

1 IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
2 IN AND FOR INDIAN RIVER COUNTY, FLORIDA

3 CASE NO.: 9078-001-CA-02

4 PHILLIP HAWKINS,
5 Plaintiff/Counter-Defendant,
6 vs.
7 ANSTAR BIO TECH
8 OF FLORIDA,
9 Defendant/Counter-Plaintiff.

10 _____ /

11 DEPOSITION OF
12 SUSAN SHERIDAN

13 The Deposition of SUSAN SHERIDAN, a witness
14 in the above-entitled cause, taken by the Plaintiff
15 herein, before JOAN D. BARTON, RPR, Court Reporter
16 and Notary Public in and for the State of Florida at
17 Large, at 3675 20th Street, Suite D, Vero Beach, Florida,
18 commencing at 11:47 a.m. and concluding at 12:34 p.m. on
19 May 23, 2003, pursuant to Notice.
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REPORTER'S NOTE: Exhibit A retained by Mr. Thorn.

1 THEREUPON:

2 SUSAN SHERIDAN,
3 a witness herein, having first been duly sworn, was
4 examined and testified on her oath as follows:

5 DIRECT EXAMINATION

6 BY MR. THORN:

7 Q. Melissa, I'm John Thorn. I'm the Plaintiff's
8 attorney in this case. I'm going to ask you some
9 questions about this loss today.

10 Can you just state your name for the record?

11 A. Melissa Ann Burton.

12 Q. And where do you work?

13 A. Presently?

14 Q. Yes.

15 A. I'm a realtor.

16 Q. With who?

17 A. Progressive Real Estate.

18 Q. And where is that located?

19 A. In Melbourne.

20 Q. Where in Melbourne is that?

21 A. 2320 South Babcock Street.

22 Q. So you're a licensed realtor in the state of
23 Florida?

24 A. Yes, I am.

25 Q. And how long have you had your license?

1 A. Since January 30th, 31st, something like that.

Q. Of this year?

2 A. Yes.

3 Q. Okay. Did you work for Nationwide prior to
this job?

4 A. Yes, I did.

5 Q. Okay. How many years did you work for
6 Nationwide?

7 A. It would have been 10 years in October of this
8 year, so 9 1/2, I guess.

9 Q. Okay. And when did you obtain your real estate
10 license?

11 A. I just told you; January 30th of this year.

12 Q. Strike that. You did tell me that. Did you
13 work in real estate prior to that at all?

14 A. No.

15 Q. What type of claims did you handle during that
16 nine years that you were at Nationwide?

17 A. Everything: homeowners, auto, bodily injury.

18 Q. Did you handle mold losses?

19 A. Yes, I did.

20 Q. How many?

21 A. I have no idea.

22 Q. Less than a hundred? More than a hundred?

23 A. More than a hundred.

1 Q. What years did you start working with mold
losses?

2 A. Probably the end of 1999 and after it became
more prevalent.

3 Q. I just want to go back to that question I asked
4 you about real estate. Did you get your -- my
5 understanding is it's a two-step process. You have to
6 get your sales associate first and then broker license,
7 or --

8 A. You only take the brokers exam if you want to
9 be a real estate broker. If you just want to be a real
10 estate salesperson or a realtor, you just take the
11 salespersons exam.

12 (Discussion off the record.)

13 BY MR. THORN:

14 Q. Okay. So you think in '99 or so you started
15 working on mold losses?

16 A. Yeah. I'm sure I handled some prior to that
17 when I did homeowners claims way back when, earlier with
18 the company, but I don't recall.

19 Q. Okay. Your counsel just represented you
20 haven't had any depositions. This is the first
21 deposition you've ever had in a legal matter?

22 A. Yes.

23 Q. Have you ever testified in a civil or criminal

1 trial?

A. No.

2 Q. All right. Just some ground rules: I'm sure
3 your counsel has already gone over this. There's a
4 record of this, and so therefore your answers have to be
5 verbal. Shaking of the head and nodding of the head --

6 A. Correct.

7 Q. Also you may anticipate your answer while I'm
8 formulating a question. I give the same advice to my
9 clients all the time, so even though if you know the
10 answer, wait, because it's very helpful to the court
11 reporter.

12 Okay. What type of training, if any, did you
13 have with mold losses?

14 A. There were several seminars and training
15 courses that Nationwide provided us, and we also attended
16 some outside seminars and training courses.

17 Q. What do those courses entail? Can you educate
18 me on that?

19 A. Examples of various types of mold, how the
20 cleanup occurs.

21 Q. So can you give me some examples of molds, the
22 types of molds that are out there?

23 A. By name?

Q. Yes.

1 A. No.

Q. Do you know what Stachybotrys is?

2 A. Sure I do.

Q. Okay. And Aspergillus?

3 A. Yes.

4 Q. Penicillium?

5 A. Yes.

6 Q. How many of those seminars or training courses

7 did you take approximately?

8 A. A lot -- six or eight.

9 Q. Okay. And is all that from '99 forward?

10 A. Yes.

11 Q. Okay. Now, have you ever talked to Pauline

12 Phillip Hawkins?

13 A. Yes, I have.

14 Q. Okay. And was that by telephone?

15 A. Yes.

16 Q. Do you know when the date of loss was in this

17 claim?

18 A. I don't recall.

19 Q. Would September 23, 2002, refresh your memory

20 in any way?

21 A. That sounds like it could be it.

22 Q. And when did you first learn about this loss?

23 A. I think it was in November.

1 Q. In November?

A. I think.

2 Q. Of 2002?

A. Best I recall.

3 Q. Okay. And who reported the claim to you; do

4 you remember?

5 A. No.

6 Q. Have you reviewed the file at all for

7 preparation of this deposition?

8 A. Briefly.

9 Q. Was that today?

10 A. Actually the day before yesterday. I haven't

11 had a chance to today.

12 Q. And don't comment on any discussions you had

13 with your attorney. Have you talked to anyone else about

14 this case?

15 A. No.

16 Q. And you reviewed the file, you said, briefly

17 yesterday?

18 A. The day before yesterday.

19 Q. Day before yesterday. Can you tell me, did you

20 speak with Phillip Hawkins' brother in this loss?

21 A. Yes, I did.

22 Q. Do you remember his name?

23 A. Remetz something.

1 Q. Okay. Laurence Remetz, would that refresh your
memory?

2 A. Yeah.

3 Q. And is Mr. Remetz the insured in this loss?

4 A. No.

5 Q. What was your understanding of his relationship
with his sister? Was he living down here in Florida?

6 A. I was told he was living in Florida, that he
7 was watching her property while she was out of state, and
8 that he would be handling the loss for her.

9 Q. Who told you that he would be handling the loss
10 for her?

11 A. She did and he also did.

12 Q. Did you send back a letter confirming that with
13 her that she authorized --

14 A. I don't recall.

15 Q. Did you get any release from her indicating
16 that he would step into her shoes and act --

17 A. No. It was reported in that manner, I believe.

18 Q. And you're -- you were a licensed adjuster in
19 the state of Florida.

20 A. I still am.

21 Q. Okay. There are certain rules, that you're
22 familiar with, in terms of maintaining your license.

23 A. Uh-huh.

1 Q. That includes due diligence; that's one of
2 them.

3 A. (Nods head.)

4 Q. Is that a "yes"?

5 A. Yes.

6 Q. And so when she represented to you that
7 Mr. Remetz would be acting on her behalf, after that time
8 frame did you deal directly with him?

9 A. Actually I only dealt with him the one time
10 when I went out and did the inspection. From that point
11 on, I dealt with her.

12 Q. All right. Did you go over to the property at
13 any time?

14 A. Yes, I did.

15 Q. Do you recall the approximate time frame when
16 you did that?

17 A. I spoke to him within 30 or 45 minutes of
18 receiving the claim, trying to see it the day I got the
19 claim, and he said he could not make it, that it had to
20 be the next day. So I met with him the next day after
21 receiving the claim. I'm not sure of the date.

22 Q. Okay. Where does she live, do you know,
23 Mr. Hawkins?

A. Her home in Florida or --

Q. No.

1 A. Up North?

Q. Where she resides.

2 A. I don't remember, honestly.

Q. Okay. Would Massachusetts refresh your memory?

3 A. Okay.

4 MR. THORN: Okay. Would you mark that as

5 Exhibit A.

6 (Exhibit A was marked for identification.)

7 MR. THORN: Thanks so much.

8 BY MR. THORN:

9 Q. I'm going to show you a letter dated
10 September 25, 2002, and ask you if you could take a look
11 at that.

12 A. (Perusing document.)

13 Q. Did you look at that letter when you prepared
14 for this deposition?

15 A. I recall the letter, yes.

16 Q. Is that a letter authored by you or sent by
17 you?

18 A. I don't know. The bottom is not on there.

19 Q. My question is not about that. Whether you
20 recall authoring a letter that contains these contents --

21 A. I believe so.

22 Q. -- in Exhibit A. Okay. What is the date on
23 that letter?

1 A. September 25, 2002.

2 Q. Okay. And this is a reservation of rights
letter.

3 A. Uh-huh.

4 Q. Is that a "yes"?

5 A. Yes.

6 Q. And why don't you educate me on how that works.

7 A. Whenever we have additional information that is
8 needed, additional investigation, anything on a claim
9 like that, we send out a reservation of rights letter to
10 let them know that we are reserving our right in the
11 claim to do further investigation and that we may or may
not be paying on the claim.

12 Q. All right. So that's to protect your
13 contractual rights as well as the client.

14 A. Correct.

15 Q. Had you visited the property before you sent
16 this letter on September 25, this Exhibit A of this
17 deposition?

18 A. I -- I don't recall the date the claim was
19 reported, but I believe I had. I would not send these
20 letters out unless I had already been there.

21 Q. Okay. Is it your standard practice to go out
22 to the property itself?

23 A. Oh, yeah.

1 Q. And you do that in every claim you have?

2 A. Unless it was a lightning claim that was
3 handled by telephone.

4 Q. So you --

5 A. Definitely on a water loss. I never handled a
6 water loss without going out there.

7 Q. Okay. So it's your representation on the
8 record here that you would not have sent this letter,
9 Exhibit A, without first going to the property.

10 A. Correct.

11 Q. So when you went to the property, who was
12 there?

13 A. Mr. Remetz.

14 Q. Who else?

15 A. Chris from Servpro.

16 Q. And you spoke with Chris as well as Mr. Remetz?

17 A. Uh-huh, yes.

18 Q. Unfortunately there's a lot of --

19 A. I understand.

20 Q. -- rules and things that apply in these
21 proceedings.

22 What did you talk to Mr. Remetz about when you
23 were at the property prior to the 25th of September?

A. I asked him what he found when he went to the
residence, and he said the toilet valve was leaking and

1 there was water everywhere, and that he had shut the
2 water off, and then he went on a rampage about how he
3 hates insurance companies and how he hated Nationwide and
4 how they never pay for anything and various other
5 comments. And after that, he really didn't say much.

4 Q. So you didn't care too much for his comments.

5 A. I took them with a grain of salt. I've been
6 doing that a long time.

7 Q. I can relate to that. So other than his
8 editorial comments, you inspected the property?

9 A. Uh-huh, yes, I did.

10 Q. And you walked through the property?

11 A. Yes, I did.

12 Q. And was mold present?

13 A. Yes, there was.

14 Q. How would you describe the amount of water
15 damage to the property that you saw? Light? Medium?
16 Heavy? Substantial?

17 A. It was heavy. There was substantial water
18 damage.

19 Q. Okay. And where was the damage on the
20 property, from your memory?

21 A. Everywhere except the kitchen, from what I
22 recall.

23 Q. And can you describe to me the type of unit?

1 Is it one level? Two level?

A. Two-story townhome with the bedrooms upstairs.

2 Q. Okay. And did you go upstairs and take a look
at the property?

3 A. That's the first place I went.

4 Q. And what did you see when you went upstairs?

5 A. Everything was saturated, water had wicked up
6 the bedspreads, the recliner, the walls. It was soaked.

7 Q. Okay. And had you talked to the county
8 officials prior to September 25?

9 A. I don't recall the date that I spoke to --
10 (shakes head).

11 Q. It could have been after you were on the
12 property?

13 A. Quite possibly. I really -- Mr. Remetz wasn't
14 very cooperative, so I really didn't know what I was
15 looking at or what had transpired until I actually went
16 out there.

17 Q. But he wasn't under any contractual duty to
18 cooperate with you.

19 A. No. His sister had indicated that he would be
20 handling the claim for her in her absence.

21 Q. Okay. And at some point did you talk to the
22 county officials?

23 A. I called the Water Department of the City of

1 Vero Beach.

2 Q. That would have been after you left the
3 property?

4 A. I believe so. Without my log notes, I don't
5 recall the exact dates on these things.

6 Q. Have you reviewed your log notes?

7 A. Briefly, but not dates.

8 Q. And what happened when you called over to the
9 county?

10 A. I spoke to Tessa one time. Her name just
11 stands out because it was a unique name. And she had
12 indicated that they did not show any excessive water
13 usage or any water usage in September or prior to, at
14 that point, and I said that there has to be some water
15 usage because we have a water damage claim.

16 Q. In your discussions with Mr. Hawkins, did she
17 represent to you that she had shut the water main valve
18 off?

19 A. Yes, she did.

20 Q. Okay. So someone had to turn that valve back
21 on.

22 A. Apparently.

23 Q. And in your investigation of the case, have you
ever determined who did that?

A. No.

1 Q. Have you ever interviewed officials at the
county government as to whether they did that or not?

2 A. They had indicated that there was no --
3 apparently they do some form or something when it's
requested that they go out and turn water off or on, and
4 there was no record of either being done by the county.

5 Q. Did you interview Beth Jordan?

6 A. No. I have no idea who that is.

7 Q. Do you know a gentleman, a black male named
8 James, that works there?

9 A. No.

10 Q. Have you ever interviewed Terry Southard?

11 A. No.

12 Q. Have you ever interviewed anyone from Meeks
13 Plumbing?

14 A. No.

15 Q. So other than talking to Chris Reinhart,
16 Laurence Remetz, and Mr. Hawkins, have you talked to
17 anyone else about this loss?

18 A. Tessa at the city, and there was one other
19 person at the city I spoke to at another time, but I
20 don't recall her name.

21 Q. That's it?

22 A. Uh-huh.

23 Q. That's a "yes"?

1 A. Yes, it is, other than my manager and his Walshs.

2 Q. Yeah, I want to ask you some questions later
3 about that.

4 Now, when you spoke with Mr. Hawkins by
5 phone, did you take a recorded statement from her?

6 A. I honestly don't recall.

7 Q. Would that be your standard practice?

8 A. No.

9 Q. And when you take -- you do interview insured
10 about losses, water losses --

11 A. Normally it's verbal unless it's a theft loss
12 or, you know, a questionable loss, and then we would do a
13 recorded statement.

14 Q. All right. And so when you interviewed
15 Mr. Hawkins, did you take any notes of that interview?

16 A. Yes.

17 Q. Okay. Was there any lawyers involved at that
18 point in the case?

19 A. No.

20 Q. You hadn't called your counsel or anything like
21 that?

22 A. No, no reason to.

23 Q. She didn't have any lawyers send you a letter?

A. No.

Q. So you were doing those notes in the normal

1 course and scope of your job?

A. Correct.

2 Q. And those notes, what did you write down?

3 A. That I spoke to her. She had indicated that
when she left for the summer, she had shut the water

4 valve off, had not asked for the assistance of the county

5 in doing so -- because had she asked for their

6 assistance, there would have been a lock put on it --

7 that her brother was to check her residence for her

8 weekly, and as far as she knew, he had been checking it

9 weekly, and then she found out that there was water

10 damage to the unit.

11 Q. Okay. Other than the discussion that you had

12 prior to September 25 with Mr. Remetz, did you have any

13 subsequent discussions with him after the 25th?

14 A. I don't believe so.

15 Q. Okay. So is it your testimony the only

16 discussions you had with Mr. Remetz would have been at

17 the time you met him at the unit?

18 A. Other than prior to setting up the appointment

19 on the phone.

20 Q. Okay. But that would be it?

21 A. Correct, to the best that I remember.

22 Q. Okay. Now, I'm going to show you some

23 photographs. I'll represent to you there's a lot of

1 photographs and documents in this case, unfortunately.
2 This is Exhibit A of Mr. Reinhart's deposition that just
3 finished. And so for purposes of trying to save time
4 here, I'm going to show you this Exhibit A. Is that the
5 complex where Mr. Hawkins resides?

6 A. Yes.

7 Q. Okay. And I think you described it as a
8 two-level unit.

9 A. Correct.

10 Q. I'm going to show you Exhibit B of the Reinhart
11 deposition and ask you if you recognize that, and tell me
12 where within that unit that would be.

13 A. That's underneath the stairs.

14 Q. Okay. And Exhibit C of the Reinhart
15 deposition, can you indicate where that would be, if you
16 know?

17 A. I believe the downstairs bathroom.

18 Q. And Exhibit D of the Reinhart deposition, do
19 you know where that is located?

20 A. The stairwell downstairs, underneath the
21 stairs.

22 Q. Okay. Can you indicate to me what this black
23 is, if you know?

A. Mold.

MR. Walsh: Are you referring to Exhibit C?

1 MR. THORN: I'm sorry. Exhibit C.

BY MR. THORN:

2 Q. That's mold?

A. Mold.

3 Q. Okay. As well as in Exhibit D?

4 A. Correct.

5 Q. Okay. And was that mold present when you were
6 in the unit?

7 A. Yes, it was.

8 Q. Okay. And had that unit been altered in any
9 way? And what I mean by altered, had someone taken the
10 rugs up or removed any items?

11 A. When I was there?

12 Q. Yes.

13 A. No, nothing had been touched.

14 Q. And was there evidence, physical evidence, of
15 water on the stairway?

16 A. The carpet was saturated, the drywall had
17 wicked up, and there was mold on the walls.

18 Q. Was it evident to you that the water had
19 indicated a downward angle?

20 A. Yes.

21 Q. Okay. And in your investigation, did you
22 review the water bill in this loss?

23 A. I later confirmed that there was a thousand

1 gallons of water in -- between June and July or something
2 to that effect.

3 Q. Okay. My question was: Had you reviewed the
4 water bill?

5 A. No, I had no water bill.

6 Q. Okay. You just testified that later you
7 determined there was a thousand gallons within a 30-day
8 time frame.

9 A. Uh-huh.

10 Q. Is that a "yes"?

11 A. Yes, it is. I'm sorry.

12 Q. Unfortunately, other people may read this.

13 A. I understand.

14 Q. Okay. I want to be clear on the time frame
15 because it's important. All right. Did someone tell you
16 about the water bill, or you actually reviewed the water
17 bill?

18 A. When I called the county, they had indicated
19 that they showed no excessive water usage, and I asked
20 them what they considered excessive, and they could not
21 give me a number. I later received a letter from a
22 public adjuster who indicated he was representing
23 Mr. Hawkins, and he said that there was a thousand
gallons of water usage, and I called to confirm that
fact.

1 Q. Okay. Was that confirmed?

A. Yes.

2 Q. Was that before or after you denied the claim?

A. That was after.

3 Q. Okay. And that would be with -- is that North

4 American Insurance Consultants, Pat Garrett, from Tampa?

5 A. Yes, I believe so. I had spoken to

6 Mr. Hawkins, and she had indicated that she had not

7 received a bill that was any different than prior months

8 or months after that.

9 Q. I'll go back to that retroactively. Trust me,
10 you'll have more than an opportunity to testify.

11 Now, when you were at the unit, did it appear
12 to you that this had been a surge of water or a slow
13 leak?

14 A. A slow leak, based on the fact that the toilet
15 valve was severely corroded, and the baseboard underneath
16 it was rotted in the master bath upstairs.

17 Q. So it's your belief and your testimony that you
18 believe that the damage caused in this unit was by a slow
19 leak?

20 A. Yes.

21 Q. Have you subsequently learned that there was
22 work being done by the county in the area?

23 A. I was aware of that at the time, and I could

1 not confirm with the county that they had done anything
2 with the valve to Mr. Hawkins' home in reference to
3 that work being done by the county.

Q. And your one call was to Tessa?

A. Uh-huh.

Q. Okay. What was her role in the county?

A. She was in the water department in the customer
6 service department.

Q. Okay. Did you go over there and search the
8 records at all?

A. No.

Q. Did you go over there and meet with anyone in
11 the water department?

A. No.

Q. Did you go over there and meet with the risk
14 manager?

A. No. I'm trying to remember if I spoke to him
16 on this claim or another one. They all kind of run
17 together after a while.

Q. All right. Now, did you interview any of the
19 people that lived in the Waverly apartment complex?

A. No. I made several phone calls to the
21 association's office, which were not returned.

Q. Okay. But did you drive over there and talk to
23 anyone or assign an outside adjuster or anything?

1 A. An outside adjuster?

Q. Yeah. Would you do that at all in your work?

2 A. Yes. I never could find a person in the office
to talk to.

3 Q. Okay. My question is not whether you found
4 someone, whether or not you actually drove over or sent
5 someone else to go over.

6 A. No. I would do that myself.

7 Q. Okay. And you didn't do it in this case?

8 A. I did. I couldn't find anyone.

9 Q. You drove over there?

10 A. Yes.

11 Q. Okay. Was that the same day that you met with
12 Mr. Remetz?

13 A. Yes. And there were actually city workers
14 there that day.

15 Q. And you believe that there were city workers
16 from the county there that day?

17 A. Uh-huh.

18 Q. Okay. What were they doing?

19 A. They were fixing a valve, but it was not -- had
20 nothing to do with that unit. They had a water pipe
21 break, they said.

22 Q. And the water pipe break was in the same
23 apartment complex?

1 A. Yes, but it didn't have anything to do with
that unit.

2 Q. That wasn't my question. My question was: The
3 county officials were fixing a pipe break, and it was the
same complex and it was the same day that you were there?

4 A. It was a very large complex.

5 Q. Okay. I appreciate your editorial comments,
6 but my question, again, is whether or not --

7 A. Yes, they were there.

8 Q. Okay. Did you go right over to them and talk
9 with them about this loss?

10 A. No. I asked that on the telephone when I
11 followed up with the City of Vero Beach Water Department.

12 Q. I understand all that. But did you --

13 A. No, I did not ask the workers.

14 Q. When you were there that day and saw the county
15 officials on that day when you were there that you met
16 with Mr. Remetz and you met with Chris Reinhart, did you
17 go over to them, the county officials, and speak with
18 them?

19 A. No, I did not.

20 Q. All right. When you subsequently called the
21 county, did you ask them whether they were working in
22 that area in June or July?

23 A. No.

1 Q. Has anyone from Nationwide ever asked that
question, that you know of, as we sit here today in 2003?

2 A. I have no idea. I can only speak for myself.

3 Q. Okay. Who else worked on the file besides you?
Who was your supervisor there?

4 A. William Lang.

5 Q. So after the -- strike that. Prior to
6 September 25, prior to sending this letter marked as

7 Exhibit A in this deposition, had you made a

8 determination whether you would pay this claim at all?

9 A. No.

10 Q. Had you ever represented to anyone that you
11 would not pay this claim?

12 A. I had explained to Mr. Hawkins what the policy
13 stated as far as continuous and repeated seepage or
14 leakage and explained to her that I had to conference the
15 file with my Walshs and his Walshs, and after that telephone
16 conference and the photo review and everything, that a
17 determination would be made.

18 Q. But you had already testified in this
19 proceeding that you determined it was a slow leak when
20 you were in there.

21 A. Based on my investigation.

22 Q. Your personal investigation?

23 A. Correct.

1 Q. And then you -- you know there would be no
coverage for a slow leak.

2 A. Based on -- anytime that there is a mold claim,
3 we were required to conference those with our manager and
his manager.

4 Q. Why would that be?

5 A. That was procedure.

6 Q. All right. So was that in -- was that in a
7 manual or something that was reduced to writing that said
8 that?

9 A. Yes.

10 Q. Did someone advise you not to do that, not to
11 reduce it to writing?

12 A. No.

13 Q. But this was a water loss; clearly water had
14 caused this, some water from somewhere.

15 A. I did what I was told to do.

16 Q. Okay. But you were the investigator in the
17 case, it was your claim, and you went to the location of
18 your client's property, Mr. Hawkins.

19 A. Correct.

20 Q. And you made certain subjective decisions while
21 you were at the property.

22 A. I did an investigation, and I presented the
23 facts.

1 Q. Okay. And so therefore when you were over
2 there prior to the 25th of September, you had made a
determination it was a slow leak that caused this damage.

A. That's what it appeared to be at that time.

3 Q. Okay. And so therefore when you left the
4 property, did you convey that thought to Mr. Varvaro?

5 A. What I found?

6 Q. Yes.

7 A. Yes.

8 Q. And did you tell him that it was your view that
9 the claim would be denied?

10 A. I did a telephone conference with him and
11 Natalie Simons and reviewed the photos with them that I
12 took and went through the loss.

13 Q. Who is Natalie Simons?

14 A. She is -- well, I guess she was my Walshs also,
15 but Mr. Varvaro's Walshs.

16 Q. Does she have a title? Claims manager or --
17 unfortunately, we have titles for everything in this day
18 and age.

19 A. I know. They changed every other month, so I'm
20 trying to remember what the title was at the time. He
21 was a claims manager, and she was a -- I don't know what
22 they were calling her then.

23 Q. Okay. And it says in this letter, Exhibit A,

1 the second sentence "reported to have occurred on
2 9/23/02."

3 A. Right.

4 Q. And I think you said to me earlier that it was
5 your policy to go out to the property. It could have
6 been 9/23/02 that you were there at the property?

7 A. No, because the date that I received the claim,
8 I contacted Mr. Remetz, and he could not meet with me
9 until the next day. So I don't know if it was reported
10 on the 23rd or not, but it was the day after I actually
11 received it in my hand that I met with him.

12 Q. But there's no question the meeting with
13 Mr. Remetz and Mr. Reinhart would have been before the
14 25th.

15 A. Correct.

16 Q. Okay.

17 A. I sent that out at the direction of my manager,
18 William Lang.

19 Q. Right. Did Mr. Varvaro call up the county --
20 strike that.

21 Did you report to him that you had seen the
22 county people up there fixing a pipe?

23 A. I believe so.

Q. Okay. And so he then advised you to send this
document up?

1 A. Correct.

2 Q. Did Mr. Reinhart indicate to you his feelings
3 about this loss?

4 A. He said there was a lot of water and that it
5 had to have been there for a few weeks or more based on
6 the amount of mold that was present, and water.

7 Q. When was the last time that Mr. Remetz was in
8 the property to check it prior to September --

9 A. On the telephone the day that I received the
10 claim, he had indicated that it had been three weeks.
11 When I went the next day, meeting with him, he had
12 indicated it had been six weeks.

13 Q. Okay. So you believe that it had been six
14 weeks since September 23 or around that time frame?

15 A. Since the date of loss?

16 Q. No. Since the time he was in there.

17 A. Oh, yes.

18 Q. Okay. Now, did Mr. Varvaro instruct you to
19 interview the county officials?

20 A. He instructed me to make phone calls to find
21 out if I could find additional information.

22 Q. Okay. After the 25th of September, have you
23 talked to Mr. Reinhart about this loss?

A. I'm sure, not -- probably not him, but his
office.

1 Q. Okay. And you did a certain amount of work
with them?

2 A. Yes.

3 Q. And you had worked with Mr. Reinhart prior to
this loss?

4 A. Yes, in the last ten years.

5 Q. Did you find them to be a reputable company?

6 A. Yes.

7 Q. And find Mr. Reinhart to be very knowledgeable?

8 A. Yes.

9 Q. And his word's credible?

10 A. Based on my past experience, yes.

11 Q. Would you find him to be an experienced

12 individual as it relates to water claims?

13 A. Yes.

14 Q. Would you find him to be experienced in terms
15 of his understanding of the source of the water claim?

16 A. I don't know if they made that determination.
17 Their job was to go out and do water restoration, not
18 necessarily determine where it came from.

19 Q. His job in doing water restoration, that
20 involves him being one of the first on the scene.

21 A. Correct.

22 Q. And that involves him doing some inspection
23 work.

1 A. Correct.

2 Q. How long has Mr. Reinhart worked for Servpro;
do you know?

3 A. As long as I've been dealing with him. I don't
know. It's a family-owned business.

4 Q. Would you say 9, 10 years?

5 A. I would say.

6 Q. Okay. I think I asked you this before, but I
7 want to be clear. There were a lot of depositions and a
8 lot of travel. I asked you whether or not you had talked
9 to the plumber.

10 A. No.

11 Q. Do you know the name of the plumbing company?

12 A. You told me Meeks.

13 Q. All right. Had you dealt with them before?

14 A. Yes.

15 Q. Okay.

16 A. Not on this loss, but prior losses.

17 Q. How many claims have you dealt with them over
18 the years?

19 A. Several. They're one of the main plumbing
20 companies in Vero.

21 Q. Okay. Did you find them to be credible?

22 A. The majority of the time, yes.

23 Q. Okay. So your understanding is that

1 Mr. Hawkins represented to you that she had shut the
valve off.

2 A. Yes.

3 Q. And so therefore, in order for water to come
into this unit, somebody had to turn that valve back on.

4 A. Correct.

5 Q. And then after that valve was turned on, there
6 was water damage to this unit somehow.

7 A. Correct.

8 Q. Okay. And that would have been after she left
9 to go back to Walshton.

10 A. Correct.

11 Q. And your testimony is that the physical
12 evidence showed the likelihood that water was running
13 downward.

14 A. It started in the master bathroom upstairs.

15 Q. Okay. I'm going to ask you some questions on
16 coverage issues. What type of policy was involved here;
17 do you know?

18 A. Elite II.

19 Q. Okay. Can you give me a little education on
20 that, what type of policy that is, how it works, briefly?

21 A. I believe it was an Elite II. I said that
22 pretty quick, but --

23 Q. That's all right.

1 A. Assuming that they had a homeowners association
2 and not a condo association, it might have been a unit
3 owners policy. Do you have that letter?

4 Q. Yes.

5 A. It's an Elite policy.

6 Q. Okay. Can you just tell me what typically
7 would be covered in that type of policy?

8 A. It's an all-risk policy unless it's excluded
9 specifically.

10 Q. What type of water loss would be covered in
11 Mr. Hawkins'?

12 A. Sudden and accidental.

13 Q. So if the evidence would show that it was
14 sudden and accidental, she'd be covered?

15 A. If it was sudden and accidental.

16 Q. Okay. At some point you did deny the claim.

17 A. Yes.

18 Q. And did you send a letter to the your insured
19 telling her why?

20 A. Yes.

21 Q. Can you tell me what you told her?

22 A. Continuous and repeated seepage or leakage
23 resulting in wet rot, dry rot, mold, and deterioration
24 was excluded under the policy.

25 Q. And that was based on your investigation.

1 You've already told me what your investigation entailed.

A. Correct.

2 Q. After the public adjuster came into this case,
3 you had certain correspondence with him?

A. Yes.

4 Q. And you spoke with him on the telephone?

5 A. Once, I believe.

6 Q. Have you ever met Pat Garrett?

7 A. No.

8 Q. Would you often work with public adjusters?

9 A. Not very often. It was becoming more
10 prevalent.

11 Q. Okay. Did you find that they assisted
12 policyholders or not, in general terms?

13 A. I only had a couple dealings with them, so I
14 don't know if that's fair to assess.

15 Q. Fair enough. After Mr. Garrett contacted you,
16 he expressed some concerns that he felt this was covered.

17 A. Correct.

18 Q. Okay. And did you follow up on his
19 recommendations?

20 A. I believe I wrote him a letter and asked him to
21 please provide any information that he may have that
22 would indicate that there was coverage in this loss.

23 Q. Has anybody ever showed you the loss detail

1 information on this loss from Mr. Garrett?

A. No.

2 Q. Okay. Has any -- strike that. When did you
say you left Nationwide?

3 A. I left on disability December the 6th.

4 Q. Okay. What type of disability?

5 THE WITNESS: (To Mr. Walsh) Do I have to

6 say?

7 MR. Walsh: It's -- can we go off the record?

8 MR. THORN: Sure.

9 (Discussion off the record.)

10 MR. THORN: Let's go back on the record.

11 Thanks.

12 BY MR. THORN:

13 Q. Okay. I guess I asked you when you left
14 Nationwide, timewise.

15 A. My official date of resignation was
16 February 22, I believe, of 2003.

17 Q. 2003?

18 A. Uh-huh.

19 Q. Okay. After Mr. Garrett, the public adjuster,
20 had indicated there was a thousand gallons of water in
21 the summer months there, what did you do about that, if
22 anything?

23 A. I verified that fact with the City of Vero

1 Beach Water Department.

Q. Was that a true statement by Mr. Garrett?

2 A. Yes. My question to them was: Who turned the
water off if it was only one month?

3 Q. Okay. Did you find out?

4 A. They had no record of any report ever being
5 filed that the water had to be turned off and on at that
6 unit.

7 Q. My question was: Who turned it on; do you
8 know? Did you ever find out?

9 A. No. Somebody had to turn it on.

10 Q. Right. Well, because you know Mr. Hawkins
11 represented to you that it was turned off.

12 A. Yes.

13 Q. And you didn't have any reason to doubt that.

14 A. No.

15 Q. Okay. But for the water being turned on, it
16 wouldn't have reached this unit.

17 A. It might have from another unit, but there did
18 not appear to be any water damage from any of the other
19 units surrounding hers.

20 Q. So your investigation didn't reveal some
21 collateral unit was responsible.

22 A. Correct.

23 Q. Okay. In your investigation, did you ever seek

1 any records from the county about any claims in the area
2 by any of the other units?

3 A. I don't believe so.

4 Q. Did you ever interview any neighbors or people
5 in the area?

6 A. No.

7 Q. Did Mr. Garrett indicate to you what the extent
8 of the loss was in terms of what she's claiming the
9 damage was?

10 A. No.

11 Q. Have you reviewed any documents relative to
12 that?

13 A. I would have only dealt with him briefly prior
14 to my leaving.

15 Q. Prior to Mr. Garrett's involvement, had you
16 ever reviewed any documents of the extent of the damages
17 in this unit?

18 A. I heard a dollar figure for the amount of the
19 bill from Servpro.

20 Q. All right. Other than Servpro, anyone else
21 ever represent a number to you?

22 A. No.

23 MR. THORN: Give me a second.

(Short pause.)

MR. THORN: I don't have anything else.

CROSS-EXAMINATION

1 BY MR. Walsh:

2 Q. You're operating under the assumption that
3 Mr. Hawkins turned off the water when she left in April
or whenever it was?

4 A. Correct.

5 Q. And you have no way to independently verify
6 that, do you?

7 A. No.

8 Q. And if she had left the water on and everything
9 was closed up in the house and no valves were running,
10 there wouldn't be any water usage either, would there?

11 A. No.

12 Q. All right. And there was also -- you were
13 given information that there had been a thousand gallons
14 of water usage between June and July; is that correct?

15 A. Yes.

16 Q. All right. And at some point in time, were you
17 advised by Mr. Garrett or by the city that there had been
18 no water usage between July and the time that the loss
19 was reported in September?

20 A. Correct.

21 Q. And do you have any information or knowledge as
22 to who would have turned off the water in July in order
23 for there not to be any water coming into the apartment,

1 condominium?

A. No.

2 Q. And did anybody ever provide any explanation to
3 you as to why there would be a two-month delay in
reporting this claim?

4 A. Mr. Hawkins said that her brother was
5 supposed to be checking the home weekly, and when I had
6 repeated to her what he had told me the day I met him
7 that he hadn't been there for at least six weeks, she
8 said, "Well, I thought he was watching it every week, but
9 I can't count on him."

10 MR. Walsh: Okay. That's all the questions I
11 have. Thank you.

12 MR. THORN: Nothing else. Thanks for
13 coming in. Good luck to you.

14 THE WITNESS: Thanks.

15 THE REPORTER: Did you want to read this or
16 waive?

17 THE WITNESS: I'll waive. That's fine.

18 (Thereupon, the reading and signing of this
19 deposition were waived, and this deposition concluded
20 at 12:34 p.m.)

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CERTIFICATE OF REPORTER

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STATE OF FLORIDA)
) SS
COUNTY OF BREVARD)

I, JOAN D. BARTON, Registered Professional Reporter, do hereby certify that I was authorized to and did stenographically report the deposition of MELISSA BURTON; that a review of the transcript was not requested; and that the foregoing transcript, pages 1 through 42, is a true record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney, or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the event of this cause.

DATED this 31st day of July, 2003, at the City of Melbourne, County of Brevard, State of Florida.

JOAN D. BARTON, RPR