

1 L. ALDANA-BERNIER

2 MR. CALLAN: You can answer
3 that, Doctor, if you have a
4 recollection of names.

5 A. One is McDougal [phonetic].

6 Q. Was that in your capacity as an
7 employee at Jamaica Hospital, your
8 private practice, something else?

9 A. Jamaica Hospital.

10 Q. Do you know generally what the
11 claims against you were?

12 A. It's about admitting the
13 patient.

14 Q. An admission under 9.39 of
15 Mental Hygiene Law?

16 A. Yes.

17 Q. Is that matter still pending?

18 A. No, it was cleared.

19 Q. Who represented you in this
20 case?

21 A. The office of Mr. Callan.

22 Q. Did you testify at a deposition
23 in that case?

24 A. Yes.

25 Q. Did you testify at trial in

1 L. ALDANA-BERNIER

2 that case?

3 A. No.

4 Q. You said there were two
5 matters. What is the other matter?

6 A. Ballek.

7 Q. Spell that for me?

8 A. B-A-L-L-E-K.

9 Q. Again, was that in your
10 capacity as an employee of Jamaica
11 Hospital?

12 A. Yes.

13 Q. What were the claims against
14 you in that cases?

15 A. I discharged the patient and
16 the patient after 30 days they found out
17 committed suicide.

18 Q. When was that admission that
19 was the subject of that lawsuit?

20 A. 2008.

21 Q. Do you know when in 2008 he
22 ended up committing suicide?

23 A. I don't know. I don't
24 remember.

25 Q. Was that incident in your mind

1 L. ALDANA-BERNIER

2 when you evaluated Mr. Schoolcraft?

3 A. I learned from experience.

4 Q. When you say you learned from
5 experience, the answer is yes, that
6 incident was in your mind when you
7 evaluated Mr. Schoolcraft?

8 A. No, because this case, it
9 happened 2008 but the case was cleared in
10 2013.

11 Q. I'm talking about the lawsuit.
12 I'm talking about the incident where the
13 man committed suicide. Was that part of
14 your thought process when you admitted
15 Mr. Schoolcraft: having had the
16 experience of a patient committing
17 suicide after being released?

18 A. Working in the emergency room,
19 you have to be cautious. You have to
20 make very defensive decisions when you
21 discharge the patient.

22 Q. When you say "cautious," what
23 do you mean?

24 A. You are thinking right, proper,
25 you are either keeping or discharging the

1 L. ALDANA-BERNIER

2 patient.

3 Q. Were you more cautious after
4 that incident you are talking about when
5 this person killed himself in 2008?

6 MR. CALLAN: Objection.

7 A. It's the same.

8 Q. Is that lawsuit still pending?

9 A. No, cleared.

10 Q. Who represented you in that
11 case?

12 A. Mr. Callan.

13 Q. And McDougal, do you know what
14 court that was in?

15 A. Manhattan.

16 Q. State court, federal court?

17 A. I think state court.

18 Q. What about Ballek?

19 A. Federal.

20 MR. CALLAN: Supreme Court,
21 Queens County, in any effort to be
22 cooperative.

23 Q. Have you ever had any hospital
24 privileges revoked or suspended?

25 A. No.

1 L. ALDANA-BERNIER

2 Q. Have your licenses ever been
3 revoked or suspended?

4 A. Never.

5 Q. Have you ever had any sanctions
6 at all with regard to your profession as
7 a physician?

8 A. Never.

9 Q. As part of your education or
10 are you required to do continuing
11 education?

12 A. Yes.

13 Q. As part of your formal
14 education or continuing education, did
15 you ever do any training in danger
16 assessment?

17 A. Training in danger assessment.

18 Q. The danger of a patient
19 injuring themselves or others?

20 A. Risk management you mean?

21 Q. I will rephrase it.

22 Did you have any training with
23 regard to assessing a patient with regard
24 to whether or not they were a danger to
25 themselves or to others?

1 L. ALDANA-BERNIER

2 A. If you are talking about CME
3 with regard to risk management, I think
4 that comes under that title, yes.

5 Q. When it comes under risk
6 management, how does it come under risk
7 management, management of the risk of the
8 patient?

9 A. Yes.

10 Q. Earlier you talked about risk
11 management when you got the lawsuit, they
12 contacted you.

13 A. Yes.

14 Q. Different risk management?

15 A. Yes.

16 Q. So risk management of the
17 patient?

18 A. Of the patient, yes.

19 Q. Where and when did you have
20 this education regarding risk management?

21 A. With Florida CME.

22 Q. What is a CME?

23 A. Medical education credit.

24 Q. You say Florida, is that the
25 location where the course was given?

1 L. ALDANA-BERNIER

2 A. It's required by the State of
3 Florida.

4 Q. Are you licensed in the state
5 of Florida?

6 A. Yes.

7 Q. Where else besides Florida and
8 New York are you licensed?

9 A. West Virginia.

10 Q. Did you ever practice in
11 Florida?

12 A. No.

13 Q. How about West Virginia?

14 A. No.

15 Q. Have you ever lived in Florida?

16 A. No.

17 Q. How about West Virginia?

18 A. No.

19 Q. Any particular reason you have
20 those licenses?

21 A. Just in case.

22 Q. When did you get those
23 licenses?

24 MR. CALLAN: She's ready to go
25 now.

1 L. ALDANA-BERNIER

2 A. I'm not sure but maybe '95.

3 Q. How about West Virginia?

4 A. Very first one, maybe '93.

5 Q. When did you get New York?

6 A. '94.

7 Q. Did you sit for any licensing
8 exams that you did not pass?

9 A. Yes.

10 Q. Where?

11 A. That's my -- that's the --
12 what-do-you-call-it? I'm blocking.

13 MR. CALLAN: He is asking about
14 medical licenses, your MD exams, West
15 Virginia, Florida, New York?

16 A. No.

17 Q. Any other state that you did
18 not pass the MD license?

19 MR. CALLAN: MD.

20 A. That was the Flex. Sorry, yes,
21 it was the Flex.

22 Q. What is the Flex?

23 A. That's our licensing.

24 Q. And you did not pass that?

25 A. No, I pass it now.

1 L. ALDANA-BERNIER

2 Q. When did you not pass it?

3 A. There was one in -- before my
4 '93 licensure.

5 Q. Do you know why Mr. Schoolcraft
6 was admitted to the medical emergency
7 part of the hospital as opposed to the
8 psych part of the hospital when he first
9 came to the hospital?

10 A. He was complaining of abdominal
11 pain.

12 Q. From your review of the
13 hospital record, did you see any
14 treatment for abdominal pain?

15 A. Did I see any treatment?

16 Q. At the hospital given to him
17 for abdominal pain?

18 MR. KRETZ: Objection.

19 Q. In the hospital?

20 A. I have to go back through the
21 notes.

22 Q. I'm also going to ask you about
23 blood pressure so while you are looking
24 at the medical records, I'm going to ask
25 any treatment for blood pressure too

1 L. ALDANA-BERNIER

2 while you're looking the medical records?

3 A. He had a physical exam.

4 Q. When you say "he had a physical
5 exam," how do you know that?

6 A. It's written down here in the
7 MD notes.

8 Q. When the doctor examined him,
9 the doctor made notes about that
10 examination?

11 A. Yes.

12 Q. Did the doctor also take a
13 history?

14 A. Yes.

15 Q. Doctor made notes of that
16 history?

17 A. Yes, it's here.

18 Q. Did the doctor come to any
19 evaluation or opinion or diagnosis?

20 A. History of present illness, he
21 has a review of systems, past medical
22 history, social history, family history.

23 Q. And he puts information in
24 those spots, right?

25 A. Excuse me?

1 L. ALDANA-BERNIER

2 Q. There's information, not just
3 printed form, there is a whole bunch of
4 information in all those categories,
5 correct?

6 A. Yes.

7 Q. So when the doctor evaluated
8 him, the doctor made notes of that
9 evaluation, correct?

10 A. It's here, yes.

11 Q. And the question is: Was this
12 patient ever treated for abdominal, given
13 any treatment for his abdominal pain or
14 high blood pressure?

15 MR. LEE: Objection to the form
16 of the question.

17 MR. RADOMISLI: Objection to the
18 form.

19 MR. SUCKLE: You want to do one
20 at a time: Was he ever treated for
21 abdominal?

22 MR. RADOMISLI: That's not the
23 basis for the objection.

24 MR. SUCKLE: What is the
25 objection?

1 L. ALDANA-BERNIER

2 MR. RADOMISLI: She didn't see
3 him in the medical ED, she didn't
4 review the medical ED chart before
5 coming here.

6 MR. SUCKLE: Your objection is
7 she might not know the answer?

8 MR. RADOMISLI: The objection is
9 you have no right to ask these
10 questions.

11 MR. SUCKLE: She is a treating
12 physician.

13 MR. CALLAN: She's a treating
14 psychiatrist.

15 MR. SUCKLE: When I get there.

16 MR. SHAFFER: Six hours to do
17 the deposition.

18 MR. RADOMISLI: Howard, you know
19 it's not separate.

20 Q. The question is: Was he ever
21 treated for his abdominal pain?

22 MR. CALLAN: Is there a claim
23 for abdominal failure -- failure to
24 treat --

25 MR. SUCKLE: We're working on

1 L. ALDANA-BERNIER

2 it.

3 Q. Was he treated for any
4 abdominal --

5 A. I wasn't in the emergency room.
6 If you want me to, I have to read --

7 Q. You agree sometimes patients
8 come from the medical floor to the psych
9 floor, correct?

10 A. From the medical ER to the
11 psych ER, yes.

12 Q. Sometimes they come with
13 medical problems to the psych ER,
14 correct?

15 A. That's correct.

16 Q. When a patient comes from the
17 medical ER to the psych ER, do you
18 concern yourself at all with the medical
19 issues that the patient may be coming to
20 the psych ER with?

21 A. The patient was medically
22 cleared.

23 Q. But at least it was important
24 for you to know that the patient was
25 medically cleared, right?

1 L. ALDANA-BERNIER

2 A. Right.

3 Q. What was the evaluation of for
4 which he was cleared: abdomen, blood
5 pressure, something else, nothing, you
6 tell me?

7 A. Gastric pain.

8 Q. Was there any treatment that
9 you are aware of he had while in the
10 medical emergency room for that problem?

11 MR. RADOMISLI: Objection.

12 A. I was not in the medical ER.
13 He came to the psych ER the next day.

14 Q. The answer is you don't know;
15 am I correct?

16 MR. LEE: Objection to form.

17 MR. RADOMISLI: Objection to
18 form.

19 Q. You don't know if he was
20 treated for any gastrointestinal
21 problems?

22 MR. RADOMISLI: Objection.

23 MR. SUCKLE: She just said she
24 doesn't know. I'm asking her.

25 MR. RADOMISLI: I'm objecting.

1 L. ALDANA-BERNIER

2 A. There is nothing written down
3 in here. "Whole medications, none;
4 medication administered in emergency
5 department, none; medication prescription
6 provided on discharge, none."

7 Q. No abdominal medication, no
8 blood pressure medication, correct?

9 MR. KRETZ: Objection.

10 A. It's here, none.

11 Q. Did you have any discussions
12 regarding Mr. Schoolcraft with a Bruce
13 Flanz, F-L-A-N-Z?

14 A. No, I don't know.

15 Q. How about conversations
16 regarding Mr. Schoolcraft with David
17 Rosen?

18 A. No, I don't.

19 Q. How about Ollie Peterson, any
20 conversations with Ollie Peterson?

21 A. I don't know.

22 Q. Seth Vivek?

23 A. Seth Vivek?

24 Q. You answered that. Did you
25 have any conversations with Seth Vivek

1 L. ALDANA-BERNIER
2 regarding Adrian Schoolcraft?

3 MR. CALLAN: She said no.

4 A. At what point in time?

5 Q. Any.

6 A. I go to Dr. Dhar.

7 Q. When you say "at what point in
8 time," you gave an indication that you
9 may have had a conversation.

10 Did you ever have a
11 conversation with Dr. Vivek regarding
12 Adrian --

13 A. No, it's Dr. Dhar.

14 Q. You told us about earlier?

15 A. Excuse me?

16 Q. You told us about that
17 conversation earlier, correct?

18 A. Yes.

19 MR. SUCKLE: I have nothing
20 further.

21 MR. SHAFFER: I have a few
22 questions. It's a few.

23 EXAMINATION MR. SHAFFER:

24 Q. Doctor, did anybody from the
25 NYPD, any employee of New York City

1 L. ALDANA-BERNIER

2 Police Department, ever tell you to keep
3 Adrian Schoolcraft at Jamaica Hospital
4 against his will?

5 A. No.

6 Q. At any time prior to Mr.
7 Schoolcraft being released from Jamaica
8 Hospital --

9 MR. SHAFFER: Let me rephrase.

10 Q. Did you believe that Mr.
11 Schoolcraft should have been released
12 from Jamaica Hospital earlier than he
13 actually was?

14 A. Earlier than when I decided he
15 needed admission?

16 Q. No, no. Did --

17 MR. RADOMISLI: Objection to
18 form. That's just improper because
19 you don't know if she knows what
20 happened after she saw him.

21 Q. Do you know that Mr.
22 Schoolcraft was released from the
23 hospital at some point in time?

24 A. Yes.

25 Q. Do you know when Mr.

1 L. ALDANA-BERNIER

2 Schoolcraft was released in the hospital?

3 A. Looking at the note, 2/6/2009.

4 Q. Say again?

5 A. February 6, 2009.

6 Q. You mean November 6th?

7 A. November 6, yes.

8 Q. At any point prior to November
9 6, 2009, did you believe that Mr.
10 Schoolcraft should have been released
11 from the hospital?

12 MR. RADOMISLI: Objection.

13 MR. LEE: Objection.

14 A. Before 11/6?

15 Q. Correct.

16 MR. RADOMISLI: Objection.

17 A. I already admitted him. I
18 wouldn't know. He went upstairs. I
19 would not be able to make a decision to
20 be discharged then.

21 Q. Doctor, what is adjustment
22 disorder?

23 A. Adjustment disorder is -- it's
24 a psychiatric -- it's a diagnosis wherein
25 someone goes under stress and will react

1 L. ALDANA-BERNIER
2 to that stress within a day to one month;
3 react in a sense that will affect his
4 functioning. He could either be
5 depressed, either be agitated, or he
6 could also -- different kinds of
7 reactions could be manifested either
8 through violence or opposite of violence
9 which would be depression or could be
10 manifested with anxiety.

11 MR. SHAFFER: Nothing further.

12 MR. RADOMISLI: I just have a
13 few questions.

14 EXAMINATION BY MR. RADOMISLI:

15 Q. Doctor, residents operate under
16 the supervision of attending physicians,
17 correct?

18 A. That's correct.

19 Q. Decisions by residents must be
20 approved by the attending, correct?

21 A. That's correct.

22 Q. Attendings can overrule
23 decisions made by residents if they
24 believe that the decisions were
25 incorrect; is that right?

1 L. ALDANA-BERNIER

2 A. That's correct.

3 Q. And the attending physician has
4 ultimate responsibility for the patient,
5 correct?

6 A. That's correct.

7 Q. And you can direct nurses to do
8 things for the patient, correct?

9 A. That's correct.

10 Q. You didn't have any issues with
11 what any of the nurses did or did not do
12 for the patient, correct?

13 A. That's correct.

14 MR. SMITH: Objection.

15 Q. You did not have any issues of
16 what the residents did or didn't do for
17 this patient, correct?

18 A. That's correct.

19 Q. You were the attending in
20 charge of the psychiatric ED when you
21 were there, correct?

22 A. That's correct.

23 Q. That means you would have
24 supervised the psychiatric residents in
25 the ED?

1 L. ALDANA-BERNIER

2 A. Psych emergency room, yes.

3 Q. Would that include the
4 psychiatric residents who evaluated the
5 patient when he was in the medical
6 emergency room?

7 A. In 2009, yes, it was us, the
8 doctors in the emergency room.

9 Q. The doctors in the psychiatric
10 emergency room supervised the psychiatric
11 residents who evaluated patients in the
12 medical emergency room?

13 A. Yes.

14 Q. And the resident would not have
15 authority to discharge a patient on his
16 own, correct?

17 A. Correct.

18 Q. That decision would have to be
19 made by the attending, correct?

20 A. Correct.

21 Q. If a patient was going to be
22 discharged at some point from the
23 psychiatric emergency room, an attending
24 psychiatrist would have to make that
25 decision, correct?

1 L. ALDANA-BERNIER

2 A. That's correct.

3 Q. And you were this patient's
4 attending psychiatrist, correct?

5 MR. LEE: In the emergency room?

6 MR. RADOMISLI: Yes.

7 A. In the emergency room, depends
8 what the shift is.

9 Q. During your shift?

10 A. During my shift, yes.

11 MR. RADOMISLI: No more
12 questions.

13 MR. SUCKLE: I have a couple
14 questions.

15 FURTHER EXAMINATION BY MR. SUCKLE:

16 Q. A resident, a resident can't
17 discharge a patient, correct?

18 A. That's correct.

19 Q. And a resident can't admit a
20 patient, correct?

21 A. The attending has the final
22 decision.

23 Q. So when a resident says that a
24 patient should be held, that has to be
25 confirmed by an attending, correct?

1 L. ALDANA-BERNIER

2 A. That's correct, yes.

3 Q. So a resident can't hold a
4 patient on his own or her own order,
5 correct?

6 A. Needs to be discussed with the
7 attending.

8 Q. Am I correct, a patient cannot
9 be held on the order of a resident at
10 Jamaica Hospital in 2009, correct?

11 MR. CALLAN: She just answered
12 the question.

13 A. It has to be discussed with the
14 attending. The attending has to make --
15 they discuss that and once it's
16 discussed, then the attending will make
17 the decision.

18 Q. Attending has to make the order
19 for admission, correct?

20 [Continued on the following page to include
21 signature and jurat.]

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L. ALDANA-BERNIER

A. Yes.

Q. And for holding a patient, attending has to make that order too, correct?

A. That's correct.

MR. SUCKLE: Nothing further.

MR. SMITH: It's 6:30. We are ending the deposition.

MR. SUCKLE: For the record I want to say the attorney for Jamaica Hospital will be retaining the original Exhibit No. 69 which is the hospital chart.

[TIME NOTED: 6:31 p.m.]

DR. LILIAN ALDANA-BERNIER

Subscribed and sworn to
before me this _____
day of _____, 2014.

Notary Public

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I N D E X

WITNESS	EXAMINATION BY	PAGE
L. Bernier	Mr. Suckle	7, 322
	Mr. Shaffer	316
	Mr. Radomisli	319

E X H I B I T S

PLAINTIFF'S	DESCRIPTION	PAGE
Exhibit 69	Chart	37
Exhibit 70	Emergency Admission Status	232
Exhibit 71	Visiting Hours	233/234
Exhibit 72	Restriction of Visitors	233/234
Exhibit 73	Use of Razors	233/234
Exhibit 74	Psych 3 Unit Rules	233/234
Exhibit 75	4/95 Document	233/234

Attorneys have retained all exhibits.

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CERTIFICATION

I, MARGARET SCULLY-AYERS, a Notary Public for and within the State of New York, do hereby certify:

That the witness whose testimony as herein set forth, was duly sworn by me; and that the within transcript is a true record of the testimony given by said witness.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th day of February, 2014.



MARGARET SCULLY-AYERS

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ERRATA SHEET
VERITEXT/NEW YORK REPORTING, LLC

CASE NAME: Adrian Schoolcraft -v- The
City of New York et al.
DATE OF DEPOSITION: February 11, 2014
WITNESS' NAME: Dr. Lilian Aldana-Bernier

PAGE/LINE(S) /	CHANGE	REASON
----- / ----- /	----- /	----- /
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DR. LILIAN ALDANA-BERNIER

SUBSCRIBED AND SWORN TO
BEFORE ME THIS _____ DAY
OF _____, 2014.

NOTARY PUBLIC
MY COMMISSION EXPIRES _____

&	11/1/09 87:21 109:2	1:20 158:17 221:13	259:11,14,17,23
& 4:3,10,16 5:4	109:8,24 226:2	281:21	262:4 264:20 265:7
0	11/1/2009 86:25	1:23 138:16,20	265:11 266:5,23
0.5 203:5,7 204:3	87:9 127:25 160:2	1st 121:19 122:24	273:14 281:4,15
0.5. 203:14	161:4 166:21 221:4	127:2 128:2,4,12	283:22 318:5,9
07042 7:25	11/2 277:22	130:14,17 154:23	321:7 323:10
090.155440 5:7	11/2/2009 118:3	162:9 167:3 189:17	2010 236:7,12
1	276:25	2	2010-033074 3:19
1 87:15 94:17 98:24	11/3 155:9 226:6	2 86:2 121:20,25	2012/2013 22:3
101:12 102:8 109:4	277:25	127:2,7 251:12	2013 20:8 228:5
116:17,19 121:24	11/3/2009 158:17	254:6	303:10
127:19 139:7,18	11/6 189:8 318:14	2,000 72:3,10,14,17	2014 2:8 7:12
160:18 204:4 226:7	11042 4:19	2/6/2009 318:3	324:20 326:19
226:11,13,13,14,15	111 2:6 3:4 7:10	20 164:5	327:4,22
242:2 261:14	115 156:23	20002 3:8	21:30 266:5,23
1-50 1:19,24	11:51 85:6,9	2001 4:18	220 4:11
10 109:6	11th 7:12	2008 302:20,21	224 3:11
10/31 121:18 160:16	12 23:4 24:14,15	303:9 304:5	22:56 128:13
160:19 161:16	109:2,5,8,24 160:20	2009 20:9,15 21:12	232 325:12
166:24	160:21,21 166:11	22:4 24:4,24 25:5	233/234 325:13,15
10/31/09 120:6	166:15,18	25:12 26:20 32:16	325:16,17,18
155:5,12 161:12	120 156:14	33:2 46:2,3 60:22	2483 1:16
10/31/2009 120:20	1200 3:12	61:4 62:5,20 63:4	2576 1:15
127:4	1298984 120:20	63:25 64:11 67:25	27th 326:18
100 3:17 210:5	12:13 85:11,14	68:21 72:14 85:17	2979 135:18
10001 3:12	12:42 109:18	86:2,7 88:22 94:17	2:15 118:3
10004 5:6	12:43 109:20	101:12 102:9	2:30 138:22,25
10006 3:5	12:59 130:17 131:8	107:21 108:25	2nd 68:21 85:17
10007 3:18	13 68:2	109:5,6 115:17	86:7 108:25 109:6
10017 4:12	139 156:10,17	118:2 120:25	109:11 118:2
10022 4:6	13:51 128:2 129:24	121:10,20,25 122:5	120:25 122:5,11
109 203:16	13th 4:12	122:12,24 123:8	123:7 128:10,18,21
10:06 129:11	15 61:16 241:8	127:2 128:2,3,4,10	129:2,7,11,14,23
10:29 7:3	15:38 128:5	128:13,21 129:2,8	167:12,19 173:6
10:30 2:8	18 257:11	129:11,14,24,25	187:23 188:7,24
10:47 129:3	1973 11:7,16	130:14,17 139:7,18	189:5,16 190:7,11
10civ 1:7	1976 11:23	150:2 155:7 156:8	190:19,21 191:20
11 2:8 327:4	1981 12:12	159:14 162:16	221:12 277:13
11/1 87:8 121:17	1986 12:12 13:12	165:14 173:6	281:15
155:9 159:5,19	1993 14:14,18	187:23 188:8,24	3
161:17 162:6 226:8	1994 14:18	190:11,13,19,19,20	3 87:15 157:6
283:14 287:6	1995 10:2 17:17,22	191:20,21 220:17	251:13 254:3,4,7,12
	18:13	220:18 222:15	254:16 256:4
	1999 236:11	241:13 250:16	258:16 260:11

[3 - accurate]

Page 2

261:15 269:20 325:17 3,000 72:3 30 62:17 68:5 302:16 3004 1:19 30th 4:6 31 121:9,12 155:7 156:8 189:16 316 325:5 319 325:6 31st 159:14 189:4 262:4 264:20,22 265:7,11 266:4,23 322 325:5 34 133:19,20 35th 3:11 37 325:11 3:10 85:17 86:7 108:25 118:2 189:6 190:8 221:12 3:34 195:13,15 3:49 195:17,20 3rd 127:20 128:3 129:24 167:2,4,6,8 189:25 190:19 191:21 199:5 216:14 221:13 222:4,5,15 263:3 277:4,14,15 279:2 280:13 281:21	5	873220 1:9 885374 1:18 89 13:21 894025 1:14 895117 1:12 897840 1:13 8:27 128:3 129:25	abdomen 314:4 abdominal 157:9,10 309:10,14,17 311:12,13,21 312:21,23 313:4 315:7 abercrombie 4:3 ability 192:19 271:9 able 47:13 80:7,25 81:13 86:10 88:18 112:14 118:10 165:2 175:19 218:9 218:11 252:13 288:24 318:19 absence 57:18 absolutely 297:25 abstraction 47:20 51:3,8 abuse 132:14 abusive 91:23 297:19 accept 291:18 accepted 41:25 42:6 49:14 50:19 51:6,20 53:4,25 54:24 55:18 55:23 56:5,17 57:14 59:8 64:7 94:14 123:24 124:9,13 126:7 193:8,18 290:17 292:4,8,19 292:25 293:6,20 294:8 295:2,14,24 296:17 299:2,16 access 33:3 38:12 59:15 146:8 150:9 150:11,22 196:24 213:16 214:2,10,14 214:16,18 219:10 219:15,21 220:3,21 247:7,8 accessibility 198:10 accessible 59:23 198:15 accurate 84:13,17
	6	9	
	6 318:5,7,9 6005 1:7 6527 271:23 667-82153 4:14 69 37:2,4,8 59:22 68:13 102:24 324:13 325:11 6:05 298:10,13 6:06 298:15,20 6:25 128:22 6:30 86:25 87:4,10 87:21 101:12 102:8 104:10,18 105:2 251:13 252:10 324:8 6:31 324:15 6th 318:6	9 139:23 154:23 9.13. 77:5 9.27 70:15,17 77:5 9.39 70:11,25 71:18 72:12 73:9,14 74:4 74:10 75:21 77:5,11 78:14 79:8,11,25 81:12,18 83:4,12,15 93:6,15,22 94:2 96:20 97:2,21 99:7 101:6,15 102:11 103:24 104:9,17,25 105:11,15,17,18 106:3 107:12,19,22 108:7,16 158:5,9 165:19,22 216:21 222:8 238:15 239:17 301:14 9.39. 70:16 79:20 105:21 108:21 236:22 912370 1:11 93 13:21 308:4 309:4 94 308:6 95 17:23 308:2 97 11:23 9:00 139:7 9:30 278:14 281:15	
	7	a	
	7 116:16 325:5 70 232:16,18,21 234:4 238:13 240:7 325:12 71 7:24 233:24 250:7 325:13 72 252:24 325:14 73 325:16 74 253:21 325:17 75 233:25 325:18 78 12:23 79 12:23	a.m. 2:8 69:15,19,20 85:9 87:21 101:12 121:20,25 122:25 127:2,8 139:7,23 154:24 221:5	
	8		
	8 69:20 251:13 80 156:10,15,17 81st 211:24 829 3:8		
4			
4 69:20 114:8 157:6 4/10 240:9 4/95 325:18 42nd 4:11 444 4:5 48 70:22 98:14 230:12,15 245:8 4:34 233:15,19 4:49 233:21			

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[act - aldana]

Page 3

act 57:7 58:5,8,11 58:14,18,20,24 59:2 220:6	287:5 301:14 302:18 317:15 323:19 325:12	adopted 168:13	168:23 169:2 170:5 174:9,12 191:18 193:2,10,13 203:7 207:14 230:3 231:6 290:24 291:3
acting 18:23 19:3,9 19:13,19,22 88:10 93:7,17,23 94:17 149:21 172:7 241:18 247:5 268:6	admit 71:19 72:13 74:7 79:17 80:2 81:15,21,24,25 82:6 97:3 101:5,14 102:10 103:23 104:8,24 106:2,7 108:8,16 119:10,11 119:13,16 145:16 145:24 150:14 151:13 210:18,22 211:13 214:23 215:12 231:25 236:21 237:22 238:16 243:4 246:24 249:11,15 263:3 277:9,13,18 283:10 285:10 286:9 322:19	adrian 1:5 29:12,20 37:11 140:19 224:16 316:2,12 317:3 327:3	agreeing 167:21 193:25
action 2:12 92:22 326:14	admitted 39:17 70:21 71:6 72:19 74:9 80:11 81:9 104:15 105:7,9,10 105:14,19 107:11 107:18,25 127:3 146:4 150:21 151:8 158:21 159:4,10 167:7 189:7 199:15 211:6,16 212:20,21 214:3 215:22 216:3 219:18 231:18 241:7 247:11,13,14 249:16,20 254:6,11 265:4 266:12,14 267:5 275:11,14,23 282:11 284:5 303:14 309:6 318:17	advise 175:10	agreement 52:11 135:23 193:11 292:22 293:10,13
acute 129:5	admission 64:25 69:25 70:12,15,19 71:3 73:15 80:5 103:23 104:2,6,12 107:13,20 112:12 112:24 142:20,22 143:16 146:11 149:9,12,15,18 158:9 159:17 160:7 201:23 202:3 209:9 211:18 216:21 217:9 221:2,20 222:8 223:11 224:5 224:19 225:20 228:15 229:7 230:7 230:9 233:3 234:10 237:18 245:2,8 276:8 277:5,25 278:25 280:12 281:22 283:15,19	affairs 174:8 202:13 202:17 276:15 277:8 279:25 280:14,17,23 282:5 282:8,16 283:6 287:12 289:7,11,13 289:16,20,22 290:6 291:23	ahead 21:22 66:17 97:17 126:15 130:13 164:9 264:12
add 236:16	admission 228:9,11	affect 218:15 319:3	al 327:4
added 236:3,15	administrative 20:18,19 21:12,19 23:6,8,14 235:12,24	afternoon 158:18 189:6 209:6 277:2	aldana 1:23 2:11 5:5 7:5,7,20 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1 46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1
addition 8:16 23:13 24:2	administrators 21:8	aged 133:19	
adjacent 113:23	admission 69:25 70:12,15,19 71:3 73:15 80:5 103:23 104:2,6,12 107:13,20 112:12 112:24 142:20,22 143:16 146:11 149:9,12,15,18 158:9 159:17 160:7 201:23 202:3 209:9 211:18 216:21 217:9 221:2,20 222:8 223:11 224:5 224:19 225:20 228:15 229:7 230:7 230:9 233:3 234:10 237:18 245:2,8 276:8 277:5,25 278:25 280:12 281:22 283:15,19	aggressive 61:11 100:2 118:13	
adjustment 318:21 318:23	admission 69:25 70:12,15,19 71:3 73:15 80:5 103:23 104:2,6,12 107:13,20 112:12 112:24 142:20,22 143:16 146:11 149:9,12,15,18 158:9 159:17 160:7 201:23 202:3 209:9 211:18 216:21 217:9 221:2,20 222:8 223:11 224:5 224:19 225:20 228:15 229:7 230:7 230:9 233:3 234:10 237:18 245:2,8 276:8 277:5,25 278:25 280:12 281:22 283:15,19	agitated 29:3 61:11 63:11 77:25 91:23 92:4 94:3 95:16 116:16,17,20,22,25 132:17 149:21 150:20 168:25 169:3,4 197:12 198:21 199:25 205:6 206:23 207:5 241:19 319:5	
administration 228:9,11	admission 69:25 70:12,15,19 71:3 73:15 80:5 103:23 104:2,6,12 107:13,20 112:12 112:24 142:20,22 143:16 146:11 149:9,12,15,18 158:9 159:17 160:7 201:23 202:3 209:9 211:18 216:21 217:9 221:2,20 222:8 223:11 224:5 224:19 225:20 228:15 229:7 230:7 230:9 233:3 234:10 237:18 245:2,8 276:8 277:5,25 278:25 280:12 281:22 283:15,19	agitation 91:25 100:2 116:15 132:8 199:20	
administrative 20:18,19 21:12,19 23:6,8,14 235:12,24	admission 69:25 70:12,15,19 71:3 73:15 80:5 103:23 104:2,6,12 107:13,20 112:12 112:24 142:20,22 143:16 146:11 149:9,12,15,18 158:9 159:17 160:7 201:23 202:3 209:9 211:18 216:21 217:9 221:2,20 222:8 223:11 224:5 224:19 225:20 228:15 229:7 230:7 230:9 233:3 234:10 237:18 245:2,8 276:8 277:5,25 278:25 280:12 281:22 283:15,19	ago 162:16	
administrators 21:8	admission 69:25 70:12,15,19 71:3 73:15 80:5 103:23 104:2,6,12 107:13,20 112:12 112:24 142:20,22 143:16 146:11 149:9,12,15,18 158:9 159:17 160:7 201:23 202:3 209:9 211:18 216:21 217:9 221:2,20 222:8 223:11 224:5 224:19 225:20 228:15 229:7 230:7 230:9 233:3 234:10 237:18 245:2,8 276:8 277:5,25 278:25 280:12 281:22 283:15,19	agree 149:10 151:14 162:3 168:5,24 191:7 194:3 205:15 210:21 211:12 251:11,18 292:11 292:13 293:25 294:12,13,16 295:21 299:12,13 313:7	
admission 64:25 69:25 70:12,15,19 71:3 73:15 80:5 103:23 104:2,6,12 107:13,20 112:12 112:24 142:20,22 143:16 146:11 149:9,12,15,18 158:9 159:17 160:7 201:23 202:3 209:9 211:18 216:21 217:9 221:2,20 222:8 223:11 224:5 224:19 225:20 228:15 229:7 230:7 230:9 233:3 234:10 237:18 245:2,8 276:8 277:5,25 278:25 280:12 281:22 283:15,19	admission 69:23 73:8 150:7 202:20 215:7,8 230:4 301:12	agreed 6:3,9,13 167:16,23 168:2,21	

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[aldana - arrived]

Page 4

116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1	251:1 252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1 260:1,24 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1 269:1 270:1 271:1 272:1 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1 281:1 282:1 283:1 284:1 285:1 286:1 287:1 288:1 289:1 290:1 291:1 292:1 293:1 294:1 295:1 296:1 297:1 298:1 299:1 300:1 301:1 302:1 303:1 304:1 305:1 306:1 307:1 308:1 309:1 310:1 311:1 312:1 313:1 314:1 315:1 316:1 317:1 318:1 319:1 320:1 321:1 322:1 323:1 324:1 324:16 327:5,20 alleged 241:3 allowed 94:15 176:22 221:23 261:13 allowing 223:3 american 11:20 annually 270:22,23 answer 8:13,19,19 8:24 9:11 15:16,19 26:3 28:6 29:24 30:14 74:17,18 93:20 103:16,17 105:25 106:22 124:18 126:13 135:2 161:2 164:16 169:15,17,18,23 170:3 175:15 177:3 187:19,20 189:13 193:24 215:16	225:16 230:24 231:2,3 241:22 242:20 243:14 244:10 245:21 265:18 272:2,16 274:9 277:23 278:4 279:6,19 280:5,7,8 281:5,9,11 285:24 286:14,16,18,20,23 286:24 287:3 288:20 289:18 293:12 294:23 297:12,14,21 298:2 298:4,6 299:8,24 300:12,17 301:2 303:5 312:7 314:14 answered 27:15 106:8,19,20 151:5 168:12 189:22,25 230:22 234:22 244:5,6,9 268:8 285:15,17 286:12 295:18 315:24 323:11 answering 179:13 180:5 answers 46:21 47:6 84:6 114:20,23 anticipate 9:7 anticipation 32:19 34:8 35:17 antipsychotic 203:10,11 268:20 anxiety 319:10 anybody 28:8 35:23 36:3,6,10,13,14,17 86:14 96:5 103:22 104:7,24 106:7 139:3 202:12,16 207:2 250:3 260:14 316:24 anybody's 224:13 224:17 anymore 278:15	anyway 164:2 265:16 apartment 93:4 170:11 171:10 apparatus 131:3 appear 194:18 appearance 48:2 115:12 appearances 3:2,23 4:2,22 5:2 appears 171:5 225:24 236:10 applied 61:8,15 62:9 apply 73:15 214:2 254:14 appreciate 234:18 appropriate 8:19 63:23 225:16 241:5 appropriately 8:24 approval 275:12,22 275:25 276:4,8 approved 319:20 approximately 19:9 approximation 72:9 april 236:7,11 area 13:2 152:2 173:8,11 arguing 178:20 arm 117:16 133:3 173:11,12 arms 117:18,21 152:21,22 153:3 army 248:8 arrest 28:22,23,25 arrival 160:10 161:9 161:11,20,23,25 163:16,17 166:3,5 226:5,25 227:10,14 arrive 166:9,23 226:17 227:6 arrived 34:5 127:3 161:8 162:20 165:17,20 166:13 166:17 170:15 227:2
---	---	--	---

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[arriving - behalf]

Page 5

arriving 226:21 ascertain 41:4 219:15 273:9 asked 33:15 48:20 54:8,9,10,12 91:6 103:10 122:18 139:16 148:5 149:3 164:6 168:12 182:10 183:18 187:11 189:22,25 226:25 227:15 230:22 231:4 240:10,16 244:4,8 252:6 265:22 266:18 268:8 285:17 286:12,14 asking 8:5 25:8 46:13 47:5 49:11 54:19 84:7 85:22,23 103:12,16 111:19 145:21 146:24 147:3 163:24,25 168:14 175:16 176:18 180:12 182:9 185:16 188:20 201:8,21 235:22 240:21 242:25 243:3,19,23 248:23 256:6 258:2 261:4 264:7,8 269:16,18 272:20 272:22 286:3 288:19,21 294:5 295:8 297:8 300:23 308:13 314:24 aspect 20:22 173:11 173:12 aspects 146:3 aspirating 134:9 assaulted 117:15 assess 39:16 59:4 65:5,5 76:4 91:11 115:3 119:11 289:23 295:25	assessed 42:18,21 76:5 295:19,20 assessing 48:2,3 289:25 305:23 assessment 47:25 59:12 62:21 65:13 75:10 76:22 80:13 80:15 86:15 119:9 119:13,14,15 121:8 122:24 139:6,17,25 140:2,21 141:10,13 142:12 144:15 146:10,14,22 147:5 147:10,12 153:14 153:22 154:4,13,17 155:13,24 169:10 193:20 263:14,21 264:18 294:16 295:21 305:16,17 assigned 157:12 225:9 assistant 1:10 associate 207:13,18 207:19,24 209:7 210:21 211:2 228:19,23,25 235:3 269:17 270:4 association 24:10 assume 8:13 180:7 255:11 256:12 259:3 assuming 261:15 274:5 assumption 264:7 assure 297:16 attach 125:2 attempt 89:12 243:7 244:3,13 attempted 101:5,14 102:10 108:7 attempts 113:10,11 113:16 242:4,6,10 attend 20:19 attending 15:2,3 16:17,23 17:6 18:6	18:10,11,14,17,25 21:25 22:5 96:11 282:14 319:16,20 320:3,19 321:19,23 322:4,21,25 323:7 323:14,14,16,18 324:4 attendings 25:21 319:22 attention 157:22 159:2 239:12 attitude 115:13 attorney 3:4,7 8:6 288:10 324:11 attorneys 3:11,16 4:4,10,17 5:4 325:19 auditory 119:8 authority 321:15 authorization 276:6 available 60:7 190:14 avenue 4:5,18 7:24 average 22:25 aware 24:12 25:14 35:13 49:12 78:13 79:9,10 86:17 99:6 122:8 123:3 153:9 174:10 175:20 214:19 262:22 263:2 314:9 axis 100:8,11,13,14 100:15,16 ayers 2:14 326:4,22 b b 7:15,22 143:18,18 302:8 325:9 bachelor's 10:25 11:4,9 back 26:20 44:2 72:6 83:7 85:13 88:22 113:24 126:22 130:6 138:24 152:21	153:2 164:4 165:14 174:14 188:17 190:24 195:19 210:4 216:7 225:21 235:20 236:14 241:16 259:14,17 261:8 264:13 268:12 269:13 297:21 298:2,5,19 309:20 badgering 256:15 ballek 302:6 304:18 bandages 61:24 bar 116:13 bare 81:6 barricade 149:20 barricaded 93:2 95:19 197:11 198:20 247:4 267:24 290:12 291:3 barricading 199:20 200:2 262:11 base 44:14 243:24 based 77:10 105:3 147:8 149:17 152:8 243:21,23 270:4 271:19,22 272:12 272:14 276:16,21 basic 8:7 151:5 basically 72:18 178:15 basing 246:5,6 basis 196:15 212:4 213:4 290:18 311:23 bathroom 131:6 bauza 5:11 becoming 205:10 bed 68:2 117:13 beds 68:5 190:14 beginning 117:12 246:6 behalf 108:15
--	---	---	--

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

<p>behaving 77:25 92:2 92:21 94:22 95:15 134:20 198:25 218:10,10 behavior 78:19 90:2 100:3 132:8 172:23 199:2 244:18 288:8 behavioral 154:17 behaviors 171:19,23 belief 52:9,10,18,19 135:21 believe 90:24 91:7 115:17 141:4 171:19,24 193:4 234:4 241:14 254:19 290:7 317:10 318:9 319:24 believed 144:21 196:4 bell 4:10 belong 129:20 228:17 belonging 182:2,21 183:6 belongings 182:14 183:7 belongs 183:19 223:15 bending 117:15 benefit 84:3,8,9,10 217:13,17,20,23,25 283:18,21 benefits 204:24 bernier 1:23 2:11 5:5 7:6,7,20 8:1 9:1 10:1 11:1 12:1 13:1 14:1 15:1 16:1 17:1 18:1 19:1 20:1 21:1 22:1 23:1 24:1 25:1 26:1 27:1 28:1 29:1 30:1 31:1 32:1 33:1 34:1 35:1 36:1 37:1 38:1 39:1 40:1 41:1 42:1 43:1 44:1 45:1</p>	<p>46:1 47:1 48:1 49:1 50:1 51:1 52:1 53:1 54:1 55:1 56:1 57:1 58:1 59:1 60:1 61:1 62:1 63:1 64:1 65:1 66:1 67:1 68:1 69:1 70:1 71:1 72:1 73:1 74:1 75:1 76:1 77:1 78:1 79:1 80:1 81:1 82:1 83:1 84:1 85:1 86:1 87:1 88:1 89:1 90:1 91:1 92:1 93:1 94:1 95:1 96:1 97:1 98:1 99:1 100:1 101:1 102:1 103:1 104:1 105:1 106:1 107:1 108:1 109:1 110:1 111:1 112:1 113:1 114:1 115:1 116:1 117:1 118:1 119:1 120:1 121:1 122:1 123:1 124:1 125:1 126:1 127:1 128:1 129:1 130:1 131:1 132:1 133:1 134:1 135:1 136:1 137:1 138:1 139:1 140:1 141:1 142:1 143:1 144:1 145:1 146:1 147:1 148:1 149:1 150:1 151:1 152:1 153:1 154:1 155:1 156:1 157:1 158:1 159:1 160:1 161:1 162:1 163:1 164:1 165:1 166:1 167:1 168:1 169:1 170:1 171:1 172:1 173:1 174:1 175:1 176:1 177:1 178:1 179:1 180:1 181:1 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1</p>	<p>194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1 202:1 203:1 204:1 205:1 206:1 207:1 208:1 209:1 210:1 211:1 212:1 213:1 214:1 215:1 216:1 217:1 218:1 219:1 220:1 221:1 222:1 223:1 224:1 225:1 226:1 227:1 228:1 229:1 230:1 231:1 232:1 233:1 234:1 235:1 236:1 237:1 238:1 239:1 240:1 241:1 242:1 243:1 244:1 245:1 246:1 247:1 248:1 249:1 250:1 251:1 252:1 253:1 254:1 255:1 256:1 257:1 258:1 259:1 260:1,24 261:1 262:1 263:1 264:1 265:1 266:1 267:1 268:1 269:1 270:1 271:1 272:1 273:1 274:1 275:1 276:1 277:1 278:1 279:1 280:1 281:1 282:1 283:1 284:1 285:1 286:1 287:1 288:1 289:1 290:1 291:1 292:1 293:1 294:1 295:1 296:1 297:1 298:1 299:1 300:1 301:1 302:1 303:1 304:1 305:1 306:1 307:1 308:1 309:1 310:1 311:1 312:1 313:1 314:1 315:1 316:1 317:1 318:1 319:1 320:1 321:1 322:1 323:1 324:1 324:16 325:5 327:5</p>	<p>327:20 best 27:22 better 70:23 148:22 big 133:10 291:25 bill 10:10 273:22 275:4 billed 274:22 billing 135:16,17 273:21,25 274:17 274:25 275:3 bipolar 268:23 bit 122:9 156:20 bizarre 77:25 78:19 88:10 92:2,21,23 93:8,12,17,23 94:18 94:23 95:15 132:7 132:18 134:20 149:21 150:20 172:7 197:12 241:18 247:5 268:6 black 151:25 152:16 153:2 block 226:13 blocking 308:12 blood 130:22 132:24 132:25 133:3 134:5 134:9 138:4 156:7 156:13,14,15 309:23,25 311:14 314:4 315:8 326:14 bodies 184:18 body 152:8 182:14 born 10:21 borough 1:10 bottom 136:14 153:16 158:11 216:22 bounds 193:7 292:25 box 113:16 152:4 226:4 brady 5:4 brain 133:12 134:25 break 85:2,4 93:3 139:3 233:14,16</p>
---	--	--	---

242:12 269:2 brennan 5:4 brian 4:20 briefly 130:10 bring 28:12 29:2 125:4 158:25 212:4 212:6 213:3 214:22 297:21 298:2,5 bringing 28:15 brings 28:18 209:15 broad 100:5 broadway 2:6 3:4 7:10 brooklyn 1:10 15:9 brought 26:12,22 27:6,13 28:4,9 29:5 62:19 63:2 64:9 65:17 143:19,22 170:9 181:6 197:10 197:13 200:13 202:25 209:22 210:12 213:12,19 214:18 215:11 241:17 247:5 bruce 315:12 bruise 173:10,12 bruises 117:17,17 117:21 bsn 10:16 bunch 311:3 bureau 202:13,17 282:5 business 37:21,24 38:5	37:6 41:23 50:22,25 54:17 57:3 60:2,13 64:5 66:12 69:9,12 70:6 72:25 74:2,5 74:14,17,19 76:2 77:14 84:5 91:19 92:6,10,13 93:9 94:7,19 97:8,10,15 98:9,17 99:10 101:7 101:19 102:13,19 102:25 103:5,14 104:20 106:8,11,17 106:23 107:4,9 108:18 109:8,22 118:22 120:2,11,15 120:18 124:11,17 124:22 125:4,10,15 126:4,14 130:2,5 137:7 139:10 146:23 148:18 150:17 151:9 157:23 160:23 161:3,13 163:14,22 164:5,11,17 165:7 168:7,12,15,19 169:14,21 170:2 175:14 176:20 177:5,12,15,18,24 178:7,10,14,21 179:7,15 180:9,15 182:6,17 185:14,21 186:14,23,25 188:15 189:13,22 189:24 193:22 196:8 197:7 201:2,8 201:19 202:4 204:7 204:11 210:24 213:17 215:6 218:18 219:23 221:23 228:21 229:14 230:21 233:2,5,8,11 236:4 238:18,25 239:5 240:8,12,17 242:8 242:14,17,21 244:4	244:8 245:13 246:14 251:16,19 252:15,23 253:17 255:18,22,25 256:6 257:21,24 260:19 260:23 261:4 262:15 263:6,17,22 264:4,22,24 266:10 266:18 267:11,14 268:8 269:6 270:10 271:21,24 272:7 273:15 274:3,7,11 276:18 277:11 278:19 279:4,8,12 279:16 280:3 281:10 284:8,12,18 284:20,24 285:2,13 285:17,23 286:24 287:14,20 288:3,9 288:22 289:3,8 293:4,11 294:24 295:5 296:20,23 297:4,7,16,24 299:6 300:7 301:2,21 304:6,12,20 307:24 308:13,19 312:13 312:22 316:3 323:11 called 87:24 88:9 113:9 130:12 158:8 207:17 230:13 279:24 280:13,17 280:23 281:13 calling 297:2 calls 75:9 88:2 175:24 calm 118:12 129:4 168:6,22 169:2 170:5 205:14 camera 288:13 capacity 1:10,11,13 1:14,15,16,17,18,20 1:23,23 2:2 50:5 68:2 301:6 302:10	captain 1:13 261:25 262:14,22,22,23 263:5 264:19 265:5 266:5,22 267:2,8,13 267:18,20 car 251:25 card 278:17 279:2,5 279:13,14,22,23 280:10,11,24 cards 280:15,19,21 281:2,6,8 284:13 care 30:6,16 36:7,10 36:15,19 38:24 39:2 39:7 44:4 67:21 80:8,25 81:13 201:7 201:16 232:5 241:4 241:12 258:18 283:8 297:23 298:3 298:6,23 career 11:10,22 12:10 13:11,20 14:16 26:21 27:5,11 71:22 careful 239:12 carefully 264:10 cares 178:17 302:14 carry 118:19 119:5 carrying 184:16 carter 3:15 case 63:8 141:25 147:21,22 149:7,19 150:4 178:15 207:14 208:11,13 208:25 211:3 212:13 214:6,6 229:23 230:17 255:5 301:20,23 302:2 303:8,9 304:11 307:21 327:3 cat 133:7,8,17 134:24 138:3,5 categories 99:23 100:9 272:19 311:4
c			
call 29:4 62:14 78:4 82:12,14,18,21,21 107:2,9 125:22 175:23 176:2,2 178:19 207:12 208:10 209:8 222:24 308:12 callan 5:4,7 7:5 26:4 29:22 30:12 35:3			

[category - complains]

Page 8

category 100:5 157:11,15,18 272:25 caughey 1:17 cause 94:17 caused 132:8 248:14 causes 133:13,13 causing 117:17 123:25 124:15 126:9 cautious 197:2 303:19,22 304:3 cavity 184:14 cbc 132:24 134:7 cell 181:23 center 1:22,24 4:11 109:25 120:21 certain 81:10,17 102:6 249:17,21 certainty 156:12 certification 6:6 326:2 certify 326:6,12 chairman 207:13,18 207:19,25 208:2,3 209:7 210:21 211:3 228:19,22,24,25 229:2 235:2,3 267:5 287:16,18 chance 38:17 115:2 177:21 change 201:23 228:8 266:16,21,25 289:11,14 327:6 changed 18:7,8 236:2,8 265:2 266:3 266:7,15 287:11 changes 228:10 chaotic 205:11 characterize 59:6 236:19 characterizing 102:6 charge 320:20	chart 29:18 30:8,18 31:8 32:17 33:4,14 34:10,12 35:13 37:10 38:7 44:4,19 54:18 59:16,21 60:6 60:11 67:6 68:16 70:7 84:15,19 85:16 86:5 88:7 104:11 105:4 113:22 120:8 120:9 127:24 130:11,13 138:13 141:18 147:2 152:9 155:15 157:4 176:21,23 177:6,12 177:20 178:3,12 179:20 180:17 191:23 192:16,20 228:19 277:3 278:18,21 279:3,23 281:25 284:14 285:3 290:22 291:6 291:7,19 312:4 324:14 325:11 charts 42:13 60:20 chasing 52:16 check 62:18 183:20 221:5,7 270:7 checked 152:5 checking 48:13 166:18 chief 1:8,10 142:25 235:13 choose 14:7 178:22 church 3:17 circle 57:24 circled 151:25 152:20 circulation 61:18 circumstances 142:19,22 143:15 citizen 12:17,19,22 city 1:8 3:17 15:8,11 15:22 16:4,6,11 17:2,4,7 36:18 210:13 213:13,21	276:15 316:25 327:4 civil 2:17 claim 312:22 claims 301:11 302:13 clarification 69:14 clarify 25:2 35:6 66:16,17 69:10 163:15 183:14 211:4 clear 8:9 79:3 122:17 152:3 162:8 164:12,16,19 180:12 182:12 192:22 259:16 287:9 297:6 clearance 104:14 cleared 76:7,16 301:18 303:9 304:9 313:22,25 314:4 clearly 221:21 clearwater 4:10 client 109:22 143:23 clinical 20:21 21:13 21:14,15,16,19,20 23:9,17,21 154:16 271:11,17 clinicals 20:21 close 297:18 clothes 180:22,23,24 181:2 183:5,11,16 183:24 184:15 187:11 249:23 cme 306:2,21,22 coach 124:24 125:19 cocounsel 177:18 code 135:13,15 cognitive 47:17 49:17,23 195:7 collaborate 290:3 collectively 1:21 college 10:16,24 combative 29:3	come 11:18 52:21 61:13 65:8 75:15 76:21 77:7 78:4 121:3 126:3 130:8 132:10,17 140:11 148:15 179:14 182:18 200:11 204:13 211:22,23 216:10 227:10 249:24 250:3 257:11 259:24 270:10 275:10 276:16 277:8,19,24 306:6 310:18 313:8 313:12 comes 30:17 47:12 52:15 55:7 63:15 131:18,21 140:7 142:2 180:20 209:18 220:2 247:4 265:16 306:4,5 313:16 coming 30:21 32:15 32:19 33:24 35:17 88:15 282:9 284:3 312:5 313:19 commission 327:25 commit 58:5,7,11,17 58:20,23 59:2 70:11 committed 302:17 303:13 committee 251:9 committing 302:22 303:16 communication 253:3 community 63:12 236:25 237:2 238:8 249:8 company 274:21,23 compared 23:17 complaining 173:7 309:10 complains 126:16
---	--	---	--

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[complaint - correct]

Page 9

complaint 33:20 142:25 145:13	219:2	continuing 127:13 305:10,14	87:22 91:15,16 92:9 92:12 94:9,11,18,21
complaints 143:7,9	confusion 35:5	contraband 184:12	96:5 99:14 100:6,21
complete 11:6 14:12 41:9,11 243:11 292:9,20 293:2,7,21 294:9	consent 204:22	control 154:19	100:22 101:3,6,16
completed 11:8 12:7 232:10,12	consequences 204:23	contusion 151:17 152:4	112:15 113:2,7,17 113:18,20,21 114:3
completely 125:21 184:19	consider 95:20 200:5,7 293:13	contusions 152:8,13 152:15 153:2	114:4,21,22,25 115:5,7,8,10,11
complied 79:13	consideration 197:15 198:24	conversation 8:17 52:24 53:6 126:23 208:17,23 316:9,11 316:17	116:4,6,8,9,10,11,20 116:21,25 117:2 121:25 127:8 128:19,20 130:7
comply 81:11,18 83:3,12 99:6 108:7 253:24	considered 81:2,8 193:14,16 271:5	conversations 315:15,20,25	131:17 132:2,21 134:22,25 135:7 136:11,18,23
complying 68:17 74:4 139:9 216:17	considering 146:25 170:13	cooperative 115:13 115:18,20,21 118:15 129:5 304:22	141:11 144:11,16 144:22 147:15 148:17 152:5,9,13 152:16,18,22
computer 274:13	conspiracy 52:17 136:2 172:15 195:25 196:7,10,14 196:23 199:24	cooperativeness 271:12	153:11,12,20,21 154:4,5,9,13,14,18 154:21,25 155:2 157:2 159:11,14,15 159:17 160:19
conative 47:18 48:11 49:5	constricting 61:25	copies 223:21 224:4 233:14	162:10,21,25 163:5 163:9 167:6,24 168:3,4 169:10 170:15,16 171:6,7 171:15,16,21,25 172:2,4,5,7,8,12,20 173:25 184:22 187:24 189:6 191:19 192:2,5,7,10 192:11,13,17,18,20 192:21,25 193:2 194:14,16,17,20,23 195:8 196:16 199:6 199:19,21 203:22 205:23 206:4,11,17 206:21 207:4,8 212:15 215:4 216:11 222:4 229:24 230:11,16 238:4 244:24 247:17 249:4,5,8,9
concentrate 12:25	consult 31:17,19,20 31:24 32:2,2,6,7,8 34:22 77:23,24 88:3 88:9 117:8,10 123:12,15 207:11 211:7	cops 198:2	
concern 67:3 213:24 313:18	consultation 87:24	copy 38:15,16 179:19 222:13 223:23 233:5 271:7	
concerned 245:9,16	consulted 211:2,12	corporation 3:16	
concerning 180:19	consulting 95:23	correct 10:5 16:12 30:5,19 33:24 34:6 37:22,23 38:5 40:16 41:18 43:8,12,15,19 43:20,23,24 44:5,6 44:9,10,13,16,17,20 44:23 48:9,21,24 49:17,18,20,21,24 49:25 50:17 52:2 53:6,9,12,15 56:9 56:10,15,16,19,20 56:22,23 57:16,21 58:15,20,21 59:2,3 59:13,14,25 63:17 65:16,21,24 66:9 67:4 68:7,10,11 72:15 73:10 74:12 77:9 79:11 87:15,18	
concerns 213:14 214:13	contact 222:21		
concordia 10:15,23	contacted 306:12		
concur 99:18	contained 30:8,18		
condition 152:3	container 131:5		
conduct 108:14 243:16 292:4 293:15	contains 179:4		
coney 16:20 17:2,6 17:10,16,18 26:9 40:15	contemplating 53:23		
confident 125:7 270:8	content 47:22		
confirm 230:15 245:8	context 171:4		
confirmed 230:10 322:25	continue 11:21 224:6		
confirming 232:13	continued 1:25 3:23 4:2,22 5:2 85:12 109:21 138:23 195:18 233:22 269:12 298:16 323:20		
conflict 100:20,24 100:25 218:23			

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[correct - denies]

Page 10

249:12,22,24 250:4 250:5 252:14 255:21,23 257:5,13 257:17 258:7 259:3 259:18 262:9,14 267:9 274:2 276:17 277:5,6,20 278:2,18 278:22 279:3 281:5 281:8,23 287:11 289:15 290:8,19,22 291:10,19,24 300:4 311:5,9 313:9,14,15 314:15 315:8 316:17 318:15 319:17,18,20,21 320:2,5,6,8,9,12,13 320:17,18,21,22 321:16,17,19,20,25 322:2,4,17,18,20,25 323:2,5,8,10,19 324:5,6 correctly 103:15,16 correspondence 253:4 counsel 3:16 6:4 35:4,9 37:9 60:14 102:23 110:4,5 125:9 130:6 137:13 165:8 168:8 176:16 176:17 177:8 179:15 180:10,13 180:18 185:18 221:21,25 251:19 252:20 260:19 264:12 267:16 285:18 295:6 counselor 164:7 182:11 count 15:23 132:25 county 14:19 15:5,6 16:18 26:9 40:11 304:21 couple 322:13 course 8:17 38:5 103:19 124:19,22	147:10 306:25 court 1:2 6:17 8:20 8:21 125:14,22 178:10 179:18 304:14,16,16,17,20 coworkers 196:5 cpep 236:24,24 237:7,12,14 238:5 crafting 234:15 create 41:21 created 37:20 251:4 251:9 255:20 256:2 256:10 creating 21:4 40:21 40:25 43:22 227:19 234:12 235:6 creation 39:19 235:9 credit 306:23 crisis 218:22 criticized 271:17 cross 220:25 226:7,9 226:12 ct 133:20 138:10 culture 52:12 135:23 currently 217:12 custody 155:18 custom 141:21 142:15 cut 124:25 cutting 169:16,22,24 d d 7:6,14,21 207:21 325:2 danger 61:9,10 63:11,21 64:16 80:5 80:6 81:2,8 83:24 93:19 95:13 143:24 144:5,22 197:2,6 198:8,13,15 204:19 205:4,5 217:11 220:3,19 241:15,20 243:17 246:23	283:23 305:15,17 305:18,24 dangerous 65:12,14 204:14 date 37:5 49:11 68:14,20 72:20 86:23 120:20 128:12 155:6 158:16,23 159:13 159:16 160:7 162:4 163:9 165:9,16 166:3,4,8,22 190:20 220:22 221:2,19 225:24,25 226:4,5 226:10,16,25 227:2 227:5,9,13 232:19 232:21 234:2 253:21 276:24 327:4 dated 120:6 127:24 139:7,17,23 158:14 dates 38:8 david 315:16 day 21:18 22:9,18 22:25 68:24 159:25 189:23 190:2,4 194:4 199:2 203:8 203:23 204:4 209:4 221:16 231:13 233:9 246:6 259:15 264:6 265:10 284:22 288:2,25 289:5 314:13 319:2 324:20 326:18 327:22 days 188:21,25 189:10,15,18 199:6 241:9 259:7,10,17 259:21,24 302:16 dc 3:8 dealing 240:5 deceiving 27:20 decide 110:22 146:3 decided 33:13 204:18 221:21	277:9 317:14 deciding 66:5 283:10 decision 39:16 50:5 62:7,12 78:15 80:10 107:24 108:3,6 145:16,19,24 146:17 150:14 151:2,15 170:6,7 199:13 200:6 208:19,20 221:16 221:18 230:3 231:4 231:17,25 246:23 267:4 277:13 283:13,14,16 284:3 285:10 286:9 287:2 287:4,16,19 289:12 318:19 321:18,25 322:22 323:17 decisions 65:20 303:20 319:19,23 319:24 deem 206:19 deemed 143:23 266:24 deems 75:12 defendant 3:16 4:4 4:10,17 5:4 defendants 1:21 2:4 2:11 defensive 303:20 define 265:9 degree 13:8 156:12 delusion 47:23 136:6 delusional 52:6,9,18 78:20 150:20 delusions 100:3 194:19,22,24 demonstrating 243:16 denied 89:10 95:25 128:6,14 129:11 denies 90:17,20 114:2 119:8 128:22
--	---	---	---

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

143:5,8 department 36:18 36:25 78:8 120:22 125:25 126:5 139:13,14,18 140:13 202:14,18 210:13 213:13,21 220:13 235:12,14 236:16 237:17,20 239:21 271:13 273:11,19,20 274:2 274:17 276:16 291:9 315:5 317:2 depending 29:4 131:23 132:3 depends 22:14 63:8 70:22 75:8 76:15 141:25 147:21 214:6 258:8 275:24 322:7 deposition 2:10 6:7 6:14 7:3,8 8:8 178:11,23 301:22 312:17 324:9 327:4 depressed 80:9,18 80:23,24 81:3,22 319:5 depression 268:23 319:9 deputy 1:8,11 describe 30:2 204:21 213:15 described 45:3 61:19 63:7 78:13 110:5 199:19 208:18 219:7 245:4 245:17 246:10,19 describing 64:2 description 152:12 325:10 designated 223:10 224:18 225:15 288:10 designed 224:4	desired 112:13 destruction 248:20 destructive 64:17 detail 53:8 details 10:4 41:18 57:12 detective 282:3 determine 45:7 132:6 269:19 289:19,21 determined 149:8 determining 63:5 devine 4:16 devoted 23:17 dhar 207:21,22,24 228:25 229:3,5,10 229:16,22 231:5 234:25 235:13 316:6,13 dhar's 230:20 231:5 diagnosed 195:22 diagnosing 100:10 diagnosis 99:23 132:6 135:7,18 136:11,18,22,22 137:2,4,12,23 290:19 310:19 318:24 diagnostics 130:12 130:15 diastolic 156:19 difference 19:18 different 47:16 136:5 168:16 214:7 237:20 306:14 319:6 differently 214:8 direct 272:15 320:7 directed 51:18 271:25 directly 140:12,25 director 18:18,20,23 18:24 19:3,11,12,14 19:14,19,20,23 20:5 20:10,13,17 21:2,12	23:19 192:9 227:19 227:23 228:2,7,12 234:20 235:14 disaster 150:5,6 197:18,23,25 198:2 248:8,19 discharge 41:15 110:24 303:21 315:6 321:15 322:17 discharged 113:5 149:23 219:14 220:9 248:21 267:6 302:15 318:20 321:22 discharging 303:25 disciplines 13:25 14:5 discovery 255:5,13 discuss 139:2 230:17 323:15 discussed 323:6,13 323:16 discussing 271:3 discussion 85:7 109:14 138:18 195:11 233:17 269:7 298:11,17 discussions 315:11 disingenuous 177:25 disorder 99:20,22 100:14,15 318:22 318:23 disorders 100:12,12 268:22 disorganized 51:19 disposition 110:20 111:9 disrespect 125:13 distinction 254:8 distress 129:6 district 1:2,3 divided 24:13	division 139:19 doctor 8:2 9:13,15 10:13 14:20,22 39:14 47:12 62:10 62:14,15,17 75:9,12 77:22 78:3 82:17,21 82:22 85:15 88:2 115:2 119:17 120:7 120:23 122:4 123:23 124:19 126:14 127:13 128:4 138:9 139:2,5 139:16,20,24 141:9 142:18 143:6 154:15 157:24 158:2 160:24 169:18 185:2 189:14,19 193:4 195:21 198:6 201:10 207:16 211:11 234:3 236:5 236:6 242:21 243:4 245:7 264:4 270:14 270:16 274:4,14,16 284:21 286:25 289:8 295:2,14 297:13 298:21 300:8 301:3 310:8,9 310:12,15,18 311:7 311:8 316:24 318:21 319:15 doctor's 99:18 doctors 24:10 70:10 82:18 149:9 321:8,9 document 37:3 179:3,11,18 180:3,7 232:17 234:12 235:16 238:24 239:2,18 242:24 251:9 253:5 255:13 255:20 256:9,19 268:11 269:20 270:2 294:18 298:22 299:4 325:18
---	--	--	--

[documentation - entry]

Page 12

documentation 290:20,21,24 291:12,14,15 299:12,13 documented 298:22 documents 30:22 32:21 35:17 233:23 251:4 275:3 doe 1:19,20,24 2:2 doing 16:3 21:18 23:17 42:19 125:16 176:25 253:17 257:7 287:25 dominican 12:13,15 12:18 door 90:8 93:3 doors 112:3,5,9,15 112:17,20 dosage 203:13,17 204:8 dose 203:18 double 270:7 downstairs 208:10 dozens 210:3 dr 1:22,23 2:10 4:17 7:4 87:12 88:24 96:10,11,12,17,19 96:24 97:20 98:12 98:13,21,25 99:4,5 99:16 110:10,14 111:8 113:7,24 115:9,19,25 116:19 116:23 117:3,5,19 118:8 123:16,17,18 136:7,10,15,17,21 137:4,15 167:22,22 194:5 200:21,24 201:3,5,12,14,21,24 201:25 202:7,8 207:21,22,24 208:4 228:17,18,25 229:2 229:3,5,10,16,22 230:19 231:5,5 234:25,25 235:13 235:13 260:24	316:6,11,13 324:16 327:5,20 drafting 21:4 dream 11:20 drew 133:3 drove 252:2 drugs 131:11,14 dsm 100:9 duly 7:16 326:8 duncan 1:16 duty 262:5 263:5 264:19 265:7 266:7 266:24 267:22 292:2,18,24 dyscontrol 154:17 e e 4:20 7:15,15,22,22 87:14 200:22 208:6 302:8 325:2,9 earlier 80:15 114:15 207:8 219:7 277:12 306:10 316:14,17 317:12,14 early 15:13 easier 150:10 eastern 1:3 11:13 easy 247:8 eating 81:4,7 ed 312:3,4 320:20 320:25 education 11:10,21 11:24 12:5,8,10 13:11,20 14:17 271:23 305:9,11,14 305:14 306:20,23 effect 6:16 220:17 240:19,24 250:14 effective 204:6 effects 204:23 effort 108:15 304:21 eight 15:25 22:11,19 23:21 24:15 25:8 68:25 69:18 252:10	eighteen 257:10 either 34:8 42:24 131:4 213:8 225:11 303:25 319:4,5,7 elective 14:7 elevated 156:20,21 156:22,25 157:2,3 elizabeth 13:13 else's 36:10,14 email 269:17 emergency 11:12 16:21,23,25 18:5,18 18:21 20:6,10,14,17 20:25 21:3,5,21 22:6 24:4,6,11 25:4 25:15 26:13,23 27:7 27:13 28:19 31:22 39:5 59:24 60:8,21 63:10 65:8 67:23 68:9 69:5 70:12,15 71:3 73:12,17,18,22 74:11,13 75:3 77:2 77:3,20 79:6,7 83:8 90:7 95:14 105:8,10 105:12,14 111:3 112:6,8,11,17,23 119:17,18 120:22 129:20 130:9 131:19,22 136:12 137:20,20 139:19 140:8,10,22 141:2,6 141:23 142:4,7 156:8 158:9 159:19 159:20 161:5,6,9 162:6,7,12 163:12 165:23,25 176:9 187:15 190:15 192:10 198:6,22 199:12 200:9 202:22,23 205:11 209:23 214:23 215:24 216:21 221:20 222:7 225:20 227:10 228:15 229:19,23	230:9 232:11 233:3 234:9,21 237:2 238:8 244:19 249:17 253:15,16 303:18 309:6 313:5 314:10 315:4 321:2 321:6,8,10,12,23 322:5,7 325:12 emotional 218:22 employed 9:17,24 15:4 17:24 24:3,17 24:21 25:13 employee 15:10,21 16:10,14 270:17 301:7 302:10 316:25 employees 1:24 employer 9:22 ems 291:12,13,17 encounter 26:11,14 26:22 encountered 27:6 27:12 28:15 68:8 endeavor 239:25 240:6 241:11 endeavored 240:22 ended 302:22 endocrine 14:8,9,10 ends 87:20 enjoying 261:17 ensured 98:14 entail 236:12 entails 47:16 entire 30:6 31:7,9 32:25 33:3 59:16 98:10 102:21 entirety 197:4 entitled 2:12 125:24 174:24 175:4 297:20 entries 38:7 entry 68:15 121:15 127:25 128:3 130:16 178:12
--	--	---	---

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[environment - felt]

Page 13

environment 135:22 218:16 episode 133:16,17 133:19 er 32:3,7,9,11,12 34:23,24 35:10,14 45:21 63:12 74:21 74:23,24,25 75:6,14 75:16,18,19,21 76:4 76:8,9,11,20,21 78:2,16,17 86:19 91:24 98:20 104:5,6 104:13,13,15 105:7 105:20,23,24 107:16,24 111:4,6 117:8,10 121:3,3,5 122:13 136:13 141:2,11 149:22 156:3 159:22,23 160:3,20 161:16 163:17 165:11 166:6,7,8,10,11 184:4,8 190:9,10,13 200:11 206:5,6,22 210:18,19 226:17 227:3,17,17 237:21 237:24,25 238:2 248:18,22 257:3,4,9 257:12 313:10,11 313:13,17,17,20 314:12,13 errata 327:2 escape 90:3,5,10 escaping 90:4 especially 43:10 133:18 esq 3:3,7,13,15,19 4:7,13,20 5:7 esqs 4:4 estimate 27:17,23 28:2 et 327:4 evaluate 39:10,11 43:13,15 46:5 141:24 257:12	285:6 290:6,10,13 294:15 evaluated 42:21 44:24 60:12,18 75:20 76:5 85:19,24 88:6 98:15 106:13 107:6 116:24 168:21 192:6 270:19 303:2,7 311:7 321:4,11 evaluates 117:5 evaluating 154:2 evaluation 41:16,18 42:8,9,25 45:25 75:10 79:7 86:21 88:12 108:19 115:19 117:23 137:25 141:16 144:25 145:5,8,11 146:6 147:14 158:20 167:5,11,14 167:16 212:7 270:18 271:6,16 272:6,12 292:5,9,11 292:13,20 293:3,8,9 293:21,25 294:2,9 294:12,14 295:4,16 296:18,24 299:3,5 299:19 300:4 310:19 311:9 314:3 evaluations 43:3 44:9,15 108:23 270:24 271:2,4,17 272:19 eventually 230:11 everybody 157:24 233:13 exact 273:16 exactly 159:24,25 180:14 exam 46:8,10 47:3,5 47:14,15 48:5 114:6 114:7 116:3 173:20 191:17 216:16 310:3,5	examination 7:18 41:20 42:4 45:22,22 46:4 48:8,18 49:6 49:16,23 50:8,24 51:22,23 52:5 53:19 59:11 80:16 86:15 114:14,17 117:25 173:18 190:18,23 191:15 192:25 193:6,20 287:25 310:10 316:23 319:14 322:15 325:3 examinations 42:12 42:24 43:3 44:12,15 examine 45:20 142:9 examined 7:17 118:11 186:22 187:12 310:8 examines 42:3 exams 308:8,14 excuse 164:25 202:15 288:16 310:25 316:15 exhibit 37:4,8 59:22 68:13 102:24 199:18 232:16,18 232:21 234:4 238:13 240:7 250:7 252:24 253:21 324:13 325:11,12 325:13,14,16,17,18 exhibited 172:20,24 exhibiting 95:2 171:18,23 174:4 199:16 exhibits 233:24 325:19 exist 142:8 286:17 286:22 existed 60:6 61:4 227:21 experience 303:3,5 303:16	expires 327:25 explanation 269:25 express 56:24 57:5 57:20 58:19,25 expressed 116:3 213:25 expresses 57:10 58:4,10 extending 261:18 externship 13:12
f			
f 315:13 face 117:16 facility 41:13 fact 34:4 40:20 43:25 150:12,19 159:8,10 192:20 197:9 255:11 274:12 278:16 factors 170:8 197:14 198:8 200:7 failure 312:23,23 fair 255:16 fairly 270:8 false 52:9,10,18 135:21 familiar 60:25 69:3 69:22 71:7,13 89:3 family 310:22 far 11:13 120:8 247:21 fashion 255:2 fast 198:3 father 222:22,25 223:4,6,8,10 252:12 fear 149:23 february 2:8 7:12 318:5 326:18 327:4 federal 2:16 276:3 304:16,19 feedback 21:10 feel 123:6,21 135:24 felt 287:6			

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

fictitious 1:20 2:2	fit 262:5 263:5	130:16 131:16	forms 83:15,17,18
field 295:9	264:19 265:7 266:6	134:18 136:11,15	83:20,23 96:25
fighters 153:7	266:24 267:22	136:23,25 137:9,11	97:13,13,14,16
file 3:19 4:14 5:7	five 27:19 31:10,11	139:6,17 140:17,21	98:11 113:24
40:22,24 41:4 97:19	102:14 259:12,18	141:14,15 142:16	226:24 229:6 275:2
filing 6:5	259:22,24,25 260:2	142:18,21 143:21	277:25
fill 82:23 83:5,11	276:25 278:13	146:20 147:13,19	forth 240:7 326:8
97:9 99:5 161:19	flanz 315:13	148:2,7,18,20	forward 130:10
189:20 190:4	flex 308:20,21,22	150:17 151:9,21,24	150:3 198:3
216:15 226:24	flip 158:3	153:15,17 154:8,16	found 19:24 248:9
229:5 274:20 275:2	floor 4:6,12 249:21	158:5,12,14 159:3	302:16
275:5	250:15 251:17	160:5,17 161:14,18	four 16:16 22:19,21
filled 97:21 140:20	252:9 313:8,9	161:24 163:11	24:14 25:9 61:14
158:5 179:4 191:22	florida 306:21,24	165:13,18,19 166:2	65:10 69:2,18 260:8
277:14,17	307:3,5,7,11,15	166:25 172:13,21	frame 265:20
final 146:13 322:21	308:15	175:13 179:3 182:5	frederick 1:15
financial 273:10,19	follow 239:25 240:6	182:6 183:13 184:2	free 75:5,14 89:15
273:20 274:2	240:23 241:11	185:22 188:10,14	89:20 111:14
find 19:21,23 22:23	258:8,11,12	189:3,20 190:4	112:25 175:24,25
91:25 127:15	followed 81:11	191:21,25 192:4	188:2 221:13 250:2
139:11 158:4 177:7	135:25 240:22	193:23 197:7,8	friday 259:25
178:19 198:24	following 99:25	199:8 201:20 202:5	fridays 260:2
218:9 219:14	323:20	203:19 212:10	front 102:16 103:11
273:17,23	follows 7:17	213:6,18 215:6,19	103:21 105:5 115:4
findings 49:20 51:11	force 6:16	216:16 218:18	120:3 121:15
52:2 192:24 193:6	forced 118:17	222:2,9,11 225:20	139:21 152:21
fine 97:16 101:24	forgot 299:17	226:3,25 227:15,19	153:2,25 154:11
finish 9:9,9 15:15,18	form 6:10 25:17	228:15 229:15	159:8 160:5 162:18
169:14,17,18 170:2	29:23 30:11 44:22	231:11 232:2,10	165:18 169:7,10
242:11	45:24 51:2 57:3	235:6,9,19 238:18	171:13,17 172:6,19
finished 11:11	59:22 60:2,3 64:4	238:19 239:8	172:24 176:18
finishing 22:14	64:13 66:11,12 69:8	240:25 242:18	177:2,10,14 192:13
first 7:16 18:3 33:16	73:2,24,25 74:15	245:12 249:13	192:16 217:2
59:16 67:22 68:7,15	75:24 77:13,14,16	252:17 262:15,16	221:22 234:3
70:13 85:16 86:13	79:16 82:24 83:6,11	262:18 263:3	276:13,17,21
108:2,5,12,14 110:6	83:16 84:5 87:25	265:24 275:5,7,8	278:21 284:22
117:3,9 123:3	88:3 91:2,19 92:10	277:5,14,17 281:22	full 68:2
127:25 130:16	93:9,10,18 94:8,19	284:7 285:12,13	fully 59:22 179:5
133:16,19 140:15	94:20 97:2,6,9,21	286:10,12 293:4	function 19:19
140:17 141:10,12	99:5,8,12,13 101:8	296:21 299:7 311:3	47:17,18 49:5 134:3
142:19,21 159:4	101:18 104:21,23	311:15,18 314:16	functioning 48:12
160:12 194:4 202:6	106:15,18 108:11	314:18 317:18	49:17,23 81:4,6
202:10 205:12	108:18 113:9 114:8	formal 305:13	100:17 195:8 319:4
216:18 226:6 308:4	114:9 116:5,12	formed 231:21	functions 20:16
309:8	119:22 121:8		23:18

[further - hard]

Page 15

further 6:9,13 76:21 76:22 78:24 91:9 105:22 112:11,24 115:22 127:14 316:20 319:11 322:15 324:7 326:12 future 43:2 248:18	206:15 224:24 236:20 global 100:16 go 10:14 21:22 22:11 31:9 38:22 39:6,9 45:10,18 48:11 61:16 62:17 65:4 66:16 76:3,13 76:14,17,17,20 77:12 83:7 89:6,15 89:20 97:17 112:25 118:17 126:14 130:6 131:5 133:10 133:21,23 134:21 135:19 138:9 142:4 142:24 147:11 151:16 164:8 165:14 174:11,14 174:21,25 175:4 176:23 184:8 187:24 188:2,4 190:24 206:2,13,16 218:2 219:19 223:21 225:21 232:8 235:20 241:16 242:13 257:16 258:5 264:12 273:10,18 273:25 275:3 284:25 297:22 299:11 307:24 309:20 316:6 goal 51:18 god's 274:10 goes 105:13 187:17 222:13 318:25 goff 1:14 going 8:13 9:8 15:16 31:13 51:19 56:13 57:6 58:7,11,13,17 58:19,25 62:16 64:17 65:19 70:20 79:2 85:5 86:11 94:24 95:9,12,24 96:2,3 115:22 117:3	120:10 126:22 135:22 138:16,24 145:15 151:13 152:11 163:19,20 164:21 174:11 178:13 180:6 185:10 190:5 201:23 205:17 207:2 216:14 217:8 218:16,22,23 236:14 242:12,13 243:18,22 248:10 249:11 252:21 261:5 267:3 268:25 269:4 288:6,18,19 288:20 289:14 295:12 297:13,17 309:22,24 321:21 good 8:2 41:25 42:6 49:14 50:19 51:6,20 53:4,25 54:24 55:18 55:23 56:5,17 57:14 59:8 64:7 94:14 123:23 124:9,13 126:7 193:7,17 289:17 292:3,8,18 292:25 293:6,19 294:7 295:2,14,23 296:16 298:25 299:16 gotten 46:12 151:4 government 276:3 gown 181:4,12 182:22 184:5 graduate 13:5 greg 4:13 groups 218:6 guard 186:21 guarded 118:14 guest 107:10 gun 150:11 guns 118:19 119:5 150:9,10,23 214:16 guy 255:6	h h 207:21 325:9 habit 141:21 142:15 half 199:6 hallucinating 195:4 hallucination 47:23 hallucinations 100:3 116:10 119:9 195:3 hand 62:2 176:10,12 227:18 234:11 235:5 326:18 handcuff 66:7 122:7 122:19 123:25 124:14 126:8 handcuffed 64:19 185:9 handcuffs 28:4,10 28:13,16,20 29:6 62:20 63:4,9,16 64:9,10,14,22 65:2 65:9,18 66:8,13 124:23 125:18 153:11 181:6 handed 180:4 handing 69:9 119:23 177:19 261:10 handle 78:17 handled 78:21 handwriting 34:13 34:15,18 88:19,25 217:6 228:16 happen 149:25 happened 43:19 102:15 170:11 177:8 190:13 198:5 204:16 230:2 248:11 282:15 303:9 317:20 happening 150:6 hard 72:21 164:17 214:25 215:15 271:8
g			
games 284:17 286:19 gastric 314:7 gastrointestinal 314:20 general 13:13 139:12 294:12 296:7 generally 38:23 209:8 226:20 272:9 272:11,19,23,25 275:14,17 301:10 generation 268:19 gentleman 29:12 gerald 1:10 getting 47:6 148:16 204:3 264:6 270:15 297:18 give 19:8 21:9,17 27:17,22 50:6 71:24 87:6 130:20 131:4 132:20,23 164:15 175:21 176:3,7 180:22,24 183:10 183:19 205:21,23 206:24 231:2 270:3 given 16:8 21:24 114:20 131:3 183:10 206:7 222:14 223:23 225:3,5 291:5,7 306:25 309:16 311:12 326:10 giving 50:5 72:4 169:23 180:13			

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[harder - hundreds]

Page 16

harder 289:3	89:9 113:13,14,17	17:20,21 18:4,9,15	240:2 241:5,18
harm 95:9,24	113:19 132:18	18:17,25 20:7 21:5	246:7 250:15,20
196:20 241:7 242:2	171:9 190:25 191:4	23:3 24:22 25:14	251:5,23 253:25
243:6,25	191:5,11 208:14	26:9,10,11 28:16	255:19,21 256:2,10
harmed 248:21	212:15 262:10	30:8,9,18,19 31:4,8	257:23 258:24
head 8:18 9:3 133:7	310:13,16,20,22,22	33:3,12 35:24 36:4	259:11,22 261:16
133:8,18 196:11	310:22	36:7,14 37:9,10,11	263:4,24 264:5,10
254:23 255:11	hit 255:12	37:19,21,25 38:4	265:5 270:17 273:6
heads 148:21	hitting 15:16	39:20,23,25 40:5,9	274:16 276:16
health 67:3 100:12	hmo 275:24	40:12,16,18,21 41:2	277:8,10,20,24
220:13 236:16	hmos 275:25 276:2	42:13 43:10,22,23	282:11 301:7,9
238:16,17	276:5	61:3 62:4,20,23	302:11 304:23
hear 70:4 157:25	hold 29:14 77:10	63:3,3,4,24 64:9	309:7,8,9,13,16,19
197:24 202:8	78:9,12 79:14 94:16	65:17,19 66:8,23	317:3,8,12,23 318:2
217:19 290:5	110:23 111:10,11	67:17 69:6 71:4,6	318:11 323:10
heard 98:4,7	111:12,15,19 112:8	71:11,12,15 72:20	324:12,14
hearing 202:7,10	112:21,22,22 113:6	73:16 77:10 82:10	hospital's 37:18
heavily 150:13	176:17 225:20	84:2,14,19 86:16	60:8
288:5	237:21 291:11	94:16 101:4,14	hospitalization
held 2:12 69:5 73:20	323:3	102:9 103:22 105:3	89:11 129:18 130:4
75:18 76:24 77:20	holding 237:16,19	105:4 107:14	hospitals 26:16
79:5 80:19,21 85:7	324:3	108:15 109:25	hour 178:11 230:15
90:9 91:20 92:4,8	home 76:13,14,17	118:17 120:21	245:8
93:7,16,21,25 95:20	76:17,20 77:12	126:25 127:4,7,16	hours 23:4,21,21
109:14 111:17	89:16,20 95:18	127:24 132:11	61:15 70:22 98:14
112:19 138:18	112:25 174:12	134:16 139:6	127:6,10,12 155:8
195:11 233:17	187:24 188:2,4	144:11 149:13	173:9 230:12
244:24 246:11,20	197:14 288:12,18	153:10 155:3,8,11	249:23 250:12
269:7 298:11,17	homicidal 47:24	159:4 160:10	251:5 252:8 260:6,8
322:24 323:9	55:5,21 56:3,7 57:7	161:10,21,23 162:2	261:5 266:5,23
help 155:10 174:18	57:19,21,23 58:5,8	162:20,24 163:3,11	276:11 285:4,6
175:23 176:5	58:24 59:2 90:20	163:17 165:17,21	312:16 325:13
helped 263:13,20	91:8,10,12,15 114:2	166:3,5,23 170:9,15	house 92:25 197:10
264:17	116:7 128:6,14,23	171:2 175:10,17,19	198:18,19,20 247:6
helpful 283:7 284:3	129:12 153:15,19	179:16 180:21	267:25 270:12
285:9	168:3 171:20	181:2,3,11 182:3,15	290:12 291:4
hereto 6:5	homicide 56:14	182:19,21 183:11	housekeeping
hereunto 326:17	hormone 134:3	183:17,24 184:5	276:10
hiding 184:18	hormones 14:11	186:6 188:6,12,21	howard 3:13 8:3
high 311:14	horrific 243:2	188:25 199:11	119:21 312:18
highly 116:16	hospital 1:22,24	200:14 209:19,22	huh 58:3 114:10
histories 262:13	4:11 9:20,22,25	212:21 213:4 223:6	hundred 27:19
history 28:17 46:6,7	10:7 13:13,23 14:19	226:5,21 227:6,14	hundreds 27:2,4
46:9,10,12,16,21,24	15:5,6,7 16:5,6,18	232:4 238:10	209:25
46:25 47:2,3 78:2	17:2,3,4,6,10,16,18	239:16,19,21,23	

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

hurt 95:12 96:2,3,5 172:3 244:20,21	ii 100:13	indicating 30:25 31:14 34:25 50:12 68:18 86:22 119:20 120:9 121:23 122:14 130:9 137:19 144:8 152:17 157:19 223:21 229:21 251:7 269:23 278:15	252:19 253:6,12,19 256:24 257:3 258:16,17 261:11 283:19 287:7
hurting 55:8	iii 100:14	indication 270:5 316:8	inpatients 112:23
hygiene 69:23 70:25 71:19 72:13 73:9,14 74:10 75:22 79:8,12 79:25 81:19 83:4,13 93:6,16,22 94:2 96:21 97:3,22 99:7 101:6,16 102:12 103:25 104:9,17 105:2,16 107:12,19 108:8,17 158:6 160:6 165:19 189:21 191:21 209:10 211:7,13,17 212:22 214:4,24 215:13,23 216:4,22 219:19 222:8 229:7 230:6 239:12 257:16 277:5,19 278:25 280:12 281:22 301:15	illness 46:6 47:2 78:3 241:3 310:20	individual 198:4 individually 1:9,11 1:12,13,14,15,17,18 1:19,22,23,24	insight 48:3
hypen 7:20,21	immediate 157:21 241:4	inexperienced 164:23	inspection 255:14
hypothetical 285:25	immediately 113:23	infection 130:23	inspector 1:11
i	immigrated 12:14	information 82:7,25 83:5,9 86:12 91:14 91:16 145:10 170:25 198:17 235:17 236:18 263:13 267:9,15,15 268:3 273:9 286:16 287:10,17 290:18 291:5,7 310:23 311:2,4	insurance 274:21,22 275:11,13
iab 276:14 277:19 277:24 278:8,17 279:13 285:20 287:10,17	impossible 286:15 286:17	informed 204:22 224:5,19	intellectual 50:4
idea 19:8 21:17 71:25	improper 125:20 317:18	initial 39:14	intend 58:5
ideation 154:6	inability 164:25	inject 207:6	intending 163:16
ideations 90:17,21 113:12 115:23 116:4,7 128:7,14,23 129:12 153:19 154:10 167:24 168:3	incident 209:13 302:25 303:6,12 304:4	injection 206:8,24 207:3	intent 162:9
identification 37:5 232:19 233:25	include 25:19 185:19 219:10,13 273:2 321:3 323:20	injuring 305:19	interaction 46:17 282:15 283:5
identified 155:25	included 35:10	inner 173:11,12	interested 326:15
identify 120:15 179:7 213:3	includes 47:24	inpatient 14:19,21 14:23,25 16:17 83:10 105:19 107:4 174:22 175:2 190:6 217:13,17,25 218:3 218:6,8 232:8,9,12 237:23 250:18,21 250:22,25 251:2,21	interfering 288:15
	including 117:15		internal 14:3 174:8 202:13,17 276:14 277:7 279:25 280:14,17,23 282:5 282:8,16 283:5 287:11 289:6,10,13 289:16,20,22 290:6 291:23
	incomplete 242:23		interrupt 160:25 274:9
	incorrect 159:17 160:17 166:14,16 319:25		interrupting 287:24
	independent 29:19 146:21 147:4 192:23 224:23 225:2 295:4,7,16 296:18,24 299:3,19 300:3		interview 169:5 174:9
	independently 10:11		interviewed 169:6 282:3
	index 1:7		intramuscular 205:21 206:7
	indicate 159:3		introductory 203:18
	indicated 50:2 85:15 95:22 98:19 175:22 207:7 214:12		invoke 104:17
			involuntarily 70:21 71:6 74:8
			involuntary 69:25 70:14,19 71:4,18
			involved 21:12 212:19 235:8 251:20 288:3,6 300:9

[irresponsible - knows]

Page 18

irresponsible 288:8	259:22 261:16	kept 38:3 70:24	179:6 180:14 185:6
irreversible 283:16	273:6 274:16 301:7	112:10 197:17	185:7,11,23 186:16
isak 1:22 4:17	301:9 302:10 317:3	kid 125:25	187:6 188:11
isakov 1:22 4:17	317:7,12 323:10	killed 304:5	189:14 190:13
228:17 253:18	324:11	kilograms 203:16	202:24 210:25
island 16:20 17:2,6	james 1:19 170:18	kind 24:10 27:18	211:24,25 212:2,13
17:10,16,18 26:9	170:21,24 171:5,11	63:14 80:14 82:9	212:18,23 213:8
40:15	212:14,18,23	86:14 145:25 199:2	214:11 216:5 220:3
isolate 274:4,13	jealousy 136:5	218:7 261:7 273:9	220:5,5,19 223:2,5
isolation 137:11	jensen 4:16	288:7	223:20 225:13
issue 60:4 76:16,18	jersey 7:25 13:16	kinds 136:5 319:6	233:4 234:6,17
issues 313:19 320:10	job 17:11,12,13,14	kings 14:19 15:4,6	236:6,13,23,24
320:15	19:19 21:11 26:10	16:18 17:9 26:9	237:6,7,12 238:24
items 184:6 271:5	164:20	40:11	239:3,10 240:13
iv 100:15	john 1:19,20,24 2:2	knew 33:23 240:11	243:19 248:5 250:8
ivone 4:16	3:7	266:22 277:19,23	250:10 251:6,19,24
j	join 30:12 64:5 74:2	knives 184:17	252:18 253:4,8,11
jamaica 1:21,24	175:14 186:14	know 8:12 10:3	253:14,22 254:20
4:11 9:19,22,25	188:15 219:23	22:20 37:14 40:20	254:21 255:7,12,25
10:7 17:20,21 18:3	245:13 263:17	41:6,6 43:6,17 44:8	256:14 259:5
18:9,15,17,25 20:6	265:25 271:24	44:11,14,18 45:12	260:22 262:19
21:5 24:21 25:13	joseph 1:14	45:15,17 65:13	263:9,11,19,23
26:11 30:9,19 33:3	jr 4:7	67:20,25 68:3,23	264:5,17 265:21
35:24 36:4,7,14	judge 125:4 178:17	70:9 74:21 77:6	268:15 270:14
37:9,11,18,19,21,24	178:22	80:4 83:20 85:18,23	273:5,12 274:3,6,11
38:4 40:18 60:7	judgment 48:3	86:10 89:19 91:9	274:14 276:14,19
61:2 62:4,20 63:3	271:11,18	92:9 96:7 97:11	276:23 277:7 279:4
63:24 65:17 66:22	jurat 323:21	98:22 99:2 100:23	279:7 280:9,10,16
71:11 72:20 73:15	justice 107:3	102:14 106:6	280:18,20,25 281:3
86:16 101:4,13	k	107:17 110:6,14	281:6,7,12 282:7
102:9 103:22 105:3	k 118:9 208:6 302:8	111:23 112:21	284:8 295:23 296:3
105:4 107:14	karbala 124:6	118:16,18,20 119:4	300:15,16,18,21,22
108:15 109:24	keep 15:14 40:22	119:7 122:5,10,15	300:24 301:10
120:21 144:11	60:20 106:14	122:18,20,22 123:6	302:21,23 304:13
155:3,7,11 166:23	112:22 120:9	123:15,18 125:17	309:5 310:5 312:7
182:2,15 183:11,17	151:16 157:23	125:21,23 126:25	312:18 313:24
183:24 188:21	163:11 178:4,9,13	128:9,16,17,23	314:14,19,24
199:10 212:20	196:8 234:19 236:4	129:3,6,13,16	315:14,21 317:19
213:4 238:10	288:19,20 300:19	130:19 137:22,24	317:21,25 318:18
239:15,19,20,22	317:2	138:2 144:3 149:15	knowledge 256:3,8
240:2 250:15,20	keeping 84:18	153:5 155:16,23	271:14
251:5 253:25	303:25	156:4 157:7,11	known 263:12 265:5
255:21 256:2,10	keeps 118:15	163:18,23 165:9	266:4,19
258:24 259:11,18		168:18 170:17	knows 255:19
		171:4,8 175:3 178:3	317:19

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

koster 5:4	128:1 129:1 130:1	262:1 263:1 264:1	209:10 211:7,13,17
kretz 4:3,7 144:12	131:1 132:1 133:1	265:1 266:1 267:1	212:22 214:4,24
144:17,23 189:12	134:1 135:1 136:1	268:1 269:1 270:1	215:23 216:4,22
189:15 264:21	137:1 138:1 139:1	271:1 272:1 273:1	219:19 220:14,16
266:9 267:10	140:1 141:1 142:1	274:1 275:1 276:1	222:9 230:6 238:16
268:12 287:13	143:1 144:1 145:1	277:1 278:1 279:1	238:17 239:12
293:23 309:18	146:1 147:1 148:1	280:1 281:1 282:1	257:16 271:23
315:9	149:1 150:1 151:1	283:1 284:1 285:1	277:19 279:2
kurt 1:16	152:1 153:1 154:1	286:1 287:1 288:1	301:15
I	155:1 156:1 157:1	289:1 290:1 291:1	laws 69:4
I 7:6,14,14,14,21,21	158:1 159:1 160:1	292:1 293:1 294:1	lawsuit 33:21
7:21 8:1 9:1 10:1	161:1 162:1 163:1	295:1 296:1 297:1	302:19 303:11
11:1 12:1 13:1 14:1	164:1 165:1 166:1	298:1 299:1 300:1	304:8 306:11
15:1 16:1 17:1 18:1	167:1 168:1 169:1	301:1 302:1,8,8	lawsuits 300:9,20
19:1 20:1 21:1 22:1	170:1 171:1 172:1	303:1 304:1 305:1	lawyer 174:7,15,19
23:1 24:1 25:1 26:1	173:1 174:1 175:1	306:1 307:1 308:1	174:21 175:4,11
27:1 28:1 29:1 30:1	176:1 177:1 178:1	309:1 310:1 311:1	180:2
31:1 32:1 33:1 34:1	179:1 180:1 181:1	312:1 313:1 314:1	lawyers 174:20
35:1 36:1 37:1 38:1	182:1 183:1 184:1	315:1,13 316:1	lead 171:19,24
39:1 40:1 41:1 42:1	185:1 186:1 187:1	317:1 318:1 319:1	leaders 235:12
43:1 44:1 45:1 46:1	188:1 189:1 190:1	320:1 321:1 322:1	leading 142:20,22
47:1 48:1 49:1 50:1	191:1 192:1 193:1	323:1 324:1 325:5	143:16 171:22
51:1 52:1 53:1 54:1	194:1 195:1 196:1	laceration 151:18	learn 39:19,22 40:4
55:1 56:1 57:1 58:1	197:1 198:1 199:1	152:4	40:9,12 71:10
59:1 60:1 61:1 62:1	200:1,22 201:1	lake 4:19	297:10
63:1 64:1 65:1 66:1	202:1 203:1 204:1	lamstein 200:21,24	learned 100:19
67:1 68:1 69:1 70:1	205:1 206:1 207:1	201:3,5,13,14,22,24	295:10 303:3,4
71:1 72:1 73:1 74:1	208:1 209:1 210:1	201:25 202:7,9,11	learning 164:21
75:1 76:1 77:1 78:1	211:1 212:1 213:1	landlord 117:14	leather 61:23
79:1 80:1 81:1 82:1	214:1 215:1 216:1	late 264:6 270:14	leave 17:11 75:5,15
83:1 84:1 85:1 86:1	217:1 218:1 219:1	lauterborn 1:13	111:14 112:14
87:1,14 88:1 89:1	220:1 221:1 222:1	261:25 262:14,23	221:14
90:1 91:1 92:1 93:1	223:1 224:1 225:1	265:6 266:5,22	leaving 111:25
94:1 95:1 96:1 97:1	226:1 227:1 228:1	law 69:23 70:9 71:2	252:5
98:1 99:1 100:1	229:1 230:1 231:1	71:19 72:13 73:9,14	lee 4:20 45:24 70:4
101:1 102:1 103:1	232:1 233:1 234:1	74:11 75:22 76:23	73:25 75:24 77:13
104:1 105:1 106:1	235:1 236:1 237:1	79:5,8,12,25 81:19	79:16 87:3 91:2
107:1 108:1 109:1	238:1 239:1 240:1	83:4,13 93:6,16,22	93:10,18 94:20 99:8
110:1 111:1 112:1	241:1 242:1 243:1	94:2,6 96:21 97:3	101:9,20 109:12
113:1 114:1 115:1	244:1 245:1 246:1	97:22 99:7 101:6,16	116:5 119:21,24
116:1 117:1 118:1,9	247:1 248:1 249:1	102:12 103:25	124:4,16 126:12
119:1 120:1 121:1	250:1 251:1 252:1	104:9,18 105:2,16	127:17 137:6,10
122:1 123:1 124:1	253:1 254:1 255:1	107:13,19 108:8,17	150:16 154:8
125:1 126:1 127:1	256:1 257:1 258:1	125:25 126:5 158:6	172:13 188:17
	259:1 260:1 261:1	160:6 165:19	197:8 203:19

[lee - meant]

Page 20

238:19 240:25 245:12,18 249:13 252:17 262:16 272:24 293:5 311:15 314:16 318:13 322:5 left 17:13 39:7 173:8 173:10 242:22 265:13 269:3 legal 36:25 83:18,20 83:22 174:25 175:20 239:13 lenoir 3:7 letting 15:15 level 156:20 203:22 lewin 87:12 96:10 96:11,17,19,24 97:20 98:12,13,21 98:25 123:17,18 lewin's 88:24 license 308:18 licensed 307:4,8 licenses 305:2 307:20,23 308:14 licensing 308:7,23 licensure 309:4 lieutenant 1:14,17 lieutenants 213:2 liked 263:19 264:17 266:19 likelihood 247:22 likewise 101:9 lilian 1:23 2:10 5:5 7:4,20 324:16 327:5 327:20 limiting 219:10 line 90:15 113:11 117:4,6,9,12 142:24 152:11 327:6 linear 51:17 lines 223:21 list 179:5 listed 38:8 listen 205:15 236:2 264:10	little 122:9 156:20 lived 307:15 living 9:14 llc 327:2 llp 4:10,16 5:4 location 306:25 locked 112:3,5,9,15 112:17,20 long 9:24 11:14 13:17 15:21 16:14 17:5 19:5 23:2 70:21 125:17 126:24 162:16 188:5,11 204:5 220:15 234:17 257:8 look 31:11 32:21 33:14 54:17 95:16 98:10 136:14 141:13 173:5 178:22 180:16 185:13 196:21 212:23 214:5,7 216:18 221:24 248:12 252:24 looked 31:16 32:10 32:16 129:22 251:25 looking 47:25 109:23 110:2 119:20 120:19 121:14,19 122:23 127:23 154:15 155:3,11 170:8 176:21 185:19 220:22 228:14 231:13,14 238:13 256:17 281:14 309:23 310:2 318:3 loose 51:19 loosen 122:9,19 126:21 loosened 126:9 loosening 123:25 124:10,14	lose 70:3,8 loud 118:23 160:24 louder 236:5 lying 202:3 m m 200:22 machine 133:11 233:6 madison 4:5 magdalena 5:10 main 196:6 making 50:6 120:24 151:2 154:3 169:19 169:22 193:5 219:20 234:15 240:17 259:5 279:8 279:10 male 185:5 man 25:24 154:25 248:8 303:13 management 33:12 33:15,18 36:23,24 305:20 306:3,6,7,7 306:11,14,16,20 manhattan 13:23 304:15 manifest 196:18 242:5,9 244:12,16 manifestations 173:23 manifested 242:3 243:7 244:2 319:7 319:10 manifesting 195:23 196:3 manual 239:21 maplewood 7:24 march 11:11,15 marcus 4:18 margaret 2:14 326:4 326:22 marino 1:9 mark 37:2 179:10 179:18 232:15	marked 37:3,7 68:13 232:17,20 233:24 250:7 253:21 marker 70:7 marriage 326:14 martin 4:10 mass 133:14 master's 11:24 12:2 12:8 matter 8:4 288:17 301:17 302:5 326:16 mattered 286:8 matters 302:5 mauriello 1:12 4:5 mcdougal 301:5 304:13 md 13:9 308:14,18 308:19 310:7 mean 14:22 28:25 37:18 49:10 53:21 66:3 70:18 77:21 80:20 82:10 103:6 110:21 111:11 119:12,14 124:19 126:20 135:20 143:6 144:2 152:25 154:18 157:20 161:7 182:24 204:2 211:19 212:11 217:24 218:17 235:20 247:3,20 248:2,6 273:15 283:21 296:23 303:23 305:20 318:6 meaning 291:15 means 57:20 58:18 58:24 112:10 116:20 144:4 218:19 295:24 320:23 meant 248:24
---	---	---	---

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[medicaid - needed]

Page 21

medicaid 276:7 medical 1:22,24 4:11 9:15 12:11,24 13:3 32:3,9 34:23 40:25 41:3,8,9,11 41:25 42:6 46:23 47:2 49:14 50:20 51:6,20 53:4 54:2 54:24 55:18,23 56:5 56:18 57:15 59:9 60:5 64:7 67:2 73:22 74:11,13,21 74:24 75:2,6,9,18 76:4,11,15,25 77:20 77:22 78:16,17 79:5 82:21,22 86:19 91:24 94:14 100:14 104:14 109:25 110:16 111:2 119:18 120:19,21 121:2,3,4 122:13 123:24 124:9,13,23 125:18 126:7 128:15 129:21 130:13 131:22 136:13 138:8 141:2 155:15 156:2,12 159:22,23 160:3 165:11 166:6 184:4 186:11 193:8,18 200:8,9,10 227:17 237:25 292:4,8,19 293:2,6,20 294:8 295:3,15,24 296:3 296:17 299:2,16 306:23 308:14 309:6,24 310:2,21 312:3,4 313:8,10,13 313:17,18 314:10 314:12 321:5,12 medically 76:6,16 313:21,25 medicare 275:21 276:4	medicate 82:2,6 205:17,19 medicated 205:2,7 206:3 medication 203:4 204:14,20,25 206:10 315:4,5,7,8 medications 315:3 medicine 13:2 14:3 19:15 43:6 139:12 204:17 205:20 271:14 meet 262:8 meeting 20:19 meetings 235:24 members 21:7 210:12 213:12,20 memory 29:13,15 29:20 30:6,16 48:14 48:21 49:8 54:19 210:5 216:10 mental 46:8,10 47:3 47:4,14,15 48:4,17 49:6,16 50:8,24 51:22 52:5 53:18 59:10 69:23 70:25 71:18 72:12 73:9,14 74:10 75:22 79:8,12 79:25 80:16 81:19 83:4,13 93:6,15,22 93:25 96:21 97:2,22 99:7 100:12 101:6 101:15 102:11 103:25 104:9,17 105:2,16 107:12,19 108:8,17 114:6,7,13 114:14 115:12 116:3 158:5 160:6 165:19 189:21 190:17,22 191:14 191:17,21 209:10 211:7,13,16 212:22 214:4,24 215:12,23 216:4,15,21 219:19 222:8 229:6 230:6	238:15,17 239:11 241:3 257:16 277:5 277:18 278:25 280:12 281:22 301:15 mention 293:24 mentioned 214:15 met 262:20 method 56:12 metropolitan 13:23 16:4,15 26:8 71:12 71:14 michael 1:9 middle 179:12 226:9 midnight 160:21 mild 157:6 military 221:9,10 milligram 204:4 milligrams 203:5,7 204:4 mind 97:11 178:22 201:23 209:16 287:11 289:12,14 302:25 303:6 minimal 173:11 minimum 81:6 minor 11:24 minutes 61:17 62:17 mischaracterizing 277:15 missed 61:20 missing 91:3 mistake 163:8 mixing 163:11,13 modalities 218:7 219:6 moment 200:4,5 money 16:8 181:20 monitor 61:16 month 319:2 months 16:2 17:8 19:2,8 70:24 211:19 morning 8:2 68:22 87:2,5,10 104:10,19 105:3 177:20	252:13 motion 125:3 178:5 178:8 180:9 mouth 185:13,20 move 66:18 74:23 126:18 286:20 294:25 movie 288:12
			n
			n 7:6,14,14,15,21,21 7:22 87:14 200:22 315:13 325:2 n100 4:18 naked 184:20 186:22 name 1:20 2:2 7:19 8:2 110:10 137:19 171:5 202:8,24 213:9 224:14,17 238:9 274:4 327:3,5 named 29:12 names 1:20 2:3 29:8 224:20,21 300:24 301:4 narrow 265:15 nathaniel 3:3 7:11 nature 29:4 31:15 100:23 168:20 275:6 navy 150:4 197:25 248:7 ne 3:8 necessary 206:20 need 42:8 64:21 80:5 84:25 91:9,11 171:14 201:6,16,22 202:2 204:22 207:2 230:8 275:12,22 290:5 needed 39:17 89:25 90:9,11,12 91:15 149:2,8,9,15,15,18 151:8 158:21 176:4 199:14 206:2 265:4

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

[needed - nypd]

Page 22

282:10 284:4 287:5 287:7 317:15 needle 133:2 134:9 needs 8:21 9:6 65:6 74:22 75:13 77:7,23 78:7 80:10 83:25 98:19 105:22 146:10,15 147:22 157:21 219:19 230:10 231:17 245:2 323:6 negative 57:23 nelson 1:10 never 34:9,12 129:22 257:19 305:4,8 new 1:3,8 2:7,7,16 3:5,5,12,12,17,18,18 4:6,6,12,12,19 5:6,6 7:25 11:25 13:16 15:8,11,22 16:11 17:7,12,13 21:24 36:18 126:6 210:13 213:13,20 220:6,16 220:16 239:11 276:15 307:8 308:5 308:15 316:25 326:5 327:2,4 night 117:14 297:14 297:17 nine 16:2 252:12 nod 8:18 nonmedical 186:17 186:19 nonsense 284:18,19 284:23 noon 160:21 166:12 166:15 nope 96:6 normal 59:7 134:25 138:10 156:13,14 156:15,18,24 194:16 195:8 north 1:10	notary 2:15 6:15 7:16 324:21 326:4 327:24 note 31:25 39:16 42:3,9,23 49:19,22 53:5 54:3,15,25 55:19,24 56:6,14,19 56:21 57:2,18 58:16 58:22 59:11 68:19 68:20 69:15 84:18 85:16,21 86:3,20,24 87:11,17,21 88:11 88:19 89:7,8,14,17 89:21 90:14,16,24 92:19,24 95:2 96:9 96:13,14 98:24 99:16 100:18 101:4 101:11 102:5,6 108:25 109:5,6,9,10 109:11 110:5,9,12 117:4 118:2,4,5,10 120:24 121:14,19 121:24 122:5,10,11 122:13,16,23,25 123:7,11,12,19 126:25 127:7 128:5 128:10,18,24 129:6 129:7,10,13,14 130:14 138:11,13 145:2,3,6,7,11,13 155:4,4,12 157:4 159:9,16 167:13,18 173:5 187:22 188:7 188:23 189:9 191:9 191:20 194:5 199:5 216:15 221:11,12 276:23,24 277:3 278:6 281:14,15,18 281:21 282:14,15 282:25 283:3 284:21 285:2,19,21 285:24 286:2,4,5,7 291:15,17 318:3 noted 122:6 128:13 128:22 173:10	242:19 324:15 notes 30:18 31:18,21 32:4,10,13,14,17,23 32:24 34:10,19,24 35:2,4,10,10,12 39:14 41:22 42:12 42:14,16 43:22 44:2 44:8 45:2,5,10,19 47:13 51:10,25 55:17 69:12 88:4,14 109:2 119:16 121:9 121:10 127:14,17 127:20 129:19,23 137:20,21 138:9,14 141:22 146:8,12,25 147:7,9,13 161:15 162:19 168:23 174:13 191:8,12,13 191:18,22 192:7,20 192:23 193:3,5,11 193:12,14,19,25 194:3,3 214:15 223:3,7 228:18 245:22,24 277:22 278:3 284:2 285:8 292:15 309:21 310:7,9,15 311:8 notice 96:20 221:19 223:23 225:21,23 noticed 223:11 november 11:15 46:3 60:22 68:21 85:16 86:2,7 94:17 98:24 101:11 102:8 107:21 108:25 109:4,6,11 118:2 120:25 121:19,24 122:5,11,24 123:7 127:2,19,20 128:2,3 128:4,10,12,18,21 129:2,7,10,14,23,24 130:14,17 139:7,18 154:23 160:18 162:9 167:2,3,4,6,8 173:6 187:23 188:7	188:24 189:5,16,24 190:7,11,19,19,21 191:20,20 216:14 222:15 263:3 277:4 279:2 281:14,21 318:6,7,8 numb 123:5,21 173:9 number 27:18,21 135:11 176:4 188:21 226:10 241:25 272:5,13 273:2,16 nurse 39:18,24 122:6,18 123:5 128:5,13,22 129:3 140:3,4,6,15,15,16 140:17,20,20,23,25 141:10,12 142:3 143:4,10 145:14 152:7,20 154:2,2,3 154:12 155:17,24 157:16 160:12,13 183:6 185:2,3 186:5 186:20 187:12 225:3,5,11,17 nurse's 121:8 122:24 153:14,22 155:4 nurses 182:25 183:4 186:8 225:9 260:14 320:7,11 nursing 11:2,5,9,24 12:3,8 23:23,25 60:23 62:11 121:7 121:10,14 124:11 127:14,20 129:23 139:5,17,25 140:2 140:21 141:13 142:12 235:14 nypd 1:21 117:14 143:22 316:25
--	---	--	---

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212-267-6868

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516-608-2400

o	197:8 199:7 201:4 201:19 202:4 203:19 204:7,11 210:24 212:9,16 213:5,7,17 215:5,6 215:14,18 218:18 219:22,24 229:12 229:14 230:23 231:10 235:18 238:18,19 239:8 240:25 242:7,8,14 242:17 243:15 244:4,8 245:11,12 245:14 249:13 251:15,16 252:15 252:16,17 255:22 257:21 262:6,15,16 262:17,24 263:6,7,8 263:10,16,18 264:21,24 265:23 266:2,9,10,11 267:10,11 268:2,7 271:19,21,25 272:7 272:14,24 277:11 277:21 278:12 280:3,4 281:10 282:12 284:6 285:12,13 286:10 286:11 287:13,14 287:20 290:14 293:4,5,11,23 296:20 299:6 304:6 309:18 311:15,17 311:23,25 312:6,8 314:11,16,17,22 315:9 317:17 318:12,13,16 320:14	observing 152:7 obstruction 50:2,21 51:4 obtain 82:7 obtained 269:25 obviously 197:24 occasions 210:11,17 210:20 occur 211:17 occurred 219:5 occurrence 72:23 215:10 october 20:8,9,14 21:11 22:4 24:4,24 25:4,12 26:20 32:16 33:2 46:2 107:21 121:9,12 155:7 156:8 159:14 189:4 228:5 262:4 264:20 264:22 265:7,11 266:4,23 office 7:11 258:23 260:25 269:17 301:21 officer 28:12,18 122:8,19,20 144:19 144:20 148:13,15 149:23 150:8,11,13 150:20 151:3 186:7 186:10,12 187:13 196:22 200:18 209:18,21 212:5,7 213:15 214:22 215:10,22 216:3 219:18 247:7 248:8 262:19 263:25 264:2 268:6 278:7 279:13,24 290:11 291:8 officers 26:12,24 27:8,14 28:15 65:23 117:14 172:16 186:6 200:13 209:22 210:22 211:6,11,16,21	212:3,6,8,20,25 213:3,11 214:3,9,17 214:21 215:11 219:25 248:15 261:22 262:12,13 267:23 268:9 278:16 official 1:9,11,12,14 1:15,16,17,18,20,22 1:23 2:2 okay 8:14,15 9:11 15:14,19,20 28:5 30:2 88:8 113:15 120:11,22 134:21 157:18 172:18 179:14 250:17 294:11 old 133:19 ollie 315:19,20 once 65:16 67:9 76:6 105:6 106:21 212:8 212:12 222:12 231:12 235:25 283:17 287:4 323:15 one's 52:12 ones 140:18 240:3 246:17 open 93:2 151:16 300:19 operate 319:15 opinion 146:14,18 146:20,21 147:13 147:16,17,19,20,23 147:24 148:3,3,6,7 148:8,10,16,17,23 148:24 149:2,3,4,5 149:6,10,14,16,17 151:6,7,12,14 156:11 196:15 197:5 205:25 207:8 207:11 209:9,15,19 210:22 211:8,12 229:13 230:14,20 231:5,9,20 243:23
o'clock 22:12,16,17 22:21 68:22 189:6 252:13 259:25 260:2 276:25 278:13 object 98:6 163:22 168:19 239:5 objecting 314:25 objection 25:16 29:22 30:10,13 41:23 44:21 45:24 50:22,23,25 57:3 60:2,3 64:3,6,12 66:10,12 69:7 72:25 73:23,25 74:3,5,14 75:24,25 76:2 77:13 77:14,15 79:16 84:5 91:2,19 92:10,17 93:9,10,18 94:7,19 94:20 96:22 97:5,7 97:8,23,25 98:3,8 98:16,17 99:8,9,10 101:7,17,19 102:13 104:20,22 106:18 108:10,18 109:12 116:5 124:3,4,16,17 124:21 126:2,11,12 130:2 131:15 134:17 136:19,24 137:6,7,8 144:12,17 144:23 146:23 148:18,19 150:15 150:16,17 151:9 154:8 161:13 163:10 172:13 175:12,15 182:4,6 182:16,17 183:12 183:25 185:15,21 186:13,15,23 187:8 187:14 188:9,13,16 189:2,11,12 191:24 192:3 193:22 197:7 objections 6:10 106:15 107:2 125:8 observation 90:2 184:25 241:4 262:2 observe 81:25 199:3 observed 90:11,12 184:20 262:3			

265:3 266:4,8,16,17 266:21,25 282:9 310:19 opposed 9:2 226:20 227:5 296:25 297:2 309:7 opposite 319:8 order 71:5 79:14 80:2 81:11,18 83:3 83:12 97:3 99:6 108:8 273:17,23 323:4,9,18 324:4 organic 133:13 orientation 48:13 49:7,9 oriented 194:7,12 original 38:18 324:13 originally 10:18 outcome 326:15 outside 20:3 258:9 258:12,13,23 overrule 319:22 oversee 20:23 23:7 overseeing 23:12,22 overtime 22:16 276:11	110:3,6,9,11,20 113:8,8,23 114:8 116:12 117:3,9 120:3 121:18 127:14,23 135:6 142:19,21 151:16 153:13,14 154:16 158:7,8 225:19 228:14 239:6 242:23 323:20 325:3,10 327:6 pages 31:10,11 87:20 110:7,8 130:13 233:12 paid 10:4 16:8,9 276:11 pain 157:5,5,9,10 173:8 309:11,14,17 311:13 312:21 314:7 painter 270:13 painting 251:23 252:21 pants 181:7 paper 177:6,10,14 177:19 178:2 180:13,16,18 239:6 257:25 258:3,4 261:10 papers 125:3 175:21 176:6,8,10,14,17 177:2 paperwork 176:3 274:20 paragraph 113:25 paranoia 136:4,23 172:10,20,22 195:21 199:17 203:12 paranoid 91:4,18,21 135:10,19 137:3 143:23 144:5,15 172:9,25 194:21 196:16 198:11,14 199:22 217:13	218:11 241:19 247:9 parenthesis 224:7 parker 7:24 part 23:7 37:20 38:4 50:7 51:15,22 52:5 53:18 73:10 114:6,7 145:4,7,16,18,23 175:18 186:18,19 197:20 217:8 219:2 226:24 232:11 243:19 261:3 272:11 290:18 303:13 305:9,13 309:7,8 particular 13:2 209:13 211:22 307:19 parties 6:5 326:13 pass 140:12 308:8 308:18,24,25 309:2 patel 96:12 99:4,5 patel's 99:16 pathology 132:14 133:14 patient 22:15 28:12 28:19 29:2 32:4 39:7,9,15 40:23 41:4,9,10,13,17,21 42:3,8,17,19,20,25 43:8,14,15 45:11,20 46:5,13,18,19,21 47:5 52:15,23 53:8 54:11 55:7 56:8,11 56:22,24 57:5,10,20 57:22 58:4,6,10,12 58:17,18,23,24 61:9 62:2,9,12,16,18,19 63:2,6,9,10,15 64:8 65:2,5,6,16,18 66:5 66:7 70:11,23 71:5 71:19 72:10 73:8,20 74:9,20,21 75:11,12 75:13,18 76:4,7,8 76:10 77:6,8,10,12	77:24 78:5,7,9,10 78:12,17,23 79:5,14 79:18 80:2,4,10 81:13,22 83:24 84:11,24 85:19,24 86:10,12 88:10,12 92:21,25 93:16,21 99:24 104:4,15 105:7,9,13,18,20,22 107:15 110:23,24 110:25 111:12,13 111:14,20 113:25 115:3,3,6 116:24 118:11,12,14,15,18 118:21 119:4 126:16 128:6,13 129:4,11 130:20,24 131:18,21,25 132:3 133:15 140:3,7,9 141:24 142:2,3,5,8 142:9 146:4,7,9,10 146:15 147:5,6,11 147:14 150:7 153:25 154:3,11 159:3,9 160:14,20 171:13 175:3,19 180:20 183:5,18 184:7,11 187:17 192:12,17 193:10 193:21 199:3 204:17,18,21 205:3 205:12,13,14 217:11 222:13 223:17,18,22 224:5 224:18 230:4 236:21 237:16,18 237:21,22 241:2 246:22,24 247:4,10 248:17 249:4 258:9 258:12,18 274:14 274:19 275:4,9,22 282:2 285:7 287:5,7 291:21 292:5,12 293:3,8 294:14,15 295:4,19,20,22
p			
p 282:3 p.m. 69:16,19,20 85:11,17 86:7 108:25 109:3,5,6,8 109:18,20,24 138:20,22 166:18 195:15,17,20 221:5 233:19,21 251:13 251:13,13,13 269:9 269:11,14 281:16 298:10,13,15 324:15 p.o.'s 1:19 page 3:23 4:22 87:17 89:7 90:15,16 96:13,14 109:23			

[patient - portion]

Page 25

296:2,19 299:10,11 299:11,22 301:13 302:15,16 303:16 303:21 304:2 305:18,23 306:8,17 306:18 311:12 313:16,19,21,24 320:4,8,12,17 321:5 321:15,21 322:17 322:20,24 323:4,8 324:3 patient's 67:3 142:25 274:21 322:3 patients 10:10 20:22 26:12,22 27:6,12 28:3,15 29:9 42:12 48:6,22 49:2 50:11 50:16 53:11 61:10 63:14,14 67:21 68:3 69:4,24 72:3,4,11 72:13 78:22 81:15 100:10 146:22 182:25 187:10 210:18 253:24 254:6 258:13 260:3 260:10 272:6,13 273:3,5,11,14,16,24 275:10 292:10,21 294:10 295:17 313:7 321:11 patrol 1:10 pattern 178:15 paul 5:7 pending 77:2 79:6 301:17 304:8 people 24:18 27:2,3 28:9 64:20,21 106:12 204:13 225:15 248:14 257:11 297:2 299:21 300:25 perfectly 101:24 perform 49:15 50:7 50:20 51:7,21 52:13	52:20 56:13 57:6 58:13 performance 270:18 270:19 271:9 272:4 272:5,12 273:2 performing 59:10 period 19:15 241:8 245:8 persecuted 196:5 persecution 136:6 persecutory 194:24 person 62:22 76:24 77:19 80:18 95:3,4 164:23 186:17 198:8,14 202:25 205:19 209:8 211:11 223:10 225:14 264:9 290:13 304:5 personal 182:2,14 256:3,8 personality 100:13 persons 224:4 perspective 108:24 117:24 peterson 315:19,20 philippines 10:17,19 10:20 phone 175:22,24 181:23 208:8 229:10 phones 175:25 phonetic 124:6 282:4 301:5 physical 45:21 129:5 173:17,20 174:4 196:20 242:2 243:6,25 310:3,4 physically 30:3 41:7 59:21 60:10 111:2 111:21,24 205:18 physician 22:5 24:3 40:6 42:2,7 43:7 45:13 56:9 59:10 81:16 84:21 95:23	96:7 98:15 108:2 202:21 230:6 232:13 292:3,7 294:6 298:24 305:7 312:12 320:3 physicians 24:5 25:24 42:11 43:14 43:18 44:3,8 65:19 260:14 319:16 pick 291:21 picture 94:23 95:17 231:15,15,20,22 piece 177:6,10,13 178:2 180:12,16,17 239:6 257:25 261:10 pitch 59:7 place 2:13 41:5,7 43:4 45:7 70:8 71:8 113:9 159:2 163:20 171:9 194:10 placed 63:16 157:16 plaintiff 1:6 3:4,7,11 288:11 plaintiff's 37:4,7 68:13 232:16,18 233:24 325:10 plan 41:14,15 53:24 55:10,14 119:9 planing 58:23 plans 119:16 play 145:23 150:25 played 212:14 playing 284:16 286:19 please 8:12,25 9:9 176:16 177:2,16 216:16 224:3 240:15 244:10 279:20 286:23 287:23 288:14 297:12 pllc 3:10 plot 52:17	plus 147:10,16,17 198:17 point 11:22 12:14 13:3 16:11 33:13 61:14 65:10 75:21 91:3,11 101:16 111:5,8,22 127:5 173:2 206:6,22 241:13,16 271:3 276:14 287:6 316:4 316:7 317:23 318:8 321:22 points 35:9 police 26:12,24 27:7 27:13 36:18 65:23 122:7,18,20 143:24 144:6,9,13,14,19,20 148:12,14 149:22 150:8,11,13,19 151:3 155:18 170:14 196:22 200:13,17 202:14 202:18 209:18,20 209:21 210:13,22 211:5,10,15,21 212:3,4,5,7,8,19,25 213:3,11,13,15,21 214:3,9,17,21,22 215:10,11,22 216:3 219:18,25 247:6 248:15 261:22 262:11,13 268:5 276:15 290:10 291:8,9 317:2 policies 61:2 234:16 240:2 250:13 policy 234:9 236:10 239:15,18,22,23,24 240:7,18,22,23 241:11,25 250:11 250:17 252:19 pontificate 288:17 portion 26:6 72:7 188:18 197:21 216:8 217:21
--	--	--	---

VERITEXT REPORTING COMPANY

212-267-6868

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516-608-2400

<p>264:14 268:13 299:25 position 18:4,7,8,13 125:9,10 270:16 possession 121:5 possibility 300:20 possible 153:6,7 172:15 220:4 posted 175:6,7,17 potential 63:21 244:11,15,20,22,23 245:3,6,10,16,24 246:2,3,8,10,18,22 246:25 247:3,16,21 247:23 248:5,6,24 248:25 249:2,6,10 practice 42:2,7 46:3 49:15 50:20 51:7,21 53:5 54:2,25 55:18 55:24 56:6,18 57:15 59:9 64:8 72:24 73:10 94:15 123:24 124:10,14 126:8 141:22 193:8,18 208:18,21 258:21 259:2,3,4,8,14,23 260:4 261:20,23 292:4,9,19 293:2,7 293:17,17,20 294:8 295:3,15,24 296:4,8 296:17 299:2,17 301:8 307:10 practicing 19:15 precinct 211:22,24 preparation 88:16 preparing 35:24 prescribe 203:3 prescribed 203:18 204:9,14 206:10 prescription 315:5 presence 60:11,18 130:22 174:5 191:16 194:14,20 198:9 199:21 200:2</p>	<p>present 5:10 10:2 46:6,25 62:10 185:25 186:3 207:13 310:20 presentation 231:8 presented 208:11,12 229:23 presently 1:21 2:3 9:14 preservation 239:13 pressure 156:7,13 156:14,16 309:23 309:25 311:14 314:5 315:8 pretty 100:5 182:12 297:6 prevent 150:4 197:18,23 198:4 preventing 111:24 previous 44:2 82:7,9 126:22 previously 45:7 print 255:12 printed 113:9 114:8 114:9 116:12 130:16 311:3 prior 30:21 32:15 34:13 35:21 38:12 38:19 85:20 86:2,6 88:11,15 89:8 101:11 102:2,8 104:10,18 105:2 108:24 109:5,10 117:25 120:8,14,24 124:7 126:25 140:20 141:22 148:8 149:6 155:13 227:21,23 276:4,7 317:6 318:8 private 258:18,20 259:2,8,13,23 260:3 261:20,23 275:11 275:13 301:8 privilege 272:15</p>	<p>privileged 272:18 privileges 24:5 304:24 probably 130:13 146:17 162:5 166:20 234:14 problem 77:11 78:25 103:12 172:17 278:10 314:10 problems 50:5 173:23 174:5 313:13 314:21 procedure 2:17 62:21 63:5 71:7 299:14,15 procedures 61:2 81:10 process 47:21 51:13 51:14,16 185:4 186:24 187:3,4,10 206:3,14,16 303:14 produce 96:25 produced 232:25 254:18 255:3,8 profession 305:6 program 274:13 progress 123:13 proper 303:24 prospective 85:20 85:25 98:2 protocol 237:3 provide 96:19 provided 37:10 269:20 315:6 provider 67:2 providing 170:24 provision 241:8 psych 32:5,7,11,12 35:10,14 75:19,21 76:8,9,19,21 77:3 77:23 88:9 89:11 98:20 104:5,6,13,13 104:15 105:7,8,10 105:14,20,23,24</p>	<p>107:16,24 111:4,6 112:7 121:5 123:12 123:15 132:18 133:19,20 162:7 163:12,17 165:23 165:24 166:7,8,10 166:11 184:7 190:9 190:10,12 200:11 202:22 209:23 210:18,19 215:23 226:17 227:3,17 237:24 238:2 249:21,22 254:2,3,4 254:12,16 260:11 261:15 269:20 309:8 313:8,11,13 313:17,20 314:13 321:2 325:17 psyche 237:2 psychiatric 16:24,25 20:6,10,14 22:5,6 24:3,6,11 26:13,23 27:7 32:8 34:23,24 45:21,22,25 46:4 48:5 59:23 60:21 67:23 68:9 69:5 73:16,18 74:23,24 75:11,11,14,16 76:18 77:11 78:3,8 78:10,23,24 79:7,14 85:20,25 86:14 89:8 96:8 108:24 110:16 110:18 113:13,14 113:17 117:25 140:22 141:5,10,23 142:7 172:23 201:7 201:16 202:2 250:15 257:12 258:6 318:24 320:20,24 321:4,9 321:10,23 psychiatrist 9:16 18:6 21:21 25:3,9 26:2 76:3,6,19 78:4 78:6,15 82:12,13,15</p>
--	---	--	--

82:19 207:22 218:4 312:14 321:24 322:4 psychiatrist's 110:10 psychiatrists 24:20 25:6,13,19 psychiatry 13:14,22 14:2,24,25 77:7,8 139:15,19 238:8 239:21 259:3 271:14 psychologist 218:12 psychosis 172:21,24 203:12 218:20 268:24 psychotic 80:7 93:13 99:20,22 100:11 133:17 217:12 public 2:15 6:15 7:16 324:21 326:5 327:24 pulled 68:19 141:14 pulse 156:23 purple 151:25 152:15,25 purpose 11:18 40:21 40:25 41:3 83:19,22 88:5 132:11 purposes 75:20 230:15 pursuant 2:16 73:8 74:10 102:11 103:24 104:8,25 105:11,15 106:2 107:12,18,21 108:16 put 57:23 62:23 63:6 64:18,20,22 65:2,10,14 70:2 120:2 137:15,15,17 137:19 143:8 160:5 161:22 162:3,5,9 163:16 176:17	177:2,9,13 181:21 182:20,21 183:7 184:5 221:4 226:11 226:14,15 227:2,9 227:13 282:14 puts 310:23 putting 70:7 q quantify 247:2,20 247:24,25 queens 255:19 304:21 question 6:11 8:11 8:14 9:8 27:9 29:23 46:20 51:2 55:20 57:9 59:19 73:2,3,5 74:15 77:17 79:2 84:16 89:19 92:7,11 92:13 93:14,20 94:8 95:11 101:8,22 103:7,9,15 104:7,16 104:21 106:9 124:12 142:6 145:22 151:5,10 161:14 163:15,19 163:23 164:3,10,18 164:25 168:20 177:4 179:13 180:5 182:11 185:22 193:17,23 201:20 202:5 210:25 213:18 229:15 231:23 239:9 241:10 242:16,18 243:3,20 252:6,7 264:8,11,16 265:15 265:17,22 266:13 272:2,8 274:10 276:18 279:9,20 283:25 285:4 286:16,21,23,25 287:3 288:23 289:9 289:18 291:25 292:17,21 293:12	293:19,22 294:7,20 294:21,24 296:15 297:13 298:25 299:7,20 311:11,16 312:20 323:12 questioning 116:2 177:17,25 questions 8:5 46:13 47:6,16 48:15,20 54:4,7 55:2 114:19 125:16 164:6 168:10 176:19 177:22 243:2,14 258:3 261:3 269:16 289:17 297:15,22 298:3,5,7 312:10 316:22 319:13 322:12,14 quick 157:17,17 quite 177:24 248:9 292:17 r r 7:15,15,22,22 207:21 radomisli 4:13 25:16 30:10 37:13 44:21 50:23 64:3,12 66:10 69:7 73:23 75:25 77:15 96:22 97:5,7,23,25 98:3,5 98:16 99:9 101:17 101:21,25 102:4 104:22 108:10 124:3,5,21 126:11 126:18 127:11 131:15 134:17 136:19,24 137:8 138:15 148:19 150:15 163:10 175:12 176:22 179:19,23 182:4,16 183:12,25 186:13 187:8,14 188:9,13 189:2,11 191:24	192:3 195:10 199:7 210:15 212:9 213:5 215:5,14,18 216:7 219:22 229:12 231:10 232:23 235:18 237:8 245:11 251:15 252:16 254:17,21 254:25 255:7,16 262:17 263:8 265:8 265:12,19,23 269:15 271:19,22 272:14,20 284:6 285:16 286:11 298:8 311:17,22 312:2,8,18 314:11 314:17,22,25 317:17 318:12,16 319:12,14 322:6,11 325:6 range 156:18,24 198:2 248:13 rating 116:15 ray 133:12 razors 325:16 react 318:25 319:3 reactions 319:7 read 26:7 34:18,22 35:20 39:13 43:2 44:2,19 45:5,10,18 47:13 72:5,8 88:11 88:15,18,19 90:14 90:24 99:16 100:18 115:17 117:6,11 118:10 119:2,3 138:5,10,12 143:13 143:20,21 144:10 145:9,12,12,13,25 146:13 151:20,20 151:23,23 164:3 188:17,19 197:22 200:8 216:7,9 217:22 224:2 235:20 239:2 245:22,23 253:10
--	---	---	--

[read - remember]

Page 28

264:13,15 268:12 268:14 278:3,5 281:25 295:7 300:2 313:6 reading 29:17 91:14 102:24 242:22 reads 90:16 ready 118:23 188:4 307:24 real 19:23 reality 99:24 100:4 realize 234:17 really 198:13 203:21 reason 8:11 83:23 90:23 91:7 115:16 133:14 134:20 146:4 150:21 154:24 158:25 197:5,16 228:6 244:24,25 246:11 246:19,21 307:19 327:6 reasonable 156:12 reasons 43:21 79:15 236:21 249:14 recall 28:3 29:7,11 54:21,22 72:21 88:6 142:11,13 208:9,22 208:24,25 209:12 209:17,24 210:6 215:3,10 224:24 received 33:19 recess 85:10 109:19 138:21 195:16 233:20 269:10 298:14 recharacterizing 84:6 recognize 256:19 recollection 19:6 138:6 162:17 200:15 224:22 225:3,12 301:4 recommendation 89:25	recommendations 89:18 99:19 record 7:2 12:21 26:7 36:22 37:16,17 37:18,19,20,25 38:3 38:11,18,22,23 40:21 41:2,8,9,12 42:20 43:22 58:2 72:8 85:5,8,13 95:22 98:10 99:13 102:19,20,23 103:10,18,20 107:8 109:13,15 110:7 119:18,20 120:13 120:18,20,22,24 121:2 123:10 127:16 130:8 138:15,17,19,25 139:6 144:8 153:10 156:2 164:12 165:6 165:8 166:19 171:2 171:3,6,12 178:5,24 178:25 179:8 180:8 180:11 188:19 195:10,12,14,19 197:22 200:9,10 212:17 216:9 217:9 217:22 221:25 224:3,24 233:18 237:10 264:15 268:14 269:5,8,13 276:21 284:15,16 298:8,9,12,18,19 300:2 309:13 324:10 326:10 recorded 170:25 recordkeeping 84:14,18 records 29:19 30:25 31:2,3,4 39:20,23 39:25 40:5,9,13 41:17 42:24 45:6,13 45:16 47:11 57:20 82:8,9,10 96:25 101:13 102:16,18	121:4 128:15 142:7 142:10,14 148:2 155:22 270:8 276:17 309:24 310:2 recurring 212:3 213:4 redirect 205:13 redirection 205:16 redness 122:6 124:2 124:15 126:9 refer 258:14,17 reference 170:23 235:16 referrals 260:9 referred 1:21 referring 25:7 77:4 102:5 103:8 104:2 127:15 159:21 177:5 237:14 296:13 refers 260:13 reflect 102:21 120:19 179:2 reflected 153:10 refused 122:9,20 204:15 206:9 refuses 204:17 refusing 294:22 regard 12:9 13:11 13:20 14:16 38:24 49:5 61:3 97:21 111:9 148:4 157:16 160:6 189:21 193:6 209:13 229:6 305:6 305:23,23 306:3 regarding 33:20 35:24 36:19 41:22 55:3,21 56:2,3 57:19 58:16,22 59:12 62:8 69:4 123:20 146:15,21 147:5,14 148:24 159:16 178:3 191:10 192:23	193:5,19 200:18 223:7 265:3 282:10 306:20 315:12,16 316:2,11 regardless 146:12 299:4 regards 11:10 66:22 193:12 regular 38:4 72:23 73:10 regulation 76:24 78:11 regulations 21:5 66:21 249:18,22 253:23 reiterate 231:12 rejected 204:15 relate 135:14 157:10 271:10 related 326:13 relates 157:7 relating 180:18 relationship 272:4 release 82:25 83:5,9 126:17,20 released 303:17 317:7,11,22 318:2 318:10 relevant 125:15 288:23 reliable 289:16,20 289:22 relied 45:6 relief 252:23 rely 145:2,3 relying 138:12 remains 118:12 remember 18:23 25:25 26:5,25 27:16 28:8 33:17 55:16,22 96:23 138:5 141:17 162:15 165:15 200:16,20 208:16 210:8,10 214:20,25 215:15,17,20,25
--	---	---	--

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212-267-6868

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[remember - risk]

Page 29

216:13 234:13,15 236:9 251:10 254:23,24 263:25 271:15 273:7 279:21,22 280:21 280:22 281:4 302:24 remotely 260:20 remove 181:7,9,13 181:16 removed 64:21 66:8 66:9 rendered 30:7 148:24 repeat 27:9 62:24 84:16 246:15 repetitions 168:20 rephrase 51:4 57:4 77:17,18 101:21 238:20 305:21 317:9 replace 64:10 report 95:15 144:4,6 220:7,10,12 268:4 reported 88:9 123:4 129:4 144:9 155:17 268:10 290:11 reporter 2:15 8:20 8:21 9:5,10 53:2 85:3 87:4 127:12 140:5 179:18 280:6 reporting 117:19 144:14,20 327:2 represent 8:3 288:10 representation 56:12 174:25 175:20 240:18 representations 56:8 represented 301:19 304:10 republic 12:13,15 12:18	request 131:19 207:10 requested 26:6 72:7 122:8 132:22 188:18 197:21 216:8 217:21 264:14 268:13 299:25 require 42:2,7 50:20 51:7 54:2,25 55:19 55:24 56:18 64:8 106:16 123:24 124:10,14 126:8 193:18 275:25 276:4 292:19 293:7 293:20 294:8 295:3 295:15 296:17 299:2,17,18 required 41:17,21 79:24 130:24 154:20 180:21,25 238:15 274:20 276:8 305:10 307:2 requirement 230:16 requires 49:15 51:21 53:5 56:6 57:15 59:9 reserved 6:11 reside 7:23 residence 32:14 residency 13:22 14:13,15 16:4 resident 13:24 31:18 31:20,22 32:3,4,6 34:22,23 39:15 40:8 96:8,11,15,17 110:15,16,17,18 118:8 146:8 167:17 174:13 191:8,13,18 193:3 194:2 203:6 290:25 292:12,13 292:23 293:10,14 294:2 295:20 296:25 299:9,10 321:14 322:16,16	322:19,23 323:3,9 resident's 31:24 residents 20:24 23:7 25:6,19,20 31:21 45:2,5 167:20 192:6 193:9,12 194:4 294:13,17 319:15 319:19,23 320:16 320:24 321:4,11 resists 205:20 resolution 218:25 respective 6:4 response 56:3 73:4 94:10 112:2 114:19 115:25 250:9 255:13 responses 54:3,16 55:2,20 responsibilities 20:15 23:6,11,14 responsibility 20:18 23:8 39:6 320:4 rest 232:12 restained 62:16 63:13 restrain 63:13,22 154:24 205:22 restrained 62:13 64:21 66:6 111:22 206:15 restraint 61:8,14,20 61:21,22 207:3 restraints 61:4,14 61:16 62:4,8,23 63:7,17,24,25 64:11 64:15,18,20,23 65:3 65:7,10,15,20,21 66:22 111:18,20 126:17,20,23 153:6 153:8 154:21 171:14 restriction 253:2 325:14 result 138:3 231:21 241:6	resumé 261:3 retained 325:19 retaining 324:12 retriaged 140:9 review 30:22,24 31:7 33:9 35:16 38:12,18,22 43:18 86:5 88:7 96:24 101:13 102:17 103:20 104:11 109:4,10 120:13,23 141:15 142:6,10,14 142:16 147:25 155:13 232:3,7 236:7,12 309:12 310:21 312:4 reviewed 34:9,12 45:13,15 142:12 236:11 240:15 reviewing 67:6 141:22 revised 240:9,15 revoked 304:24 305:3 rewrite 221:3 ridiculous 287:21 right 27:21 34:2,11 38:2 43:5,9 48:18 49:12 97:17 118:4 118:25 120:11 122:7 130:11 131:7 136:8 137:13 163:4 163:6 173:8,12 175:10 180:10 200:3 226:18 227:7 233:14 237:11 257:12 269:6 284:20 295:13 303:24 310:24 312:9 313:25 314:2 319:25 rights 221:20 239:13 risk 33:12,14,18 36:23,24 90:3,5,10
--	---	---	--

VERITEXT REPORTING COMPANY

212-267-6868

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516-608-2400

154:16 155:24,25 242:2 243:6,25 244:11,15,20,22,23 245:3,6,10,16,25 246:2,4,8,9,10,12,18 246:22 247:2,16,21 247:22 305:20 306:3,5,6,7,10,14,16 306:20 risperdal 203:5,7 road 168:8 261:6 295:6 role 20:5 21:3 38:23 39:2,4 65:25 66:3,4 66:20,24 212:14 room 8:23 11:12 16:21,23,25 18:6,19 18:21 20:6,11,14,17 20:25 21:3,6,22 22:6 24:4,6,11 25:4 25:15 26:23 27:7,13 28:19 31:23 32:20 34:5 39:5 59:24 60:8,21 63:10 65:9 67:23 68:9 73:12,17 73:19 74:11,13 75:3 77:2,3,20 79:6,7 83:8 90:7 95:14 105:8,10,12,14 111:3 112:6,8,11,17 112:23 118:16 119:18,19 130:9 131:19,22 136:13 140:8,10,22 141:6 141:23 142:7 156:8 159:19,21 161:5,7,9 162:7,7,12 163:12 164:23 165:23,25 176:9 187:15 190:16 192:10 198:6,22 199:12 200:9 202:22,23 205:11 214:23 215:24 227:11 229:20,23 232:11	234:21 244:19 249:17 253:15,16 253:19 303:18 313:5 314:10 321:2 321:6,8,10,12,23 322:5,7 rooms 69:5 rosen 315:17 rotate 13:25 rotated 14:6 routine 185:16 routinely 180:19 rover 198:2 248:13 rpr 134:12 rule 76:24 78:11 79:22 132:13 261:14 rules 2:17 8:7 21:4 66:21 69:4,22 79:4 106:15 107:8 249:17,21 253:23 254:14 269:21 325:17 run 15:7 90:6 112:16 running 15:14 52:16 288:12 rws 1:7 ryan 3:19 s s 118:9 200:22 325:9 327:6 safe 181:21 182:21 183:8 184:8 220:6 247:10,13 249:4,8 safekeeping 182:8 safety 214:13 239:14 sake 84:24 274:10 salary 10:4 16:9 sample 132:21 sanction 178:5,8 sanctions 305:5	santiago 12:13 13:6 sat 235:9 saw 34:17 39:15 59:17,24 60:7,19,19 115:7 123:4,19 160:13 169:8 180:14 190:11 192:17 193:9 199:14,18 221:17 231:14 244:19 245:7 246:4 264:2 273:6,14,18,24 275:9 280:10,20 281:6 290:23 291:2 292:12 317:20 sawyer 1:15 saying 25:5,18 29:14 45:9 91:17 118:15,19 119:5 136:2 141:7,8 145:20 161:20 167:15 172:12 182:8 195:24 201:18 229:11 241:2,24 244:14 256:13 260:4 261:2 270:2,3 280:18 294:11 296:10 says 53:9 87:15 89:10 112:8 113:6 113:11 117:5,7 121:18 142:19 160:18 166:19 217:9 223:22 240:8 240:15 256:4,7 282:2 322:23 scale 157:5,5 scan 133:7,8,18 134:24 138:3,5 schedule 22:8 schlesinger 3:10 school 10:14 12:12 12:25 13:4 124:23 125:18	schoolcraft 1:5 8:4 29:12,21 30:7,17 31:6 36:8,11,15,20 37:12 38:25 39:8 44:25 45:8,14 48:18 48:24 49:3 50:9,14 53:15 54:6,13 55:12 55:14 59:25 67:8,17 67:24 68:8 86:6,16 88:6 89:15,20 94:16 95:2,22 96:20 97:4 98:15 100:21 101:5 101:15 102:10 103:24 104:8,25 106:2 107:11 108:9 108:23 112:13,19 114:20 115:18 116:2 117:20,24 123:4 126:24 131:12 132:10,20 133:21 134:14 138:2 140:19 141:16 144:15,21 145:2,24 148:4,25 149:12 150:14 151:8 152:25 155:14,18 157:13 158:20 166:22 180:21 181:5 183:9 183:22 185:5 186:21 187:5,23 188:5 190:18,23 191:2,3,10,15 193:7 194:7 195:22 200:19 201:6,15 202:2,21,25 203:4 204:10 206:2,9,20 209:14 213:25 216:2,11 221:13 222:14,20,24 224:15,25 232:4 238:4 240:6,20 241:12 242:9 243:5 249:12 250:14,20 251:12 252:11
---	--	--	--

254:11 260:21 261:19 262:3,4,5,10 263:4,15,21 264:3 264:18 265:4,6,13 266:6,24 275:19 277:9,18 278:9,11 282:9 283:9 284:4 285:11 286:9 290:11,23 291:2 296:12,14 303:2,7 303:15 309:5 315:12,16 316:2 317:3,7,11,22 318:2 318:10 327:3 schoolcraft's 44:4 55:20 56:2 59:16 60:5,11 104:11 123:20 129:17 130:3 148:2 156:6 185:20 211:18 212:15 214:13 222:22 231:8 232:5 262:21 280:2 294:4 science 10:25 scoppetta 4:3 score 116:13,15 scott 282:4 scully 2:14 326:4,22 sealing 6:5 search 184:9,10,11 184:13,14 185:17 185:18,19 186:3,8 269:18,21 270:5 searched 184:4 searches 185:17 186:2 seclusion 154:21 second 34:4 87:7 89:6 90:15,16 113:8 117:4,6,9 140:4,6 140:14,16 141:5 146:18,20 147:16 147:17,20,22,23 148:3,5,8,9,16,24 149:3,3,6,16 151:7	151:14 153:14 194:5 207:8,11 209:9,14,19 211:8 225:19,21,22 228:14 230:5,14 232:2,13 268:19 secondary 132:14 section 72:12 75:21 79:11,24 80:3 81:18 83:3,12 93:22 102:11 103:24 104:9,17 105:11 107:19,22 108:7,16 130:12 158:9 216:21 222:8 security 186:6,7,10 186:12,21 187:12 see 10:9 20:22 39:6 39:10 43:7,14,15 44:19 45:11 63:20 69:8,11 72:2 78:5 86:11,20 87:8 89:7 90:17 94:25 95:5,8 95:21 97:6,14,15 98:12 113:10 114:7 115:14,23 119:21 121:11,22,25 122:2 122:25 123:11 127:9 131:13 132:7 133:12 139:11 140:11,19 142:4,20 143:2,16 146:2,7,9 147:11 149:9 151:18 153:15,16 156:3,5 170:23 178:7 180:3,17 184:20,21 198:25 212:2,8 234:14 235:23,25 245:24 246:22 248:17 257:19 258:7,9 260:3 261:19,22 263:24 269:2 273:11,16 274:19 275:16 280:15,19	280:24,25 281:8,15 281:18 282:8 290:15 299:11,22 309:13,15 312:2 seeing 86:6 194:25 260:24 279:22 280:21 seen 42:17 88:24 118:11 142:3 157:17 240:20 256:21 263:25 272:6,13 273:3,12 280:11 282:2 290:3 sees 140:7 160:12 178:10 299:9,10 seiff 4:3 send 76:19 269:24 sending 237:17 sense 92:14 271:12 319:3 sent 269:16 sentences 242:23 separate 134:6,8 312:19 sergeant 1:16,18 143:25 144:7,9,13 170:17,20,24 171:5 171:10 172:11 212:14,18 282:4 291:9 sergeant's 144:14 sergeants 213:2 series 297:22 serious 241:6 seroquel 268:15 services 275:4 sessions 66:25 set 22:8 238:23 240:7 326:8,18 seth 315:22,23,25 sets 238:14 setting 43:11 setup 174:7 seven 22:17 110:8 127:9,12 178:11	shaffer 3:19 126:2 164:22 178:19 212:16 213:7 242:7 243:15 252:5 262:6 262:24 263:7,10,16 265:25 266:11 268:2,7 277:21 278:12 280:4 282:12 285:12 286:10,15 290:14 300:6 312:16 316:21,23 317:9 319:11 325:5 shake 8:18 shaking 9:3 shantel 1:18 she'll 279:7 sheet 327:2 shield 1:15,16,19 shift 25:10,11 67:14 67:18,22 68:23,25 69:17 322:8,9,10 shifts 24:13,19 25:24 shirt 181:10 short 269:2 shorthand 2:14 shot 205:23 206:15 show 37:6 41:12 68:12 119:19 164:8 179:2,11,21,22,23 180:6 232:20 250:6 showed 33:7 134:24 167:23 168:2,5 173:15,19 showing 233:3 239:20 253:20 shows 130:15 shut 109:16 sic 50:3,21 51:19 140:17 218:23 262:11 sick 287:23 side 204:23
---	---	---	--

[sight - status]

Page 32

sight 213:8	60:15 67:11 68:5	sort 136:4	stabled 279:16
sign 57:24 176:13	69:11,19 72:5 85:4	space 194:12	staff 20:24 23:12,23
222:2,6,17 257:15	85:13 87:8 102:20	speak 35:23 39:10	23:23,25 61:15
275:8 278:24	109:16 120:7	44:25 45:4 67:7,9	62:11 271:10
signature 98:22,25	124:24 125:19	118:22 170:20	stamp 96:14 110:10
99:2,3 216:23	126:3 135:2 138:16	178:24 200:12,17	stamped 216:20
223:25 323:21	138:24 178:25	200:21 201:3,10	stamping 117:16
signed 6:14,16 96:8	179:10,17,21,25	202:12,16 205:12	stand 100:8 238:7
96:25 99:17 158:11	180:11 195:13,19	208:8 209:4 223:4	standard 22:18 46:3
166:25 167:3	197:19 200:22	229:16 240:16	76:23 78:12 79:4
189:20 222:7,12	233:7,10,13 252:25	267:23 268:5,9	208:18,21 238:23
263:3 277:4,25	256:25 268:25	274:8 278:7 291:13	293:16,17 294:5
280:12 281:21	269:13 274:8 278:4	speaking 106:25	295:9,12 297:23
signs 129:5 222:18	280:5 287:22 288:5	107:7 125:8 209:2,3	298:3,6,23
284:22	288:14 298:9,19	296:25	standards 294:6
simple 296:16	299:24 320:14	speaks 180:8 239:6	296:4,4,8
299:19	324:8	specialty 9:16	standing 186:21
simply 163:8	smoke 261:11	specific 103:7	stands 237:7,12
single 28:14 168:9	smoking 261:13	145:22	stapled 278:17
sir 243:9,11	social 100:15,19	specify 102:25	279:5,13 284:13
sit 21:9 29:7,11	260:16,17 310:22	speech 48:2 59:5,12	start 15:16 17:11,13
66:25 215:2,9,16	society 80:6 84:11	194:16	69:17 204:20
224:23 308:7	84:12 149:24	speeches 169:20,22	205:16 269:16
sits 115:3	socks 181:14 184:18	spell 87:13 208:5	started 67:14,18,22
sitting 103:21 251:8	soft 59:7 61:13,21	302:7	starting 7:3
situation 50:6	61:22 63:6,17,25	spend 23:20,21	starts 123:12
131:23 132:4 215:7	64:10,14,22 65:3	220:24	state 2:15 126:5
294:4	126:23	spent 21:18	304:16,17 307:2,4
situations 215:3	software 274:12	spoke 36:23 191:3	308:17 326:5
six 19:7 22:16 70:24	sole 136:10	207:14,20 208:7,24	statement 146:2
259:17,21 285:3,6	solely 147:8	223:5,7 228:20	243:12
312:16	somebody 20:2,3	229:3	states 1:2 11:16,18
skin 151:17 152:3	47:11 52:15,16	spoken 36:3,6,13,17	11:19 12:20 117:13
slash 128:23 151:18	70:20 95:14 108:6	201:12	173:9
152:4	133:2 135:25	spots 310:24	station 60:24
sleep 268:21,23	155:16 175:23	stabilization 76:22	status 46:8,10 47:3
sleeping 81:7	185:2 259:20	78:24 112:11,24	47:5,14,15 48:5,17
slightly 117:16	290:21	217:14,18 218:2,14	49:6,16 50:8,24
156:21,22 157:2	soon 39:4 64:25	218:15,19,20,21	51:22 52:5 53:18
slow 53:2	65:8	219:3,9,12,17 287:8	59:11 80:16 114:6,7
slowik 118:8 167:22	sorry 11:3 67:11	stabilize 82:2,6	114:13,14 115:12
194:6	83:7 127:11 140:5	110:23 111:10,13	116:3 190:17,22
smear 126:5	161:3 179:9 197:19	111:16 113:6	191:14,17 216:15
smith 3:3 7:2,7,11	217:15 238:9	stabilized 84:2	221:20 233:3
11:3 26:3 51:3 60:3	308:20	218:17	234:10 325:12

VERITEXT REPORTING COMPANY

212-267-6868

www.veritext.com

516-608-2400

stay 22:15,21,21 23:2 190:10,12 261:18 steven 1:12 4:5 282:3 stg 1:15 stimulating 134:2 stipend 16:8 stipulate 261:12 stipulated 6:3,9,13 stipulations 6:2 stood 237:9 stop 169:19 176:24 227:25 228:4 256:15 286:19 287:22,23 288:15 stopped 33:10,11 228:7 stories 197:25 199:23 story 149:19 241:17 278:9 280:2 straightened 69:13 straightforward 299:20 street 3:8,11,17 4:11 5:5 strenuous 98:8 strenuously 98:5 stress 318:25 319:2 stressor 100:16 stressors 100:20 strike 126:18 stuck 133:2 study 10:23 stumbled 295:11 stumbling 243:2 subject 302:19 subjected 131:13 134:15 subscribed 324:19 327:21 subsequent 124:8 substance 132:14	substances 132:9 substantial 242:2 243:5,25 success 4:19 suckle 3:10,13 7:18 8:3 35:6 36:5 37:2 57:4,8 66:18 70:2 84:7,25 87:6 92:16 97:13 98:4,7 101:23 102:3,22 103:3,9,19 106:10,14,20,25 107:7 119:23 120:5 120:17 124:7 125:2 125:6,12 126:13 127:19 135:4 137:13 139:14 147:3 155:10 160:25 163:13,21 163:25 164:7,13,20 164:24 168:11,13 168:18 169:19,24 176:16,24 177:9,13 177:16,21 178:4,9 178:13,16 182:10 196:13 199:10 211:4 213:22 215:8 230:24 232:15,25 239:3 240:10,14,21 242:15,19,25 244:6 245:20 246:16 249:19 252:3,20 254:17,19,22 255:4 255:10 256:15 258:2 260:22 261:2 261:17 264:13,23 265:10,14,21 266:20 267:17 270:7,12 272:9,17 272:22 276:20 279:6,10,15,18 284:9,15,19,21,25 285:5,14,21 286:2 286:13 288:16,24 289:4 295:8 297:3,6 297:9,25 311:19,24	312:6,11,15,25 314:23 316:19 322:13,15 324:7,10 325:5 suffering 194:19 sufficient 149:11 suggest 97:24 98:13 suggests 97:20 suicidal 47:24 53:17 53:23 55:3 56:7,25 57:11 58:11,14,18 58:20 80:9 81:5 89:12 90:17 91:7,10 91:11,14 95:6,7 113:12 114:2 115:22 116:4 128:6 128:14,22 129:12 153:15 154:6,10 167:24 171:25 suicide 56:13 113:10 113:11,16 155:24 242:4,6,10 243:8 244:3,13,17 302:17 302:22 303:13,17 suing 300:25 suite 3:12 4:18 summary 239:2 summons 33:20 superiors 196:5,6 supervised 320:24 321:10 supervision 319:16 supervisor 101:2 118:20 119:6 172:18 234:22 278:10 supervisors 91:5,18 218:24 supposed 41:12 42:18 81:14,17 97:10 285:23 supreme 304:20 sure 8:6,8 15:25 18:22 27:10 29:5 42:17,20 45:18 54:9	61:17 62:25 73:7 77:18 120:17 134:19 184:12,16 216:12 219:20 220:8,20 233:10 238:22 246:17 248:3,17 249:3,7 259:6 291:22 297:24 308:2 surrender 183:6 surrounding 49:13 suspended 304:24 305:3 swear 7:13 sweet 107:3 125:5 178:17 sweet's 178:22 sworn 6:16 7:16 324:19 326:8 327:21 symptoms 78:18 100:2 173:22 syphilis 134:13,15 system 269:19,22 systems 310:21
t			
t 200:22 325:9 table 157:24 take 8:21 9:6,10 15:24 20:2 65:9 71:8 80:7,25 81:13 84:25 85:4 110:4 180:25 183:5 184:15,23 187:11 190:25 191:4 197:15 198:19,23 204:5,16,17 206:9 233:13 268:25 310:12 taken 2:13 45:7 63:9 85:10 95:18 109:19 138:21 195:16 197:11 233:20 269:10 285:3,6			

[taken - time]

Page 34

298:14 talk 25:20 114:5 125:7 204:22 218:12 267:2,7,18 271:8,9,10,11,13 272:3 talked 23:5 52:4 80:15 150:22 184:9 245:19 267:13,19 306:10 talking 24:7 27:18 57:25 78:19 92:15 102:15 103:3,6,17 114:15 127:18 136:3 178:4,9,17 179:25 196:22 211:23 216:25 246:3 247:15 275:14,17 284:13 293:15,16,18 296:7 296:11 298:21,23 303:11,12 304:4 306:2 talks 151:17 taped 278:18 279:18 tariq 110:11,14 111:9 113:7,24 115:9,19 116:19,23 117:5,19 123:16 136:8,15,21 137:5 137:15 167:22 tariq's 115:25 117:4 136:10,17 tax 1:9,11,12,13,14 1:18 teach 125:17 289:4 teaching 23:10 297:11 team 21:8 186:18,19 218:4 telepathy 201:9 telephone 176:4 229:17 teleport 106:24	teleported 106:12 tell 9:13 10:13 38:21 52:21 55:7 62:15 125:23 165:4 182:19,25 200:24 201:5 208:13 222:25 225:24 240:24 245:9,15,23 255:15 261:25 262:7 267:3 270:11 271:4 274:7 279:7 289:7 290:4 296:22 314:6 317:2 telling 201:17 205:16 299:15 tells 52:23 58:12 201:22 ten 19:8,12 23:4,20 27:19,24,25 28:9 210:7 228:11 tend 78:22 tendencies 53:17 55:3,5,21 56:3 tendency 56:25 test 50:4,21 51:8,11 51:15 52:13,20 55:6 55:11 130:21 131:7 131:10,13 132:24 132:25 133:5,11,22 133:23 134:3,6,7,13 134:15,22 tested 132:12 testified 7:17 43:25 103:4 201:24 277:12 testify 33:24 34:2,5 35:18 88:15 301:22 301:25 testifying 38:12,19 testimony 35:21,25 85:12 88:16 109:21 138:23 139:3 141:4 195:18 233:22 245:19 269:12 277:16 298:16	326:7,10 testing 47:16,20,21 47:21 48:11,13 100:4 thank 35:7 119:24 255:17 299:15 thanks 297:11 the 133:5 theodore 1:13 theory 196:11,23 therapeutic 203:21 203:24 204:2,6 therapist 218:4,13 thing 23:2 46:24 70:2 230:22 276:10 things 31:16 47:9 49:4 81:17 137:10 144:10 171:8 173:13 174:4 179:5 194:25 198:4 199:19 279:9 297:10 320:8 think 27:15 35:4 60:15 64:16 66:15 83:24 91:9 101:23 102:3 103:11 105:17 106:11,23 116:14 126:4 137:10,14 140:24 141:3 147:22 148:21 149:2,7,11 150:5,10 160:23 175:18 178:16 182:11 188:3 196:25,25 197:14 198:7 214:5 237:10 241:20 246:21 247:9 248:7,16,18 256:23,25 261:14 272:17 283:18 284:2,23 289:6 294:3 304:17 306:3 thinking 51:17 150:3,7 196:23 198:12 245:2	246:12,13 303:24 thinks 78:6 third 3:8 113:8 154:15 thirteen 68:6 thought 25:2 47:21 47:22 51:13,14,16 57:11,12,19,21 58:6 173:21,24 196:11 228:23 237:9 241:14 247:12 283:22 303:14 thoughts 55:8 114:3 thousand 72:11 thousands 27:2 threat 95:3,4 196:19 206:25 243:7 244:2 244:13,16 threats 242:3,5,10 three 17:8 68:22 69:15 87:17,20 96:14 106:9,19 188:25 189:5 199:6 233:11 239:6 242:23 252:10 throw 221:22 thyroid 134:2,3 till 190:3 time 2:13 6:12 8:10 15:11,24 17:8 19:16 20:4,20,23 22:9 23:16 25:7,8 28:11 28:14 32:25 33:16 34:4 60:6 68:8 72:2 85:20 86:2,3,13,23 87:3 91:11 94:24 95:17 103:13 104:18 107:13,20 108:5,12 109:24 115:13 116:21,23 127:7 129:17,25 131:8 138:6,7,16 142:8 148:10 150:2 153:23 158:19,23 159:6,10,18 160:4,8
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212-267-6868

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516-608-2400

[time - unit]

Page 35

160:9,11,13 161:9 161:11,20,23,25 162:5,13,16,20,24 163:4,6 165:5,10,12 165:20,24 166:4,7,9 166:17,21 168:17 169:5 173:2 188:3,6 194:8,12 197:13 198:12,21 199:4,13 200:18 202:6,10 206:5,6 207:5 209:4 215:21 220:25 221:9,10,11 222:7 225:9,10 228:11 231:15,16 232:3 235:15,15 240:19 241:16 250:3,19 260:10,10 264:2 265:20 275:12,12 283:22 311:20 316:4,8 317:6,23 324:15 times 5:10 26:21 27:11,19,19,19,25 34:9 67:7 71:21,23 72:14 106:9,19 130:5 142:2 211:15 timing 60:4 timothy 1:17 tired 234:18 287:24 title 24:18 306:4 today 7:11 8:5 30:21 32:15,20,22 33:2,25 34:14 35:21,25 38:13,18 49:11 88:16 114:15 118:12 215:2,9 224:23 245:4 288:11 today's 68:13 232:21 253:21 told 27:21 33:25 34:21 170:10,14 172:11 180:19 187:23 191:10	201:15,25 213:22 247:18 260:23 278:9,11 289:11 316:14,16 tomorrow 253:18 top 87:15 109:23 110:2 121:18 127:24 158:8 216:20 225:23 254:22 255:10 256:18 total 188:20 totality 147:7 totally 125:20 297:8 touch 99:24 tough 164:20 tox 131:8 132:2 toxicology 131:10 131:20 132:5,15 training 39:18,23 40:5 71:11,14 186:11 305:15,17 305:22 transcript 326:9 transcripts 35:20 transfer 17:11 76:7 77:2,8 78:9,15,22 79:6 104:13 transferred 74:22 75:13,19 78:7 98:20 104:5 105:6,20,24 107:15 165:10 184:7 trauma 133:13 treat 312:24 treated 41:5 42:21 45:14 311:12,20 312:21 313:3 314:20 treating 312:11,13 treatment 30:6,17 36:8,11,15,19 38:25 41:13,14,14 44:5 89:11 99:19 105:23 107:5 218:8 232:6	241:5,12 254:9 283:8 309:14,15,25 311:13 314:8 triage 65:4,5 140:13 140:18,23,24 141:5 155:4,8,12,17,24 157:16 159:9,24 160:12,13 162:19 trial 6:12 301:25 tried 103:23 106:2,7 179:2,11 221:4 241:22 true 1:20 2:2 90:25 250:4 257:20 258:5 263:22 326:9 trust 291:23 truth 201:17 try 104:8,24 198:3 205:13,14 209:19 220:4,20 288:22 trying 19:21 22:23 50:4 64:15 150:3 161:22 162:8 170:4 172:3,11 177:7 179:22 197:16,17 198:4 220:18 289:2 tsh 133:25 tube 134:8 turn 68:14 139:8,17 181:19,22,25 182:13 216:16 221:19 265:16 turned 158:7 turning 121:7 130:10 twice 196:25 203:7 203:23 204:4 two 19:7 24:19 34:9 61:15 70:10 72:11 127:6 148:21 149:8 173:9 189:10,15,18 199:6 252:10 300:15 302:4 type 8:25 33:20 57:6 61:19 62:3 65:21	114:17 207:3 218:25 224:8,9 types 78:21 u uh 58:3 114:10 ultimate 320:4 unable 148:15 unclear 297:8 uncooperative 91:23 undergraduate 10:14 underneath 98:25 223:24,25 understand 8:11 43:4 59:18 73:3,5 79:13 80:2 81:12,20 83:13,21 92:3 94:2 94:15 145:21 146:19 152:24 183:21 187:9 193:15 226:17 227:12 250:24 286:6 292:16 294:3 294:19,21 296:5,9 299:14 understanding 28:2 61:6 67:16 73:13 74:6 75:17,23 76:25 79:21 92:18 93:5,11 93:15 94:5,12,13 105:15 117:20 187:16 238:14 239:4 understood 8:14 33:4 143:12 underwear 181:17 undress 182:20 unfortunately 164:14 unit 14:23,25 26:13 32:5 78:10,23 83:10 105:19 174:22 175:2 190:6 218:3,6
--	---	--	--

VERITEXT REPORTING COMPANY

212-267-6868

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516-608-2400

[unit - witness]

Page 36

218:8 235:13 250:18,21,23,25 251:3 252:19 253:7 253:13 254:2,3,4,5 256:4,24 257:3 258:16 260:11 261:11,15 269:21 325:17 united 1:2 11:16,17 11:19 12:20 university 11:13,25 12:12 13:6 unknown 1:21 2:3 unlocked 90:7 unpredictable 78:20 90:2 unsure 230:19 231:9 231:11,22 upper 156:20 upstairs 167:9 174:11,21 175:2,5 189:7 190:6,8 257:16 258:6 318:18 urgency 157:12 urgent 157:18,21 urinal 131:5 urinalysis 130:17,18 130:20 131:19 urinate 130:25 urine 130:21,21 131:8,20 132:2,12 132:15,19,21 133:6 urology 14:4 use 8:25 61:3 71:17 88:3 105:21 135:15 145:10 147:13 166:6,6 227:16,17 325:16 usually 28:20,21 49:7 52:14 60:23 61:8,13,14 63:13 67:25 78:16 140:18 142:14 174:20,23 182:19 220:10	227:9 260:6 294:13 v v 100:16 208:6,6 327:3 various 5:10 vein 9:5 velcro 61:24 verbal 229:9 verbally 91:23 verify 267:8,14,21 267:24 268:6 279:25 veritext 327:2 vernacular 236:23 237:6 versus 21:13,19 videotaped 2:10 7:9 view 105:4 views 178:23 violation 107:8 violence 113:19,20 319:8,8 violent 29:3 61:12 63:11,14,15,20 64:16,24 65:7 78:20 118:13 205:7 virginia 307:9,13,17 308:3,15 visible 117:18 visit 250:3 252:12 visiting 250:11 251:5 252:8 253:3 325:13 visitors 249:24 251:12 325:15 visual 47:25 119:8 vivek 208:4 228:18 228:21 229:2 234:25 235:13 315:22,23,25 316:11 voice 157:23 196:9 234:19 236:4	volume 59:6 voluntarily 11:12 w w 3:15 87:14 118:9 wacter 282:3 wait 92:6 178:7 190:3,15 289:9 waived 6:8 wall 175:6,7,18 walls 175:25 walter 4:7 want 10:3 22:20 28:5 31:17 33:14 43:18 76:13,17 82:20 92:9 98:9 104:4 106:6 132:13 150:6 158:3 164:15 176:2 177:4,23 220:24 238:20,25 239:3 246:14,16 249:3,7 250:4 265:14,16,22 267:8 282:7 287:18 298:4 311:19 313:6 324:11 wanted 174:11,15 187:24 207:7 230:14,19 252:12 273:24 wants 66:8 77:12 252:20 ward 209:23 249:22 258:6 washington 3:8 watched 135:25 way 44:18 46:15 77:9 95:10 102:7 103:13,14 105:18 106:5 112:18 120:10 134:24 177:4 196:2 198:25 218:10 235:21 243:3 255:2 261:13 270:22 273:8 297:5	297:7 300:17 326:15 we've 102:22 213:22 weapon 55:10,15 220:7,11 weapons 184:17,21 184:21 196:24 198:9,10,15 213:16 214:2,10,14,18 219:11,16,21 220:4 220:21 247:7,8 wear 181:3 183:10 249:23 wearing 183:16,23 week 21:18 204:12 259:7,10,17,22,24 269:25 weighed 150:13 weight 203:15,16 204:9 went 10:15 12:11,20 16:20 17:9,20,21 31:18 44:2,24 92:25 167:8 187:5 190:8 198:18 206:14 230:21 278:24 291:20 318:18 west 3:11 307:9,13 307:17 308:3,14 whatsoever 8:12 whereof 326:17 wherewithal 192:15 whitehall 5:5 willing 163:7 261:12 withdrawing 57:8 withdrawn 36:5 118:12 196:13 249:19 witness 7:13,15 11:5 67:12 68:6,17 74:18 87:9 102:21 106:22 119:25 124:25 125:20 139:9 164:14 169:13 170:4 176:18 177:3
---	---	--	--

VERITEXT REPORTING COMPANY

212-267-6868

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516-608-2400

[witness - zachary]

Page 37

178:2 179:2,9,11,22 179:24 180:4 210:16 216:17 256:4,16,17 257:2 274:6,15 278:5 325:3 326:7,11,17 327:5 witness's 180:2 woman 185:5 wondering 282:13 282:17,20,23 word 9:2 247:22 248:4 words 10:9 212:5 work 9:21 11:12 14:18 17:5 21:13,13 21:19,19 22:11,16 24:9,15 25:8 72:19 138:4 218:5 250:22 257:3,4 259:8,11,20 289:3 worked 17:16 22:10 24:19 26:17 worker 260:16 workers 260:17 working 9:19 18:5 25:4 26:8,10 31:22 257:9 259:17,21 303:18 312:25 works 24:14,16 worksite 100:21 wrist 62:2 122:7 123:5,20 124:2,15 126:10 173:8 write 47:9 54:22 57:11 58:6,12 88:4 111:9 123:22 143:4 165:16,20,23 173:6 173:13,16,22,25 174:3 189:19 191:5 194:2 207:10 217:10 223:9,12 224:11,13,17,19,21 225:14 226:6 282:14 299:13	writes 291:17 writing 47:6 66:21 109:5,11 written 44:20 45:2 66:21 89:15,17,21 113:8,25 114:24 138:8 203:6 239:23 239:24 240:2,4 268:10 270:24,25 282:25 283:3,4 291:6,18 292:14 310:6 315:2 wrong 105:18 106:5 125:21 149:25 162:4,5 255:6 wrote 98:25 110:20 115:6,9,20 116:19 122:4 123:7,19 128:9,18 129:7,13 162:24 165:5,7,13 166:13,17 174:6,12 187:22 188:7,23 189:9 199:4 220:23 225:25 290:22	yesterday 173:10 york 1:3,8 2:7,7,16 3:5,5,12,12,17,18,18 4:6,6,12,12,19 5:6,6 11:25 15:8,11,22 16:11 17:7 36:18 126:6 210:13 213:13,20 220:6 239:11 276:15 307:8 308:5,15 316:25 326:6 327:2 327:4
		z
		z 315:13 zachary 3:15
	x	
	x 2:5 133:12 325:2,9 x'd 152:5	
	y	
	yard 150:4 197:25 248:7 yeah 19:25 46:25 50:18 71:16 75:7 80:22 117:22 120:5 160:22 177:15 234:5 251:2 271:21 year 13:18 17:15 19:7,10 21:25 72:3 72:10,11,14,17,19 165:2 211:19 273:6 years 16:16 19:2,4,7 19:8,12 102:14 133:19 228:12 257:8,10,11	