q Can you tell me one thing she's done,
20 other than supposedly say, We're going to quit using
21 Haag, and we're going to take a look at Renfroe?
22 One specific thing?

23 A Well, again, when Susan Hood tells me she
24 has placed a moratorium on the use of Haag, it's not
25 supposedly. She did that. Secondly, the fact that

1 independent counsel put together a peer review of
2 the Haag Engineering reports is action that is
3 underway. And then the review of the Renfroe piece
4 is the other part that I know. I don't know
5 specifics beyond that.

6 Q Okay. Who is the independent counsel?

7 A I don't know.

8 Q Tell me about how that's set up.

9 A I don't know how it's set up.

10 Q You don't know a thing about what she's
11 done, then, specifically, do you?

12 A Specifically, no. That's her job.

13 Q Well, she's had three months. So what
14 have you done in carrying out your duty to say,
15 Susan, we've got a January trial in Oklahoma, how is
16 it coming? Have you done that?

17 A I have not done that.

18 Q Why?

19 A Susan knows what's coming and what she
20 needs to do, and I have every confidence in her that
21 she'll do it right.

22 Q When do you expect to hear back from her
23 on her results or an interim report?

24 A I don't have a date for an interim report.

25 Q Well, shouldn't you?

1 A I would expect Susan to provide us what we
2 need to know when her investigation is complete, and
3 it will be thorough.

4 Q Well, she's had three months,
5 respectfully, Mr. Trosino. I'm trying to learn from
6 you, in your position with these companies, what
7 your mental time line is. A year? Five years? Two
8 weeks?

9 A Well, sir, if you're asking me about my
10 responsibilities, one of them is to consider the
11 human nature of what we have to deal with. I don't
12 care if it's Susan Hood or anyone else. There's
13 only so much capacity they have.

14 And we've had back-to-back years of
15 enormous claim and catastrophe activity, and we have
16 done an outstanding job. Having closed 97 percent
17 of the claims coming out of Katrina and the other
18 storms takes a tremendous amount of effort and
19 oversight. It's not just about the case we have
20 before us here today.

21 Q Do you have a time line expectation to
22 hear back from Ms. Hood? Yes or no.

23 A No.

24 Q To what extent has State Farm's use of
25 Haag and Renfroe been discussed in your presence

1 this year?

2 MR. RUPERT: Aside from the presence of
3 attorneys, Mr. Trosino.

4 THE WITNESS: With Haag and Renfroe
5 specifically, other than the general knowledge of
6 the Watkins case, I have no conversation on it.

7 Q (BY MR. WIGGINS) Who all is participating
8 with Ms. Hood in her alleged investigation?

9 A She would use whatever staff and resources
10 that are required. I don't know who the names are.

11 Q Would you name one person, another single
12 human being?

13 A That is --

14 Q Participating with Ms. Hood in this
15 alleged investigation of Haag and Renfroe, in light
16 of the Watkins verdicts.

17 A I don't have a name.

18 Q Do you believe it appropriate that these
19 class members have an advocate in that
20 investigation?

21 A I believe they do have an advocate, and
22 that's Susan Hood and the people she has under her,
23 to responsibly look at what we need to do in making
24 whatever it is that we've been charged with, found
25 with, and so forth, making that right, correcting

1 whatever we have to correct to do that.

2 Q So it's your sworn testimony you think
3 these class members are being advocated by Ms. Hood?
4 That's their advocate?

5 A Well, Ms. Hood and everybody else that is
6 honestly working on this case to resolve it to our
7 satisfaction and theirs.

8 Q Well, why doesn't it trouble you, sir,
9 that you just testified that the advocate for the
10 class members is a representative of the defendant?
11 Why doesn't that trouble you?

12 A It doesn't trouble me, because I know this
13 company. I know our core values. I know our
14 integrity. I know our reputation. It wasn't based
15 on fraudulent activity or malice or any other such
16 thing.

17 Q All right.

18 A It was based on success, and we measure
19 that by a number of things.

20 Q So you disagree?

21 MR. RUPERT: I'm sorry. Let him finish.
22 Let him finish.

23 MR. WIGGINS: I apologize.

24 Q (BY MR. WIGGINS) Go ahead.

25 A And I think Susan Hood is an extremely

1 responsible vice president of claims, and I think
2 she runs one of the finest claim operations in the
3 country, and that's -- that's verified by our
4 results and by our claim complaint ratios, the
5 lowest in the industry of any company near our size.
6 So I'm very confident that she has the best interest
7 of the policyholders in her mind in looking at any
8 issue.

9 Q Will you use your power, sir, to tell
10 Ms. Hood to permit me to participate on behalf of
11 class members in this investigation? Will you do
12 that?

13 MR. RUPERT: I'm sorry. I think you're
14 going a little far afield of what we do in a
15 deposition, so --

16 Q (BY MR. WIGGINS) I'm -- I'm -- on behalf
17 of my clients, the class members, I am seeking your
18 permission, sir, to participate in this alleged
19 investigation as an advocate for my client.

20 MR. RUPERT: Just a second. You can ask
21 him questions about the case, but we're not going to
22 negotiate while he's under oath your participation
23 in this, so --

24 MR. WIGGINS: All you have to do is
25 instruct him not to answer, because I seriously am

1 asking for permission to participate.

2 MR. RUPERT: I wasn't quite finished. And
3 I don't want you to answer that. If you want to
4 make such a request to us, you can do it at any
5 time.

6 MR. WIGGINS: Okay.

7 Q (BY MR. WIGGINS) So you're declining to
8 respond to my request; is that right, Mr. Trosino?

9 A I'm not answering your question.

10 Q All right. Now, if I were to come up with
11 an independent engineer, a structural engineer, a
12 competent Oklahoma engineer, would you use your
13 power to let him participate as an advocate on
14 behalf of these class members during this
15 investigation?

16 MR. RUPERT: Same thing. You can take
17 discovery on the case, but I don't think it's
18 appropriate to negotiate participation of an
19 engineer. If you want to propose something in
20 writing, we'll consider anything you want to
21 propose. Otherwise, don't answer that, Mr. Trosino.

22 Q (BY MR. WIGGINS) Do you believe these
23 class members, sir, have a right to have an
24 advocate, a participant of their choosing in this
25 investigation that's ongoing by Ms. Hood?

1 MR. RUPERT: I'll object as calling for a
2 legal conclusion. Answer if you can.

3 THE WITNESS: I don't think I'm -- I'm
4 trained to answer that question. I think a lawyer
5 needs to answer that question.

6 Q (BY MR. WIGGINS) Well, let me ask it a
7 different way, then. Do you think it's fair, would
8 be a morally right thing to do to let these class
9 members have an outside advocate in this
10 investigation of their choosing? Does that sound
11 like an okay thing?

12 A No, it doesn't.

13 Q Okay.

14 A We operate an organization -- an insurance
15 organization and have for 84 years. It's been
16 highly successful with the procedures and
17 methodologies we use. It would be impossible to
18 allow groups of people to come in with outside
19 expertise, et cetera. It just would not be fair to
20 the total policyholder group in order to do that.

21 Q Do you believe it's the right thing to do,
22 to keep Ms. Hood's investigation secret from the
23 class members until the results are known?

24 A We are going to do our investigation. It
25 is an internal investigation. And when we're

1 complete with it, we're going to take the action
2 that we think the investigation calls for, whatever
3 that may be.

4 Q Would you answer my question,
5 respectfully?

6 A I don't feel there's a need to communicate
7 at this moment any details of our investigation in
8 this case.

9 Q How and in what manner has State Farm's
10 treatment of Oklahoma policyholders changed since
11 the Watkins verdicts?

12 A Well, if there's any claims in Oklahoma
13 that require an engineering report right now,
14 they're not going to have Haag assigned to them, so
15 that would be a change. Other than that, we
16 continue to serve our policyholders in Oklahoma
17 through our agents, our claims people, and anyone
18 else, our call centers, just as well as we have in
19 the past and will continue to.

20 Q So other than not using Haag, it's
21 business as usual in Oklahoma since the Watkins
22 verdicts. Is that your testimony?

23 A My testimony is that our successful
24 activities in Oklahoma continue. We continue to add
25 policyholders and accounts in Oklahoma and serve

1 everyone that we currently serve and in an
2 appropriate fashion.

3 Q So you can think of no change since the
4 Watkins verdicts, other than the Haag moratorium; is
5 that true?

6 A I'm not aware of any change.

7 Q All right. To your knowledge, what is the
8 extent of communication State Farm has had with Haag
9 since the Watkins verdicts?

10 A I have no specific knowledge of that
11 communication.

12 Q Do you have any general or hearsay
13 knowledge that Ms. Hood has picked up the phone,
14 written, called, talked to a single Haag engineer?

15 A I do not.

16 Q How about Renfroe? Any knowledge of any
17 communication since the Watkins verdict?

18 A I have no knowledge of it.

19 Q In your opinion, sir, should there have
20 been by now, three months down the road, direct
21 communication from your company to Haag Engineering
22 in light of the Watkins verdicts?

23 A Yes.

24 Q Same with Renfroe, should there have been?

25 A Yes.

1 Q Do you believe that interviews should have
2 been had by now, three months down the road, in
3 light of the Watkins verdicts?

4 A Interviews with whom?

5 Q With people from Haag and Renfroe.

6 A I don't know if I would use the word
7 "interview," but there should have been
8 communication between our people and their people
9 based on the Watkins result.

10 Q And you're aware of none; is that right?

11 A I have no specific awareness of them.

12 Q Okay. If you had knowledge that it had
13 been shown that Haag had a fraudulent billing
14 practice, what would you do about it?

15 MR. RUPERT: I'm going to object as
16 calling -- assuming facts not in evidence. Answer
17 if you can.

18 THE WITNESS: I have no facts that their
19 billings were erroneous or out of line. So from
20 that point of view, I can't answer that question.

21 Q (BY MR. WIGGINS) Well, certainly you
22 wouldn't condone paying any fraudulent vendor, would
23 you?

24 A Absolutely not.

25 Q Well, of course. And is my saying that

1 the first you knew that fraudulent billing was a
2 part of the Watkins trial?

3 A Yes.

4 Q Did you know that Haag refused for years
5 to produce time slips to class members validating
6 their bills, the time they spent at class member
7 properties? Did you know that?

8 A No, I did not.

9 Q You're hearing that for the first time
10 today?

11 A Correct.

12 Q So then you're, likewise, not aware that
13 your company did absolutely nothing to help these
14 class members make Haag produce these time slips?
15 You didn't know that?

16 A I did not know that.

17 Q Would you condone that, had you known it,
18 or would you have seen to it that your company
19 joined its policyholders to make Haag produce time
20 slips?

21 A I would expect our people to want to have
22 knowledge of the appropriate billings and times and
23 things of that nature, but I have no knowledge of
24 that situation. This is the first I've heard of
25 that.

1 Q And you would not have condoned it, had
2 you known it?

3 A I wouldn't have condoned our people not
4 knowing just what we were billed for.

5 MR. RUPERT: John, whenever you get to a
6 breaking point -- I don't mean to interrupt.

7 MR. WIGGINS: This is fine. You bet.

8 (A break was taken from 2:25 p.m. to
9 2:33 p.m.)

10 Q (BY MR. WIGGINS) Is Haag the only
11 engineering firm being investigated?

12 A I don't know.

13 Q Why don't you?

14 A No one has told me about any other firm
15 being investigated, so I don't know.

16 Q They're the only one that you know about?

17 A I guess that's the same as I don't know,
18 yes.

19 Q Is Renfroe the only independent adjusting
20 company being investigated?

21 A As far as I know, yes.

22 Q Will you instruct Ms. Hood to bring all
23 documents concerning her investigation to her
24 deposition tomorrow?

25 MR. RUPERT: I'm sorry. I think the

1 question is improper. If you want to make a
2 document request, there's formal procedures for you
3 to do that and we'll entertain it. And I'm going to
4 instruct you not to answer, Mr. Trosino.

5 Q (BY MR. WIGGINS) Mr. Trosino, you
6 understand that we're here in Bloomington, Illinois,
7 at great expense, representing class members,
8 policyholders of your company, and are learning for
9 the first time today of this alleged investigation
10 by Ms. Hood. Do you understand that?

11 MR. RUPERT: Are you telling him that?

12 MR. WIGGINS: I'm telling him that.

13 MR. RUPERT: Okay.

14 Q (BY MR. WIGGINS) Take it to the bank --
15 to the State Farm Bank. Do you understand that?

16 A I understand what you just said.

17 Q All right.

18 A And it's not alleged. It's real.

19 Q Okay. Now, I am asking you, respectfully,
20 if you would have Ms. Hood bring -- you mentioned
21 earlier a moratorium communication. Would you ask
22 her to bring documentation showing when this
23 moratorium started and documentation concerning the
24 nature and extent of her investigation? Now, if you
25 would just ask her to do it, once we get it here

1 tomorrow, then your company lawyers can either agree
2 or disagree to let us see it and let us talk about
3 it.

4 But now that we've gone to the expense to
5 come here, will you please use your power to request
6 that these documents be brought to this room so we
7 can at least identify them for our judge, who we
8 fully intend to talk to about this behavior, and put
9 it in the record what the documents are? Perhaps
10 mark them secretly as a court exhibit for him to
11 take a look at and then decide whether we get to see
12 them. But will you at least use your power to get
13 the documents in this room? Will you do that?

14 MR. RUPERT: Okay. Mr. Trosino -- if you
15 want to put a document request to us, there are
16 procedures and we'll entertain it at the appropriate
17 time. I think it's improper to pose that at a
18 deposition. You're free to take discovery. You're
19 not free to do -- make document requests to the
20 witness. So I'll instruct you not to answer,
21 Mr. Trosino.

22 Q (BY MR. WIGGINS) Are you refusing to
23 answer that request?

24 A On the advice of my counsel, I'm refusing
25 to answer.

1 Q All right. Now, is your position that
2 Ms. Hood launched this moratorium on Haag and the
3 investigation of Haag and Renfroe within days of the
4 May 25th Watkins jury verdict, to your knowledge,
5 consistent with testimony State Farm has given to
6 authorities in Mississippi on when this started?

7 MR. RUPERT: Just a second. Excuse me.
8 Do you -- have you had any communication with
9 authorities in Mississippi?

10 THE WITNESS: None.

11 MR. RUPERT: Okay. Then I'll instruct you
12 not to answer the question. And, in fact, I guess I
13 need one other predicate question. Any knowledge
14 you would have of that would come through counsel --

15 THE WITNESS: Correct.

16 MR. RUPERT: -- any possible knowledge?
17 We'll take attorney-client privilege on that.

18 Q (BY MR. WIGGINS) Can you give me any
19 examples of a claims practice that has been
20 criticized by the Chairman's Council?

21 A Any claims practices that have been
22 criticized by the Chairman's Council -- no. As a
23 council, I can't think of a claims practice that
24 we've reviewed and criticized.

25 Q Why don't you all keep minutes or records

1 of your Chairman's Council meetings?

2 A Don't feel a need to.

3 Q Is it so you can keep information from
4 your policyholders?

5 A No. No.

6 Q Can you give me any example of a claim
7 practice that has been changed by State Farm because
8 of a lawsuit?

9 A I can give an example. I can't give you
10 the details of the change, and -- as a result of a
11 lawsuit on titling total loss vehicles. And all I
12 can tell you is that we -- we tightened up our
13 procedures to make sure they were totally compliant
14 with what came out of the -- I guess the lawsuit.

15 Q Is that it?

16 A Well, that's all I can recall and come up
17 with today, so --

18 Q Does State Farm have a policy of what its
19 corporate behavior should be when it suffers a
20 punitive damage or bad faith verdict?

21 A Our practice would be to thoroughly review
22 the results of such a finding to make sure that our
23 practices, our procedures, our policy, in fact, if
24 necessary, is changed to make sure that that's not
25 repeated.

1 Q Is that a written policy you can show me
2 where your company, as part of its corporate
3 personality, has that policy?

4 A I couldn't point to a document that
5 describes what I just said, other than the fact
6 that's part of our core values as a company. We
7 place high value on integrity, honesty, and fair
8 dealing. That's how we started this company. We
9 continue to carry that forward in any way possible.

10 Q Have you ever heard of the Nicolau case in
11 Texas?

12 A I've heard of that. I don't know the
13 details of that.

14 Q That case was published by the Texas
15 Supreme Court less than two years before the May 3,
16 '99 tornados. Did you know that?

17 A I did not know the timing.

18 Q What was your position with the company in
19 1997 when Nicolau was published?

20 A I was vice chairman and chief operating
21 officer.

22 Q Yes. And isn't it true that your company
23 did absolutely no policy change as a result of the
24 Nicolau verdict?

25 A I don't know the answer to that.

1 Q You can think of none; is that true?

2 A I just have no knowledge of it. I do not
3 know the answer to your question.

4 Q Do you know -- do you have sufficient
5 knowledge of Nicolau to know that it dealt with
6 State Farm's use of Haag?

7 A I became aware of that in discussion with
8 our attorneys.

9 Q After the Watkins verdict?

10 MR. RUPERT: Excuse me. I don't want you
11 testifying about things you learned from
12 conversation with your attorneys. So when he's
13 talking to you, that's not what you're supposed to
14 be conveying. Go ahead.

15 Q (BY MR. WIGGINS) Did you know that
16 Nicolau was a bad faith verdict that involved State
17 Farm's use of Haag prior to the Watkins verdicts?
18 Did you know that?

19 A No, I did not.

20 Q Shouldn't you have, in your position with
21 the company? Shouldn't you have been made aware of
22 it?

23 A You know, I may have been made aware of
24 that and didn't recognize it by that name, but I
25 don't recall. I don't recall being told that back

1 in 1997.

2 Q My question is, shouldn't you have been?

3 A Not necessarily. I believe that our claim
4 operation is professionally handled by our claim
5 executives, and they have the knowledge and they
6 have the expertise and the empowerment to make the
7 decisions they need to make.

8 Q Who is Jim Rutrough, R-u-t-r-o-u-g-h?

9 A Jim Rutrough.

10 Q Rutrough.

11 A Yes.

12 Q Who is he?

13 A He's the chief administrative officer of
14 State Farm Mutual.

15 Q What are his responsibilities?

16 A Well, he has many. But it's basically --
17 as a chief administrative officer, it would be
18 including all operational matters of running the
19 insurance business for State Farm Mutual, anywhere
20 from systems underwriting to claims, various
21 organizational support mechanisms.

22 Q And you don't know anything about who the
23 independent council is, how he or she was selected,
24 nothing?

25 A I do not.

1 Q You don't feel it incumbent upon you to
2 ask questions right now of Ms. Hood; is that right?

3 A No, I don't. It's good enough for me to
4 know that Susan Hood has taken responsibility for
5 this and moving this forward.

6 Q Is that part of the company's overall
7 strategy, is to limit inquiry and just restrict
8 things to Ms. Hood?

9 A No. It's not a strategy. It's a way we
10 feel about the responsibility of our senior
11 executives and their capability of carrying out
12 those responsibilities. It's far too wide, broad,
13 and complex for any one of us to be providing
14 oversight to every one of those areas of the
15 business.

16 Q So you just don't feel like you have any
17 responsibility to involve yourself in whatever
18 decision-making she may be making right now about
19 the nature and extent of this investigation?

20 A If Susan comes to me with information and
21 a request to participate in a decision, then I will
22 take the responsibility to do that.

23 Q Please answer my question.

24 A I think I just did.

25 Q No.

1 MR. WIGGINS: Would you please read him
2 the question again?

3 (The reporter read back.)

4 THE REPORTER: "So you just don't feel
5 like you have any responsibility to involve yourself
6 in whatever decision-making she may be making right
7 now about the nature and extent of this
8 investigation?"

9 THE WITNESS: I'll restate my answer so I
10 guess I'm a little more clear. I have
11 responsibility, and I feel it is to be sure that
12 Susan is aware -- and I know she is -- that if she
13 brings matters under her responsibility to me, I
14 will exercise my responsibility to help her make a
15 decision or to direct a course of action. But until
16 she does, that's her responsibility.

17 Q (BY MR. WIGGINS) And you don't feel any
18 responsibility to involve yourself proactively,
19 absent a request from her?

20 A Only if I'm fully aware of what I think is
21 an erroneous direction or a decision that's going
22 the wrong way.

23 Q But you have no mechanism in place to
24 become aware of such thing. You're not
25 communicating with her about the investigation, are

1 you?

2 A Susan Hood has responsibility of claims.
3 She reports to a senior executive on the Chairman's
4 Council, and those people are quite qualified to
5 handle those kinds of decisions, and they will bring
6 it forward if necessary.

7 Q Say that again, please. Who does she
8 report to?

9 A A senior executive vice president and a
10 member of the Chairman's Council.

11 Q And who is that?

12 A Brian Boyden.

13 Q Are you on the Chairman's Council?

14 A Yes, sir.

15 Q And what has she said in the last three
16 months about her investigation?

17 A Well, Susan Hood is not on the Chairman's
18 Council.

19 Q Well, you said she reported to it. What
20 does she report?

21 A She reports to an individual on the
22 Chairman's Council.

23 Q Brian Boyden?

24 A Correct.

25 Q All right. And you're on the council?

1 A Correct.

2 Q You've had three months. What has
3 Mr. Boyden talked to the council about as far as
4 what Susan said?

5 A I don't have any knowledge of that. I
6 missed the last Chairman's Council meeting. But I
7 have no knowledge of that.

8 Q So you don't know that anything has been
9 reported in three months, do you?

10 A I have no knowledge of a specific report
11 to the Chairman's Council in the last three months,
12 correct.

13 Q Or that Susan has said word one to Brian
14 Boyden, true?

15 A I can't comment on that. I don't sit in
16 on their meetings, and they meet regularly and
17 frequently on all sorts of matters dealing with our
18 claims operations. I have no awareness of
19 conversation about that.

20 Q Shouldn't Mr. Boyden, in light of what's
21 going on in the Gulf and in light of the Watkins
22 verdict, the upcoming additional trials in Watkins
23 in January, within three months, shouldn't the
24 Chairman's Council, which you're a member of, have
25 received an interim report by now on this alleged

1 investigation, in your opinion?

2 A My opinion, Brian Boyden and Susan Hood
3 are managing their responsibilities effectively and
4 appropriately.

5 Q Please answer my question. Should the
6 Chairman's Council have received an interim report
7 by now?

8 A I don't know if there was an interim
9 report or not. I'm not aware of an interim report.

10 Q I didn't ask you that. Should there have
11 been? That's my question.

12 A Possibly there should have been, but I --
13 again, the way we operate, we feel very confident in
14 all matters that they're dealing with, that they're
15 managing them appropriately.

16 Q Do you have any understanding that there's
17 going to be in the near future an interim report to
18 the Chairman's Council?

19 A I have no knowledge of a specific time
20 table for an interim report to the Chairman's
21 Council.

22 Q Do you think there should have been by
23 now? And you don't know of one that's over the
24 horizon. What have you done in your position with
25 the company, sir, to get one?

1 MR. RUPERT: I'm going to object. I think
2 that misstates his testimony. Answer if you can.

3 THE WITNESS: Would you say the last part
4 again? I'm sorry.

5 Q (BY MR. WIGGINS) Yeah. What have you
6 done to get an interim report?

7 A I haven't asked for an interim report.

8 Q And why not?

9 A As I have said before, we believe the
10 people in charge with the responsibility for this
11 will manage it appropriately.

12 Q I accept that. But you've also told me
13 you think there should have been one by now.

14 MR. RUPERT: I object. I don't think he
15 said that.

16 THE WITNESS: I said there may have --
17 there may -- maybe there should have been. But if
18 they are -- if they are managing it appropriately,
19 if the investigation is going underway, they believe
20 it's going and -- appropriately going forward, when
21 they are ready, they will report to us.

22 Q (BY MR. WIGGINS) Let me ask you a
23 different question. As a result of my sparring with
24 you, if you will, my bringing this to your
25 attention, do you plan on, after this deposition, in

1 your capacity either on the Chairman's Council or
2 with the company, to ask for an interim report from
3 Susan Hood? Do you plan on doing that?

4 A I will want a report on what we're doing
5 at the appropriate time in their investigation --
6 investigative process.

7 Q Please answer my question. After our
8 deposition is over, do you plan on asking her for
9 one? Yes or no.

10 A I'll give that consideration.

11 Q All right. Will you ask it in writing?
12 Will you do that?

13 A No, I probably won't.

14 Q Why?

15 A Because that's not the way we do business.
16 I mean, I talk to Susan. I don't communicate in
17 writing with her.

18 Q Don't you think it would be good faith
19 treatment of these class members if you require an
20 interim report from her in writing?

21 MR. RUPERT: You mean the report in
22 writing or the request for the report in writing?

23 Q (BY MR. WIGGINS) The report.

24 A If I feel we need and they are ready to
25 provide a report in writing that gives us

1 information that is going to be satisfactory, then I
2 will ask for such a report.

3 Q I'm hearing you say, Mr. Wiggins, after
4 this deposition, I'm not going to ask Susan Hood for
5 a written interim report.

6 A That's not what I said.

7 Q Well, will you do that?

8 A I said I would give it consideration.

9 Q Are you not going to answer yes or no to
10 that, whether you're going to do it or not?

11 A I'm not ready to answer yes or no to that.

12 Q What do you need to consider? What more
13 do you need to talk about, to think about?

14 A I need to have conversation with folks
15 after these depositions are over.

16 Q About whether to put it in writing?

17 A About where they stand in their process of
18 these various investigations and so forth.

19 Q Okay. So you're not going to answer the
20 question; is that right? And I'll move on.

21 MR. RUPERT: I believe he has answered the
22 question.

23 THE WITNESS: I thought I answered the
24 question.

25 Q (BY MR. WIGGINS) Okay. All right. Do

1 you agree -- the Watkins class verdicts, do you have
2 them there in front of you?

3 A No. This is the affidavit.

4 Q I'm sorry. We had one marked earlier, but
5 I'll give you another one. Have you seen that
6 document before in the Watkins case?

7 A I have. Yes, sir.

8 Q Do you agree that that is a despicable
9 assessment of State Farm's treatment of its own
10 policyholders?

11 A These are the findings of the jury and the
12 Court, and I respect the finding of the jury and
13 Court. And if this is what they believe occurred as
14 a result of what was presented to them, this is
15 awful. This is terrible.

16 Q That assessment is consistent with State
17 Farm's corporate personality, which has been
18 condemned in other cases insofar as its treatment of
19 its own policyholders, isn't it?

20 A I'm not sure what you're referring this
21 back to.

22 Q Well, has the Utah Supreme Court
23 unanimously held that your treatment of your own
24 policyholders was deceitful conduct that can only be
25 explained as part of a scheme to reduce State Farm's

1 economic exposure? Has that been held judicially?

2 A I don't remember that specific language.
3 But if you're referring to the Campbell case, I know
4 it had some terrible findings in it.

5 Q And that the damages sustained by the
6 Campbells were no mere accident. Did the Utah
7 Supreme Court unanimously say that about State Farm?

8 A I don't know.

9 Q Did they call your behavior "toxic" in
10 treatment of its policyholders, sir?

11 A Is the area you're reading from
12 highlighted here?

13 Q And bracketed.

14 A Okay. Yes, it says that.

15 Q And you've seen that opinion before,
16 haven't you?

17 A Quite awhile ago.

18 Q And the Utah Supreme Court, in fact, said
19 unanimously, if your behavior -- your corporate
20 behavior continued in Utah, you could lose your
21 license to insure people in Utah, didn't they?

22 A Yes. It says if it were to become a
23 pattern, that indeed would be justification for
24 termination of its license and a penalty of more
25 than \$10,000.

1 Q Now, these Watkins verdicts that I've
2 given you, it's consistent with this corporate
3 behavior in Campbell in treatment intentional and
4 malicious, bad faith treatment of your own
5 policyholders, isn't it?

6 A I don't believe it is. The findings of
7 this Court believes that we recklessly disregarded,
8 which is hard to --

9 Q Read No. 2.

10 A -- it is hard for me -- "and intentionally
11 and with malice." And "malice" to me means with the
12 intent to do harm. It's not the State Farm I know.
13 It's not part of our system. It's not part of our
14 core values. It's not what made us the most
15 successful property and casualty insurer, life
16 insurer in the country.

17 Q It's what the Watkins jury --

18 A But the Watkins jury did find this, and I
19 have to respect that.

20 Q And that's consistent with the Campbell
21 opinion, isn't it?

22 A I'm not applying the two in terms of
23 consistency. I think they're totally different --

24 Q How?

25 A -- cases.

1 Q How?

2 A Well --

3 Q Not factually. I'm talking in terms of
4 corporate misbehavior.

5 A Individuals representing us or anyone else
6 can make mistakes. That's not the same as corporate
7 misbehavior, as though it was part of our system,
8 part of our values, part of the way we do business,
9 part of our policy. So I see that totally
10 different.

11 Q Sir, isn't it true that in Campbell in
12 2004, the Utah Supreme Court unanimously --
13 unanimously, every justice, found you guilty of
14 corporate misbehavior, an economic scheme against
15 your policyholders. And the Watkins jury in 2006
16 found you intentionally and maliciously treated your
17 policyholders in bad faith.

18 MR. RUPERT: I'm going to object to the
19 form of the question as argumentative and assuming
20 facts not in evidence. Answer if you can.

21 Q (BY MR. WIGGINS) Is that true?

22 A I'm sorry. But in your preparation for
23 the question, I lost the focus of your question.
24 What are you specifically asking me to agree to?

25 Q That according to the Campbell opinion and

1 the Watkins verdict, State Farm has the corporate
2 personality capable of intentionally and maliciously
3 mistreating its own policyholders. Isn't that true?

4 A The two cases, again, of my knowledge of
5 the way the Campbell case evolved and developed are
6 different. But the conclusions found by the Utah
7 Supreme Court are what they are, and the conclusions
8 of the Watkins case and its jury is what they are,
9 and --

10 Q Since you respect the Watkins verdict, as
11 you say you do, what does State Farm intend to do
12 about it?

13 A Well, we intend to make sure that
14 something like this never presents itself in a way
15 that a jury could come to this conclusion again,
16 whatever that takes, and that's part of the
17 investigation that we have underway -- Susan Hood
18 has underway.

19 Q Do you intend to pay it?

20 A Pay it?

21 Q The verdict.

22 A Well, once the legal folks go through the
23 process that they will go through, if we are found
24 the need to pay, we will pay it.

25 Q But it's currently not your intent to pay

1 it, is it?

2 A Well, it's currently our intent to
3 exercise the legal system to its fullest extent, and
4 whatever the result is at the end of that, we will
5 abide by.

6 Q What is Brian Boyden's title?

7 A I believe it's senior executive vice
8 president --

9 Q And if we wanted to depose him --

10 A -- or maybe it's executive vice president.

11 Q Is he here in Bloomington?

12 A He is. He resides in Bloomington, yes.

13 Q And he's with Mutual or Farm or both --
14 Fire or both?

15 A He's an employee of State Farm Mutual, but
16 he has claim responsibilities that includes fire and
17 casualty as well.

18 Q Now, would he have any more knowledge
19 about the Watkins verdicts than you?

20 A Yes, I believe he would.

21 Q And why?

22 A Because it's part of his responsibility in
23 claims to be more aware of those things specifically
24 than I would be.

25 Q Would he have more knowledge than Susan

1 Hood?

2 A No. I think Susan Hood would be the more
3 knowledgeable person.

4 Q Do you agree that the Watkins class
5 verdict that's there in front of you, if true,
6 requires harsh punishment, accountability, and
7 corrective measures by your company?

8 A It certainly, if true, requires corrective
9 measures. When I see the result of the
10 investigation and what we find, I could answer
11 better whether the word "punishment" that you use is
12 applicable.

13 Q So what you're saying --

14 A Responsibility. People need to be held
15 responsible, yes.

16 Q So what you're saying is your company is
17 not going to take any action, short of the Haag
18 moratorium, as a result of the Watkins jury verdict.
19 Rather, your company is going to base its reaction
20 on your company's investigation of Susan Hood -- by
21 Susan Hood, true?

22 A No, that's not what I said.

23 Q Okay. I'm going to ask you straight out,
24 then. What is your company -- do you believe that
25 that jury verdict right there, the Watkins class

1 verdict, if true, deserves harsh punishment,
2 accountability, and correction by State Farm?

3 A It certainly requires correction if true.
4 It certainly requires -- what were the three pieces
5 you gave? Harsh punishment is one. What was the
6 other one?

7 Q Accountability.

8 A Accountability is required. And then --

9 Q Correction.

10 A Correction, absolutely. The punishment
11 issue -- you're asking me to be a judge and jury
12 right here on the basis of information about people
13 that I don't even know at this point in time. It
14 may require that.

15 Q And the reaction that your company takes
16 to the Watkins verdict is going to be guided by the
17 investigation being conducted by Susan Hood, true?

18 A It's going to be guided by several things.
19 One, the findings of this Court and jury, the
20 pursuit by our lawyers of the full judicial process,
21 and our investigation.

22 Q Okay. So if the investigation of Ms. Hood
23 says, We didn't do anything wrong, we just disagree
24 with the Watkins verdict, is the company going to
25 change anything?

1 MR. RUPERT: I'm going to object as
2 hypothetical and calling for speculation. Answer if
3 you can.

4 THE WITNESS: We very well may do
5 something different, even if our findings are what
6 you just suggested.

7 Q (BY MR. WIGGINS) What are you going to
8 do? What are the possibilities?

9 A I -- I --

10 MR. RUPERT: Again, I want to object as
11 calling for speculation. Answer if you can.

12 THE WITNESS: No. I'm not in a position
13 to answer that yet.

14 Q (BY MR. WIGGINS) Do you accept the
15 truthfulness of the Campbell verdict now?

16 A We accept the findings of the Court. We
17 accept the U.S. Supreme Court reversal of the
18 punitive damages and sending it back to the Utah
19 Court. The Utah Court then reviewed it again and
20 came to a final conclusion, and we accept that.

21 Q So you accept that when this opinion was
22 published in 2004, that State Farm was engaging in
23 deceitful conduct that can only be explained as part
24 of a scheme to reduce State Farm's economic
25 exposure -- you accept that as truthful by the Utah

1 Supreme Court about your company?

2 A No. I don't accept that statement,
3 because that was not part of our scheme. We have no
4 scheme.

5 Q I see.

6 A But we accept the final conclusion of the
7 Court --

8 Q Right.

9 A -- because we're --

10 Q Right.

11 MR. RUPERT: Let him finish.

12 THE WITNESS: -- we're through the
13 judicial process.

14 Q (BY MR. WIGGINS) Yes.

15 A And it's over. It's done.

16 Q It is.

17 A Yes.

18 Q When the Utah Supreme Court unanimously
19 said, You've got to pay nine times punitive damages
20 what the actual damages were, you finally accepted
21 it and paid it. But I'm asking you, do you accept
22 the truthfulness of what these justices unanimously
23 said about your company -- about the evidence, about
24 the conduct, about the corporate personality of your
25 company? Do you accept that as truthful?

1 A If you're asking me to say whether the
2 Supreme Court Justices of Utah were truthful or
3 lying, I'm not going to answer that question. Do I
4 accept the commentary about our company having a
5 scheme to cheat and deny and all those other bad
6 things, I do not accept. That is not part of our
7 policy.

8 Q Did they say you did?

9 A That -- what we read before and obviously
10 put into the record is what they said.

11 Q Why do you believe your company has found
12 it necessary to engage in this secret investigation
13 that Ms. Hood is conducting rather than just accept
14 the Watkins verdict and do something about it
15 promptly?

16 MR. RUPERT: I'm going to object to the
17 form of the question as argumentative. Go ahead and
18 answer if you can.

19 THE WITNESS: Your characterization of
20 this secret investigation, I find kind of derogatory
21 and unnecessary. We are doing an investigation. If
22 it was a secret, nobody would know about it. It's
23 not a secret. Lots of people know about it.

24 Q (BY MR. WIGGINS) Respectfully, sir, no
25 one knew about it until today --

1 A Well, that's wrong.

2 Q -- outside your organization, and that was
3 only by court order, respectfully.

4 A In respectful response to you, I'm certain
5 that there are people outside of our organization
6 who know that we are investigating, because we're
7 talking to people and asking questions to
8 investigate.

9 Q Who?

10 A I know that if we hire outside counsel and
11 they hire a peer panel to review the Haag reports,
12 those people would know about it. So, you know,
13 your characterization of this, I think -- maybe for
14 your purpose it's fine, but it's not for mine, so I
15 have a hard time accepting that.

16 Q Okay. Well, now answer my question. Why
17 have you found it necessary as a company to do
18 this -- to go through this exercise rather than
19 accept the Watkins jury verdict and immediately do
20 something about it to correct it?

21 A We immediately did something. We
22 suspended and put a moratorium on the use of Haag as
23 an engineering report until we could conclude our
24 investigation. The reason we feel it's necessary --
25 it's hard for us to believe that we had anybody

1 engaged in these deceptive practices, and the
2 findings of the jury are what they are.

3 I don't know what was presented, how it
4 was presented, et cetera, but they are what they
5 are. And we're going to continue to pursue our
6 investigation and come to a conclusion that we feel
7 matches up with this or finds that maybe it doesn't
8 match up with this.

9 Q How, in your position, can you swear to
10 this jury you don't know what was presented or how
11 it was presented to the Watkins jury?

12 It was a five-week trial, and your company
13 had a bevy of lawyers there, sir. The Watkins jury
14 had every claim file in evidence, every Haag report.
15 A handful of Haag engineers testified. A lot of
16 independent people testified. How can you say
17 you're not aware of what went on?

18 A Well, frankly, I wasn't there. I do know
19 the way a court proceeding occurs. I also know that
20 there's a lot of decisions made as to what evidence
21 is allowed to be entered into a case and so forth,
22 so that's how I can say that.

23 Q So as a company, you're just unwilling to
24 accept the legitimacy of the Watkins jury verdict on
25 its face and immediately do something about it,

1 beyond the Haag moratorium, while you do this
2 independent private investigation; is that true?

3 A We accept the jury result here in this
4 case. We're asking -- is it called an appeal?

5 Q Yes.

6 A Is that the legal terminology here?

7 Q Yes.

8 A We're asking for an appeal. We'll go
9 through that process. And in the meantime, we're
10 going to continue to investigate in as deep a
11 fashion as we can just what has gone on here and
12 what we need to do to correct, change, modify,
13 whatever it is we have to do.

14 Q So the verdict itself is not enough.
15 That's what you're telling the jury, isn't it?

16 A I believe in our judicial system, and I
17 believe in taking it to its fullest conclusion is
18 the way we need to go here. Because this is -- the
19 findings are what they are, but they're not
20 consistent with the State Farm we know or our
21 policies or practices.

22 Q Is that, Yes, Mr. Wiggins, the verdict
23 itself was not enough?

24 A If you want to characterize it that way
25 after all that I have said in response to you, then

1 fine.

2 MR. WIGGINS: Why don't we take a break?
3 I think I'm through.

4 (A break was taken from 3:11 p.m. to
5 3:20 p.m.)

6 Q (BY MR. WIGGINS) Mr. Trosino, part of
7 your job is to protect policyholders, isn't it?

8 A We sell policies and services to help
9 protect policyholders individually, their property,
10 provide them an opportunity to invest for their
11 future, so all of those things are part of my
12 responsibility.

13 Q Do you believe the number-one role you
14 serve with the company is to protect policyholders,
15 bottom line?

16 A That is a -- one of the preeminent
17 responsibilities I have, yes.

18 Q Okay. And you're paid handsomely to do
19 that, aren't you?

20 A I'm adequately paid, yes.

21 Q Well, your adequate payment in 2004 was
22 over \$4.6 million a year, wasn't it?

23 A After short- and long-term bonuses, that
24 sounds correct.

25 Q And the internal investigation that

1 Ms. Hood is doing, you believe, even though you're
2 not part of it, that that is protecting
3 policyholders; is that true?

4 A Yeah. I believe it's true that that's
5 part of protecting policyholders, specifically and
6 broadly. And to make sure we get to the bottom line
7 here and make any corrections necessary, make people
8 whole where necessary, and make sure our practice is
9 going forward would protect policyholders.

10 Q And it's your sworn testimony that the
11 triggering event for this investigation was the
12 Watkins jury verdict in May 2006 and that it was set
13 in motion within days of that verdict. That's your
14 sworn testimony, true?

15 A Yeah. I can't give you the amount of
16 days, but, yes, that is what happened.

17 Q Can you think of another time in State
18 Farm's history when an internal investigation,
19 similar to what Ms. Hood is doing, was done as a
20 result of an adverse jury verdict?

21 A Yeah. We took specific actions, changed
22 policies and practices to investigate what we had
23 been doing in a medical utilization case. I can't
24 remember the name of the case or whatever -- in
25 the --

1 Q Is it where you were using crooked doctors
2 that favored State Farm in medical evaluations? Is
3 it that case?

4 A We don't hire knowingly crooked doctors to
5 make medical evaluations.

6 Q Is it that case?

7 A There was a case in which they -- the jury
8 found that our medical utilization process had some
9 faults. It had some people who were not living up
10 to what we felt we were hiring them to do.

11 Q Now, as a result of that investigation
12 that you say your company did after that jury
13 verdict, did it support or prove wrong the jury
14 verdict?

15 A Not everything that was found in the jury
16 we found supporting evidence for, but there were --
17 there were areas where we needed to make changes.
18 We needed to put more controls on our program and
19 more follow-up reviews into our program.

20 Q Have you ever heard the term
21 "outcome-oriented investigations"?

22 A Not sure that I have.

23 Q So it has never been discussed with you,
24 to your knowledge, that that's the term used when
25 State Farm hires an expert, be it a medical doctor

1 or an engineer or whomever, to assist in claim
2 adjustment, knowing in advance what the outcome is
3 going to be? "Outcome-oriented investigation,"
4 you've never heard that term before?

5 A Not to my knowledge, no.

6 Q Do you believe, sir, that the type of
7 investigation that Ms. Hood is doing, if it results
8 in the conclusion that State Farm did not do
9 anything wrong in its use of Haag and Renfroe in the
10 '99 cat, do you believe that that vindicates your
11 company and negates the Watkins verdict?

12 MR. RUPERT: I'm going to object as
13 calling for speculation. Answer if you can.

14 THE WITNESS: It is speculative. But I
15 would have to answer that, not necessarily so.

16 Q (BY MR. WIGGINS) Well, why wouldn't it?

17 A I'm going to -- you're going to ask me to
18 come to some conclusion, make a statement, when I
19 haven't been presented anything to look at or to
20 know. I'm just saying that in the realm of
21 possibility, it could be that we find that we did
22 nothing consciously wrong. There wasn't anything
23 that our policy or our people did to do wrong. But
24 the outcome was wrong, and if that's the case, we're
25 going to make changes.

1 Q Well, sir, how would you respond to a
2 comment that this investigation of Ms. Hood is
3 really an attempt to white-wash things and create
4 evidence by way of a defense to overcome the Watkins
5 jury verdict in subsequent trials? How would you
6 respond to that comment?

7 A I would say absolutely ridiculous.

8 Q Absolutely ridiculous. Well, why, then --
9 if that's absolutely ridiculous, why wouldn't your
10 company immediately tell the public that this was
11 happening?

12 A I think we've answered that before. I
13 don't -- I don't see that the beginning or the
14 middle part of a process like this is something you
15 go out and make a public announcement on.

16 Q And you don't find it necessary to even
17 permit these class members to have a participant or
18 advocate on the panel or in the investigative
19 process; is that true, to assure objectivity?

20 MR. RUPERT: Object to the form of the
21 question. Answer if you can.

22 THE WITNESS: I thought we went over this
23 before. I --

24 Q (BY MR. WIGGINS) Don't you think that
25 would help objectivity, sir?

1 A You know, I have total confidence in our
2 people, that they're going to be honest and
3 objective, and the people that they hire to do
4 independent peer review will be honest and
5 objective. I think the interest of our
6 policyholders in this class or the interest of our
7 policyholders as a whole will be well served by our
8 investigation.

9 Q Do you think it would aid objectivity to
10 let these class members have a participant? Yes or
11 no.

12 A I just don't know.

13 Q Can you think of a reason why we shouldn't
14 have a participant, right now as you sit here?

15 A Again, I think I answered that before. We
16 have a regular process of managing our business, and
17 to have everyone become a participant that wants to
18 be a participant in the way we manage our business
19 would be almost impossible.

20 Q So it would be impossible, in your
21 opinion, to let these class members have a
22 participant in this investigation? Is that your
23 belief?

24 A Well, factually, it's not impossible.

25 Q Right.

1 A It's impractical.

2 Q Why?

3 A Well, like I've said before, if you end up
4 going down that trail, everybody that disagrees with
5 a claim settlement or an underwriting decision is
6 going to be asking for some ombudsman or somebody
7 else to be a participant in the decision process.
8 That doesn't make sense.

9 Q Well, don't you see that it's subjecting
10 your company to a charge that you're just setting up
11 a white-wash investigation that your company has
12 complete control over?

13 A Well, people will charge what they want to
14 charge, but it's not a white-wash. It's -- like I
15 said, that's a ridiculous charge. That's not the
16 way this is going to go.

17 Q Are you familiar with the allegations in
18 the Watkins trial of the way your company cheated
19 policyholders in its nonpayment of general
20 contractor overhead and profit, a 20-percent
21 benefit?

22 A No.

23 Q Are you aware of that?

24 A No, I'm not aware of that.

25 MR. RUPERT: I'm sorry. I want to object

1 to the form of the question. Assuming facts not in
2 evidence. Did you have a class allegation in that?

3 MR. WIGGINS: No.

4 MR. RUPERT: Okay. Then I stand on my
5 objection.

6 MR. WIGGINS: Sure.

7 Q (BY MR. WIGGINS) So you're unaware that
8 the Watkins had a claim involving your company's
9 cheating in its withholding general contractor
10 overhead and profit?

11 A No. I'm not aware of the --

12 Q So I guess you're unaware that in the
13 workup of the Watkins case, your company conducted a
14 secret 500-file case review in an effort to mount a
15 defense that it properly paid general contractor
16 overhead and profit. Were you aware of that?

17 THE WITNESS: I'm not aware of that.

18 MR. RUPERT: I'm going to object to the
19 form of the question. Assuming facts not in
20 evidence. Calling for speculation. Answer if you
21 can.

22 THE WITNESS: I'm not aware of that.

23 Q (BY MR. WIGGINS) Are you aware that
24 during the Watkins trial, expert witnesses testified
25 that, We finally got those documents and reviewed

1 them, and that the Plaintiff Watkins case was that
2 that study -- that secret study was fraudulent, was
3 false, and that State Farm did not rebut that during
4 the trial. Are you aware of that?

5 MR. RUPERT: Same objection.

6 THE WITNESS: Not aware of it.

7 Q (BY MR. WIGGINS) Does that shock you if
8 that happened?

9 A If that happened, it would shock me, yes.

10 Q Okay. So -- because secret studies are
11 suspect, aren't they, sir?

12 A Your characterization of secret studies is
13 beyond my pale understanding here. People are
14 involved and inside and outside parties are
15 involved. It's not a secret. It's just a matter of
16 how many people were communicated with. In your
17 case you're suggesting that since your class counsel
18 weren't communicated with about the study, it was
19 secret. That doesn't make sense to me.

20 Q Who outside State Farm has been involved
21 in the investigation by Ms. Hood of Haag and
22 Renfroe?

23 A I can't give you the names of the people.
24 I don't know that.

25 Q But you're swearing to us there are

1 people?

2 A I am saying -- I believe there has to be
3 people -- if we're going to get an independent
4 counsel involved, if we're going to get peer review
5 people involved, they have to be outside of State
6 Farm. They're not going to be internal.

7 Q Are you swearing to us that's already
8 happened? It's been three months now. Are there
9 outside people involved?

10 A I don't know that that's already happened.
11 I can't swear to that, because I don't know names.
12 I don't know places. I don't know times. I'm not
13 in a position to answer that.

14 MR. WIGGINS: I'm out of gas. Thank you,
15 sir. Would you like to read and sign your
16 deposition?

17 MR. RUPERT: We will. Thank you.

18 (DEPOSITION CONCLUDED AT 3:32 P.M.)

19 * * * * *

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25

1 J U R A T

2 STATE OF _____)
3 COUNTY OF _____) SS:

4
5 I, VINCENT J. TROSINO, do hereby state
6 under oath that I have read the above and foregoing
7 videotaped deposition in its entirety and that the
8 same is a full, true and correct transcription of my
9 testimony so given at said time and place, except
10 for the corrections noted.

11
12
13 _____
14 VINCENT J. TROSINO

15 Subscribed and sworn to before me, the
16 Notary Public in and for the State of _____,
17 by said witness, _____, on this,
18 the _____ day of _____, 20____.

19
20
21 _____
22 NOTARY PUBLIC

23 My Commission Expires: _____
24 (MRN)

C E R T I F I C A T E

1
2 STATE OF OKLAHOMA)
3) SS:
4 COUNTY OF OKLAHOMA)

5 I, MELINDA R. NIEVEZ, Certified Shorthand
6 Reporter within and for the State of Oklahoma, do
7 hereby certify that the above-named VINCENT J.
8 TROSINO, was by me first duly sworn to testify the
9 truth, the whole truth, and nothing but the truth,
10 in the case aforesaid; that the above and foregoing
11 videotaped deposition was by me taken in shorthand
12 and thereafter transcribed; that the same was taken
13 on the 6th day of September, 2006, in the City of
14 Bloomington, State of Illinois, pursuant to notice
15 and court order, and under the stipulations
16 hereinbefore set out; and that I am not an attorney
17 for nor relative of any of said parties nor
18 otherwise interested in the event of said action.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand and official seal this 11th day of September,
21 2006.
22

23 _____
24 MELINDA R. NIEVEZ, CSR, RPR
25 Oklahoma Certified Shorthand Reporter
Registered Professional Reporter
Certificate No. 01539
Exp. Date: December 31, 2006

Vincent J. Trosino
September 6, 2006

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1 ERRATA SHEET
2 VIDEOTAPED DEPOSITION OF VINCENT J. TROSINO
3 REPORTER: MELINDA R. NIEVEZ, CSR, RPR
4 DATE DEPOSITION TAKEN: SEPTEMBER 6, 2006

5	Page	Line	Correction
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