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GAYLE

A. At the address that I gave at the beginning.

Q. Out in Long Island?

A. Yes, sir.

Q. Was there a reason why in the application for employment you gave to Harry's you did not list the Long Island address but you gave a Covington, Georgia address?

A. Yes.

Q. What's the reason?

A. Because I believe I have a right to list the address I want to.

Q. That's the only reason?

A. Yes. It's my home.

(Defendants' Exhibit D-5, initial disclosures, was marked for identification as of this date.)

Q. Take a moment to look at Document D-5 and let me know when you're ready.

Are you ready?

A. Yes, sir.

Q. D-5 is a legal pleading labeled "Plaintiff's Initial Disclosures." It was submitted by your attorney in connection with this case.

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1 GAYLE

2 Have you ever seen document D-5 before
3 today?

4 A. Not in its legal form.

5 Q. I want to talk about the names that are on
6 here. We'll go through them one by one.

7 Who is Georgeannia Smith?

8 A. She is my friend.

9 Q. She is listed on here under the category
10 of people who are likely to have discoverable
11 information about this case.

12 What discoverable information would
13 Georgeannia Smith have about this case?

14 MR. BERNSTEIN: Objection.

15 A. Information that I've told her.

16 Q. Like what?

17 A. Like I'm working for Harry's Nurses
18 Registry, Inc., and he steals \$1 per hour out of my
19 paycheck for every hour that I work, and does not
20 pay overtime.

21 Q. That's the reason why she is on this list?

22 MR. BERNSTEIN: Objection.

23 A. Yes.

24 Q. When is the last time you spoke to
25 Georgeannia Smith?

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GAYLE

A. We are friends. We talk every day.

Q. You talk to her every day?

A. Yes.

Q. Is she your best friend?

A. Yes, best friend.

Q. Who is Kenneth Moxey?

A. My tax preparer and friend.

Q. Is he a CPA?

MR. BERNSTEIN: Objection.

A. I don't know what his title is.

Q. When is the last time that you spoke to Mr. Moxey?

A. Just before I came in this room.

Q. Did you discuss the fact that you were being deposed here today?

A. I told him I was at an attorney's office. I never used those legal terms.

Q. Did you tell him you had any type of proceeding relating to your lawsuit against Harry's Nurses going on today?

A. He knows that I filed a suit against Harry's Nurses Registry, Inc.

Q. But you didn't discuss the fact that you were being deposed?

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GAYLE

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A. No.

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Q. Have you ever discussed this lawsuit with Mr. Moxey?

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A. Exactly what are you asking? Like for example what?

6

7

Q. Have you ever discussed the fact that you filed a lawsuit against Harry's Nurses Registry with Mr. Moxey?

8

9

10

A. I told you that I did tell him that I do have a lawsuit against Harry's Nurses Registry.

11

12

Q. How many times have you spoken to Mr. Moxey about it?

13

14

A. I don't know.

15

Q. When was the last time?

16

A. I can't recall.

17

Q. More than 10 times?

18

A. I honestly can't recall.

19

Q. More than 100 times?

20

A. I honestly can't recall, sir.

21

Q. I'm allowed to try to refresh your recollection.

22

23

A. That's okay.

24

Q. Is it more than 10,000 times?

25

A. The answer remains the same.

1 GAYLE

2 Q. You just can't recall?

3 A. Exactly.

4 Q. It could be a billion, right?

5 A. The answer remains the same.

6 Q. What knowledge or discoverable information
7 would Mr. Moxey have about this lawsuit?

8 MR. BERNSTEIN: Objection. You can
9 answer.

10 A. The same information that I have given to
11 Georgeannia Smith.

12 Q. What's that?

13 A. That when I work for Harry's Nurses
14 Registry, Inc. he proceeds to steal \$1 per hour out
15 of my paycheck for every hour that I work for
16 worker's compensation, which I'm not required to
17 pay.

18 Q. We'll get into that later. So you do
19 remember what you talked about with Mr. Moxey?

20 A. Sure.

21 Q. Did you have any other conversations with
22 him about this lawsuit?

23 A. Not that I can recall.

24 Q. It may have happened, you just don't
25 remember?

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GAYLE

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A. Not that I can recall.

3

Q. Who is Jennifer Walter?

4

A. She is my friend..

5

Q. Is she an LPN?

6

A. No, she is not.

7

Q. What discoverable information does Ms.

8

Walter have about this case?

9

MR. BERNSTEIN: Objection.

10

A. Just that I worked for Harry's Nurses

11

Registry.

12

Q. In conversations that you've had with her?

13

A. Not much.

14

Q. When was the last time you spoke to Ms.

15

Walter?

16

A. Maybe a month or two ago.

17

Q. Have you ever discussed this lawsuit with

18

Ms. Walter?

19

A. No.

20

Q. Never?

21

A. She knows that I worked for Harry's and she knows that I was going to sue him or I was planning on suing him for my money.

22

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I don't remember if I actually told her that it has taken place.

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GAYLE

Q. Who are Rosemarie Williams and Courtney Williams?

A. They are my friends, too.

Q. Are they LPNs?

A. No, they are not.

Q. How do you know Rosemarie and Courtney Williams?

A. They are my church brothers and sisters.

Q. Have you ever discussed this lawsuit with Ms. Williams or Mr. Williams?

A. They have the same information the previous friends have.

Q. That's the extent of their discoverable information?

MR. BERNSTEIN: Objection.

A. That's the extent of it.

Q. When was the last time that you spoke to Ms. Williams or Mr. Williams about anything?

A. Maybe December.

Q. You haven't spoken to them in five months?

A. I have spoken to them.

Q. I asked when was the last time you spoke

--

A. About anything?

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10

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Q. -- about anything?

3

A. Anything specifically regarding the
4 lawsuit?

5

Q. Anything, period.

6

A. Oh. Well, I spoke to Courtney yesterday,
7 I believe, or the day before.

8

Q. Did you tell her you were going to be
9 deposed here today?

10

A. No, I did not.

11

Q. Have you ever discussed this lawsuit with
12 Ms. Williams or Mr. Williams?

13

A. When you say "discussed the lawsuit," can
14 you just elaborate, please?

15

Q. I think it's a pretty clear question.

16

Can tell me what part of that you don't
17 understand?

18

A. You said if I ever discussed the lawsuit
19 and it has parts to it, so if you would just
20 elaborate as to what exactly you are asking.

21

Q. You filed a lawsuit in federal court
22 against Harry's Nurses Registry and Mr. Dorvilier.

23

Since that time have you ever discussed
24 the fact that you filed a lawsuit or anything
25 relating to the lawsuit with Ms. Williams or Mr.

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1 GAYLE

2 Williams?

3 A. I told you before that, yes, I have told
4 them that I filed a lawsuit against Harry's Nurses
5 Registry, Inc.

6 Q. What did they say?

7 A. I don't recall.

8 Q. Who is Tamara Newman?

9 A. She is my niece.

10 Q. What does she do for a living?

11 A. She is a PB banker at Bank of America.

12 Q. She's listed on here as having
13 discoverable information that you may use to support
14 your claims.

15 What discoverable information does Tamara
16 Newman have?

17 MR. BERNSTEIN: Objection.

18 A. The same information.

19 Q. Just conversations that you've had with
20 her about working at Harry's Nurses?

21 A. Yes, sir.

22 Q. When was the last time you spoke to Tamara
23 Newman?

24 A. Yesterday morning.

25 Q. Did you tell her you were going to be

30
50

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GAYLE

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2 deposed here today?

3 A. No.

4 Q. You didn't tell anybody?

5 A. No.

6 Q. Who is Cherrilyn Williamson?

7 A. Harry's former director of nursing.

8 Q. You kind of smiled and laughed as you said
9 that. Why? What's funny about that?

10 A. Nothing.

11 Q. I am asking a reason why you smiled and
12 laughed when you said that.

13 A. Because she was Harry's employee.

14 Q. How do you know Cherrilyn Williamson?

15 A. As Harry's Nurses Registry, Inc.

16 Q. That's where you met her?

17 A. That's where I met her.

18 Q. What does Ms. Williamson do for a living
19 today, do you know?

20 A. She is a registered nurse.

21 Q. Do you know where she is working today?

22 A. Yes.

23 Q. Where?

24 A. In The Bronx.

25 Q. Where?

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GAYLE

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A. I don't -- how would I put it? I am just

3

looking for the right words.

4

Do I have to say where she works?

5

MR. BERNSTEIN: If you know, you have to

6

say.

7

A. She works at a nursing home in The Bronx.

8

Q. What's the name of the nursing home?

9

A. Bay Park.

10

Q. How long has she worked at Bay Park?

11

A. I don't know.

12

Q. What discoverable information does Ms.

13

Williamson have about this case?

14

MR. BERNSTEIN: Objection.

15

A. Well, she used to be the director of

16

nursing at Harry's Nurses Registry, Inc. She knows

17

everything that goes on.

18

Basically I would say she has a lot of

19

information.

20

Q. When was the last time that you spoke to

21

Ms. Williamson about anything?

22

A. Yesterday.

23

Q. Did you tell Ms. Williamson that you were

24

coming in here to be deposed?

25

A. Actually, I did tell her that I would be

1 GAYLE

2 in court today, at the attorney's office.

3 Q. By "court" you meant that you were going
4 to be at my office today to be deposed?

5 A. Yes. I didn't use the word "deposed," I
6 just said that I am meeting with the attorneys
7 today.

8 Q. Was that a face-to-face meeting or was
9 that over the telephone?

10 A. Face-to-face.

11 Q. Where did the meeting take place?

12 A. At Bay Park.

13 Q. Where Ms. Williamson works?

14 A. Yes, sir.

15 Q. Was anyone else present when you met Ms.
16 Williamson?

17 A. I don't remember.

18 Q. Well, it was yesterday. You don't
19 remember yesterday?

20 A. Yes. There could be people passing. It's
21 a nursing home.

22 Q. Where did you meet with her, in a room?

23 A. No.

24 Q. Where?

25 A. We were at the nurses' station.

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Q. How long was your meeting with Ms. Williamson at the nurses' station?

A. We were doing several things. I didn't just meet with her to talk about this.

Q. How long were you with her yesterday?

A. I wouldn't say I was with her. She left there 3:30. I believe I went on the floor about maybe 3:25 or so to start a shift.

Q. You're working there, as well?

A. Yes, sir.

Q. Did she help you get a job at Bay Park?

A. No, she didn't.

Q. Did you help her to get a job at Bay Park?

A. No, I didn't.

Q. It's just a big coincidence?

A. It's just a big coincidence.

Q. Did you happen to run into her yesterday or did you guys make a plan to meet?

A. I happened to run into her because it's in the same unit that she was working in.

Q. You were with her from 3:25 and 3:30?

A. Just about.

Q. For that five-minute period I'd like you to tell me to the best of your recollection what Ms.

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GAYLE

Williamson said to you and what you said to her yesterday.

MR. BERNSTEIN: Note for the record that I am not aware of any connection that that question has to the threshold stipulated issue with which this deposition is concerned.

A. She was doing some consults. I told her that I'd help her with the consults because she was in a rush to go home.

I said to her, By the way, I am meeting with the attorneys tomorrow. And she said, Are you guys still at it, and I said, Yes.

That was it.

Q. That's it? That's the scope --

A. That's it, yes.

Q. Wait until I'm done with the question.

That's the scope of your conversation about this lawsuit?

A. Yes.

Q. How many other times have you spoken to Ms. Williamson about this lawsuit since it was filed?

A. I don't have a recollection of the number of times I have spoken to her.

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GAYLE

Q. More than 10?

A. No. We don't talk that often. Maybe a couple of times.

Q. Did Ms. Williamson encourage you to file this lawsuit?

A. No, she didn't.

Q. Who is Rosetta Rickets?

A. She is my adopted mom.

Q. Would the extent of her knowledge be any different than the people listed on the first page of this initial disclosures?

A. No, it's no different.

Q. Have you discussed the lawsuit with Ms. Rickets?

A. No. I haven't discussed the lawsuit except for the same thing as previous people.

Q. What about Jermain Williams? Who is that?

A. That's my son.

Q. He lives in Covington?

A. Yes, he does.

Q. Have you discussed the lawsuit with Mr. Williams?

A. He knows that I have sued the agency that I was working with. That's just about what he

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GAYLE

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2

knows.

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Q. What about Andrea Radcliffe? Who is that?

4

A. She is a friend of mine.

5

Q. Is she an LPN?

6

A. Yes, she is.

7

Q. Where does Ms. Radcliffe work?

8

A. She works with another agency in

9

Manhattan.

10

Q. What's the name of that agency?

11

A. I'm not sure, but I know she works for an agency in Manhattan.

12

13

Q. What knowledge would Ms. Radcliffe have about this lawsuit?

14

15

A. Just about the same information that I have given to everyone else.

16

17

Q. When was the last time you spoke to Ms. Radcliffe about anything?

18

19

A. I spoke to her a few days ago when she called me and asked me for the number for the tax preparer. That's it.

20

21

22

We didn't hold any conversation about the meeting today, no.

23

24

Q. No?

25

A. No.

1 GAYLE .

2 MR. BERNSTEIN: Can we have a short break?

3 MR. SILBERSTEIN: Sure.

4 (A break was taken.)

5 Q. Ms. Gayle, I am going to refer you back to
6 the document that I believe we marked as D-1. It's
7 your resume. Can you take that out, please?

8 I want to clarify for the record, the
9 first place where you worked as an LPN was Kings
10 Harbor Multicare Center; is that correct?

11 A. Yes.

12 Q. Did you start working as an LPN at Kings
13 Harbor in August 2005?

14 A. Yes.

15 (Defendants' Exhibit D-6, document, was
16 marked for identification as of this date.)

17 Q. Have you ever seen the document marked as
18 D-6 before?

19 A. Not in this format. I guess if you go
20 online, you could just pull it up.

21 Q. It was produced by the defendants in
22 connection with discovery in this case. It's
23 document D-22 and it's from the office of
24 Professions New York State Education Department.

25 It says, "license information," and it

1 GAYLE

2 says that Claudia C. Gayle was licensed in the
3 profession of licensed practical nursing on October
4 27, 2005; is that correct?

5 A. Yes.

6 Q. If you were licensed to be an LPN on
7 October 27, 2005, how could you have started working
8 in August of 2005 as an LPN at King Harbor?

9 A. Because New York State law allows you to
10 work as a nurse when you graduate from nursing
11 school for at least three months before you become
12 licensed.

13 ~~*~~ Q. You graduated when again, please?

14 A. I graduated I believe in July of '05.

15 Q. You started working in August of '05 and
16 then you got licensed in October of '05?

17 A. Yes. Well, this is the date of the
18 license, in October.

19 Q. It lists on here an address in the West
20 Indies. Do you know why that is?

21 A. Because that's the address they sent it
22 to.

23 Q. Did you maintain an address in the West
24 Indies in 2005?

25 A. Well, I am from Jamaica and that's my home

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GAYLE

address in Jamaica.

Q. You have testified you came to the United States in 1991, correct?

A. Yes.

Q. Since 1991 have you also maintained at all times a residence in the West Indies?

A. It's the address of my parents. It's my home where I grew up.

Q. In your resume here, "employment and education," the first thing on here is Kenneth Moxey Realty, Inc. from March '97.

Do you see that?

A. Yes.

Q. What were you doing between 1991 and March '97? Were you in the United States the whole time?

A. You said March when?

Q. 1991, when you got here, and '97, the first date on the resume.

A. I was a homemaker.

Q. That's when you were married?

A. No.

Q. I just want to clarify what you mean by "homemaker."

Do you mean were you raising your son?

1 GAYLE

2 A. My children, yes.

3 Q. Let's go back to White Glove for a minute.

4 You said that they have a satellite in The
5 Bronx, is that correct, a satellite office?

6 A. Yes.

7 Q. Where is that office located, please?

8 A. I believe -- the address is not exactly
9 correct. It's somewhere off -- somewhere in
10 Williamsbridge. I honestly don't remember.

11 Q. If I leave a space in the transcript, can
12 you fill that satellite office in, please?

13 A. I think it's Williamsbridge Road,
14 something to that effect.

15 Q. Do you have any documents in your
16 possession that would reflect the address of that
17 satellite office?

18 A. No.

19 Q. Not even at home?

20 A. No.

21 Q. Nothing?

22 A. This is their main address, Bartlett
23 Street, I believe. That's their main office.

24 They just have satellite offices for
25 people who are not able to come to the one in

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GAYLE

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Brooklyn.

3

Q. Is that where you go to pick up your
4 check?

5

A. I don't pick up checks. I get the direct
6 deposit and they mail the stubs out.

7

Q. What's the reason why you would have to go
8 to the satellite office?

9

A. Just any little thing that you have to do,
10 get an ID or something like that.

11

Q. How do you know where to go?

12

A. Because they would tell me. They tell me
13 where to go.

14

MR. SILBERSTEIN: I'd like to leave a space
15 in the record for you to fill in the address of
16 the satellite office, please.

17

MR. BERNSTEIN: I'll take under
18 advisement.

19

INSERT

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Q. What's the name of the person you deal
21 with at White Glove?

22

A. My staffing coordinator, her name is
23 Milky.

24

Q. Milky?

25

A. Yes.

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GAYLE

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Q. Do you know how to spell that?

3

A. I would spell it just like milk and add a
4 Y to it.

5

Q. M-I-L-K-Y?

6

A. That's how I spell it, yes.

7

Q. Is that a man or a woman?

8

A. Female.

9

Q. What's Milky's last name?

10

A. I don't know.

11

Q. When is the last time that you spoke to
12 Milky?

13

A. Yesterday.

14

Q. What's Milky's telephone number?

15

A. That's the number that's listed on the
16 paper there, from White Glove.

17

Q. Are you talking about Exhibit D-4?

18

A. Yes. Is there a telephone number there?

19

Q. No, there is not. Do you know White
20 Glove's telephone number?

21

I'm sorry, there is one in the body of the
22 letter. Is that (718) 387-8163?

23

A. Yes.

24

Q. There was some testimony earlier that you
25 were on the Harry's Nurses Registry from February

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GAYLE

'07 until in or around November of 2007; is that correct?

A. Yes.

Q. You testified that during that period of time you were -- I want to make sure that I phrase this correctly -- that you were on the White Glove list but that you didn't work for White Glove during that period of time?

A. During the period of time that I worked for Harry's Registry, Inc. I never took assignments from White Glove.

Q. Did they call you with assignments?

A. They would call but you can opt to -- during the period of time that I worked for Harry's Nurses Registry, Inc. I didn't take any assignments from White Glove.

Q. Did you decline any assignments, is what I am trying to figure out?

A. Maybe, maybe not. I don't know. I don't remember.

Q. Do you remember if they called you during that nine-month period of time?

A. I don't remember. Maybe I just wanted to take a break and try home care.

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GAYLE

Q. That's interesting.

When you say "take a break and try home care," what do you mean by that?

A. That was the first time that I was doing home care when I worked with Harry's Nurses Registry.

Q. Explain to me the difference between home care and what you do with White Glove.

A. White Glove sends you to a nursing facility where you have to take care of at least 40 residents. In the home you only have one resident.

Q. I see.

The facility you are working at in The Bronx now, that's one of those places where you are taking care of about 40 patients?

A. Skilled nursing facility, yes.

Q. What are your responsibilities at that facility, day-to-day?

A. Nurse. As a licensed practical nurse, these are the duties.

Q. You are pointing at the resume?

A. Yes, mm-hm.

Q. I'll read them into the record and you tell me if I'm missing anything that's not here.

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GAYLE

"Medication administration, wound care, trach care, suctioning, admissions, discharges, sash pick lines, IV therapy, GT, wound vac, pick line dressings, peripheral IV start, 24-hour report."

Are these the types of duties that you have working at the facility today through White Glove Placement?

A. Yes.

Q. What do "sash" and "pick lines" mean?

A. Saline, antibiotics, saline heparin.

Q. What about IV therapy? Is that intravenous?

A. Intravenous.

Q. "GT," what does that mean?

A. Gastronic tube.

Q. "Wounds vac?"

A. When somebody has a tube inside, you suck the fluid out of it.

Q. What does "vac" stand for, though?

A. Vacuum.

Q. "Pick line dressings?"

A. When you have a central line in, it's different from a peripheral line.

(Defendants' Exhibit D-7, fax, was marked

1 GAYLE

2 for identification as of this date.)

3 Q. I show you what's been marked as document
4 D-7. It's a fax that was sent to my attention
5 earlier today by Mr. Moxey. It looks like the top
6 of this has been cut off.

7 A. Can I interrupt?

8 Q. Sure.

9 A. The place I said was Woodbury, it's
10 Westbury, really, the one in Georgia.

11 Q. In Covington, Georgia?

12 A. Mm-hm. Is it Covington?

13 Q. It says "Covington."

14 A. Westbury.

15 MR. BERNSTEIN: Convington is your
16 address. The place in Westbury is in a place
17 called Conyers.

18 THE WITNESS: Right.

19 Q. These appear to be W-2 forms.

20 A. Yes.

21 Q. Is that correct?

22 A. Yes.

23 Q. For what years are these?

24 A. 2007.

25 Q. 2007?

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GAYLE

A. Yes.

Q. Does this reflect that for White Glove you earned \$7,275 in 2007?

A. That's what it says.

Q. You testified that you were on the Harry's Nurses Registry from February '07 to November 2007 and you also testified that you did not work for White Glove during that nine-month period of time.

A. Yes.

Q. When did you work for White Glove during 2007?

A. There is January, there is February, there is November and there is December.

Q. Your testimony is that all \$7,275 of these wages were earned in either January, February or November, December?

A. Yes.

Q. How many times did you decline any offers from White Glove from February '07 to November 2007?

MR. BERNSTEIN: Objection. You can answer.

A. As I said before, I don't remember if I did or didn't.

Q. So they may have offered, they may not

1 GAYLE

2 have, you just don't remember?

3 A. Exactly.

4 Q. Would you have any documents in your
5 possession that may reflect any offers that were
6 made by White Glove during that nine-month period of
7 time?

8 A. No.

9 Q. Same questions for the W-2 from Westbury
10 Health and Rehab in Conyers at the top of D-7.

11 When did you earn that \$1,420?

12 A. That was in January.

13 Q. Before you went on the Harry's Nurses
14 Registry?

15 A. Yes.

16 Q. Someone filed a document called a "Consent
17 To Join Collective Action" in this case named
18 Patricia Robinson.

19 Do you know what that is?

20 A. Yes, I do.

21 Q. Who is Patricia Robinson?

22 A. I believe she used to work at Harry's
23 Nurses Registry. I don't know if she is still.

24 Q. When is the last time you spoke to
25 Patricia Robinson?

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A. I think I spoke to her sometime this week.
It may have been Monday, if not Sunday.

Q. Did you discuss this lawsuit with her?

A. Well, we were in it together basically.
She knows I was meeting -- about the meeting today.

Q. She does?

A. I believe. To be honest with you, I
really don't remember if I did or didn't.

Q. Was that face-to-face or over the
telephone?

A. Over the telephone.

Q. Was anybody else on that call?

A. No.

Q. How long did that conversation last?

A. A few minutes.

Q. About this lawsuit what did she say to you
and what did you say to her?

A. You know what, that's exactly it. That's
what I'm saying. It's possible that I didn't even
say anything. I may or may not have.

I called her to ask her about something
else regarding Medicaid.

Q. What did you ask her about Medicaid?

A. What did I ask her about Medicaid?

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Q. Yes.

A. If she has got the numbers.

Q. What does that mean?

A. Meaning that as a nurse you can get the Medicaid number to work directly with Medicaid.

Q. And thereby bypass White Glove Placement or Harry's Nurses or something like that?

A. Yes.

Q. That's something you're trying to do?

A. I never said that.

Q. That's something that she was trying to do?

A. I never said that.

Q. What did you talk about?

A. We talked about the Medicaid number.

Q. Who was trying to get a Medicaid number?

A. People, nurses do it.

Q. But not you?

Do you understand the Medicaid process?

MR. BERNSTEIN: Objection.

A. What process?

Q. The process by which Medicaid reimburses licensed practical nurses for their work?

A. Maybe 1 percent.

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Q. Tell me what the 1 percent of your knowledge is about that process.

A. That you work and Medicaid pays you.

Q. Do you know what the Medicaid rate is?

A. No.

Q. You don't have any knowledge sitting here today what the Medicaid rate is for an LPN?

A. There is not a set rate for an LPN. It depends on the clients you have.

Q. Do you know what the range of rates is?

A. No.

Q. You don't?

A. No.

Q. So what's the 1 percent of stuff that you know about LPNs and Medicaid?

A. Just that you can get a Medicaid number if you choose to and work directly for Medicaid.

Q. Do you know a person named Willie Evans?

A. Never heard the name before.

Q. Never heard the name Willie Evans?

A. I can't recall.

Q. If you remember, let me know.

You have submitted an application in February 2007 to Harry's. The copy is D-2 and the

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2 original is D-3.

3 How did you learn about Harry's Nurses
4 Registry?

5 A. Through a lady. I don't remember her
6 name. She met my mom on the train. She said she
7 had a case in Ryan, New York. She was looking for a
8 nurse to replace her because she was going back to
9 home to Ireland. She gave my mom her number, I
10 communicated with her and she told me about Harry's
11 Nurses Registry, Inc.

12 Q. When you say she had --

13 A. She was Irish or Russian, either one.

14 Q. Do you remember her name?

15 A. That's what I'm saying, I don't remember
16 her name.

17 Q. Do you have any documents that would
18 reflect that name at all?

19 A. No, sir.

20 Q. When you say that the person told you that
21 they had a case, do you mean that they had a patient
22 who was in need of home care?

23 A. Yes.

24 Q. How did it come to pass that you learned
25 about Harry's Nurses Registry from this Irish or

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1 GAYLE

2 Russian family?

3 A. I told you, I spoke to her and she told me
4 about the home care agency. And that's how I
5 learned about his registry, Harry's Nurses Registry.

6 Q. She gave you the name Harry's?

7 A. She did give me the name and the number.

8 Q. Is that because she had previously
9 obtained LPNs --

10 A. She had previously worked with them.

11 Q. How did you first get in touch with
12 Harry's Nurses Registry?

13 A. By picking up the telephone, dialing the
14 number and calling them.

15 Q. Who did you speak to?

16 A. Carmen.

17 Q. What's Carmen's last name?

18 A. I have no idea.

19 Q. What did Carmen tell you?

20 A. I asked her about the application, she
21 said come into the office and fill up an
22 application.

23 Q. When you went down to the office, is the
24 document which has been marked as D-3 the
25 application that you filled out?

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1 GAYLE

2 A. Possibly.

3 Q. At the time you went to Harry's Nurses,
4 you went there in person to fill out the
5 application?

6 A. Yes, I did.

7 Q. Aside from the White Glove nurses agency
8 were you working anywhere else?

9 A. At that particular time?

10 Q. Yes.

11 A. No, I don't remember working anywhere
12 else.

13 Q. Did you have any placement through the
14 White Glove Placement, Inc. company as of February
15 20, 2007?

16 A. I did work at a nursing home in The Bronx,
17 yes, through them in February.

18 Q. Did there come a point in time that you
19 told them that you wanted to stop working there
20 because you had another opportunity?

21 A. No. I never had that conversation with
22 them.

23 Q. There was prior testimony that a few days
24 after you submitted the application you started
25 working for a placement through Harry's, correct?

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A. Yes.

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Q. What happened to the position that you had through White Glove Placement at that point in time?

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A. You just don't take an assignment, you work somewhere else.

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Q. Was the assignment over?

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A. The assignment is not given for a specific period of time. They are assigned to you on a weekly basis. You are either available or not available.

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You get a call every week what days are you available next week. I'm not available next week, I am available so many days next week.

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Q. You were working up in The Bronx as of February 20, 2007. You came in, you filled out an application for Harry's Nurses Registry and a few days later you started working for Harry's Nurses Registry.

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At that point in time, it is your testimony that you stopped working for placement through White Glove in the The Bronx?

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A. It is my testimony that at that time I did not take any more assignments from White Glove Placement, Inc.

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Q. Did they call you and ask you if you can go up to The Bronx?

A. As I said before, I don't remember if they called or not called.

Q. You just walked away from your assignment up in the The Bronx and never spoke to anybody about it ever again?

MR. BERNSTEIN: Objection.

Q. Is that your testimony?

A. We have answered this before.

Q. I don't think we have. I'm trying to understand what transpired in February 2007 vis-a-vis between you, White Glove and Harry's Nurses.

You testified you were working up in The Bronx at a placement through White Glove and then you started working for a placement through Harry's. I am trying to understand the process by which you did or did not separate from White Glove at that period of time and you are not answering the questions.

A. I have answered your question. I told you, it's either you've available to work or you're not available to work.

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Q. Did you tell them that you were not available to work?

A. It's possible that I might have told them that I was not available to work.

Q. What telephone number do you use?

A. For whom?

Q. Do you have a personal telephone number?

A. For myself?

Q. Yes.

A. Yes, I do.

Q. Do you have a home telephone number and a cell phone or just a cell phone?

A. I have a cell phone.

When you ask about a home telephone number, where are you speaking?

Q. In New York.

A. No.

Q. You just use your cell phone?

A. I mainly use my cell phone.

Q. What's the cell phone number?

A. 845-321-0330.

MR. SILBERSTEIN: I am going to request all of Ms. Gayle's cell phone records from February 2007 to the present -- we can execute

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an appropriate confidentiality agreement -- to see exactly how many times she has called White Glove during that period of time.

MR. DORVILIER: And the cancelled checks for 2007. That should justify the facts.

MR. BERNSTEIN: I'll take it under advisement.

Q. Other than White Glove in February 2007 you weren't working anywhere else, correct?

A. Other than White Glove in 2007 -- I worked with Westbury.

Q. I'm sorry, in February 2007.

A. Like I said, I don't remember working anywhere else.

When I started working with Harry's Nurses Registry, Inc. I remember working only for Harry's Nurses Registry, Inc.

Q. But up to that point in time you were doing something in The Bronx with White Glove, right?

A. Yes.

(Defendants' Exhibit D-8, memorandum, was marked for identification as of this date.)

Q. The document that's been marked as D-8 is

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a memorandum of agreement. It's Bates stamped as D-11.

Ms. Gayle, is that your signature at the bottom left corner of the page?

A. It appears to be.

Q. I'm going to direct your attention to the paragraph that begins "It is understood that Claudia Gayle is an independent contractor."

Do you see that paragraph?

A. Yes, I do.

Q. It says, "It is understood that Claudia Gayle is an independent contractor and is responsible for any and all income taxes, health insurance, malpractice insurance, et cetera, which may be due from the income derived pursuant to this contract." And it has your signature underneath it with the date of 2/20/2007.

Did you read this portion of the agreement that stated that you were going to be treated as an independent contractor?

A. I read it.

MR. BERNSTEIN: Objection.

Q. After you signed this agreement, did Harry's ever tell you that you were not allowed to

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work anywhere else during the time that you were on the Harry's Nurses Registry?

A. No, he never did. I don't recall.

(Defendants' Exhibit D-9, document, was marked for identification as of this date.)

Q. I show you a document that's been marked as Exhibit D-9, it's Bates stamped as D-12, and ask you if that's your signature on the document?

A. Again, it appears to be.

Q. I'm going to direct your attention to the last sentence on the page.

A. Just a minute, please.

Q. Sure. Take your time.

A. Okay, go ahead.

Q. The last sentence above the signature line says, "If the employee works for another employer in addition to working for Harry's Nurses Registry, Inc., the employee must arrange his/her schedule to avoid conflict with work assignments."

My question to you is, does that refresh your recollection as to whether you were told that you were permitted to work for another agency or employer while you were on the Harry's Nurses Registry?

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A. Restate the question, please.

MR. SILBERSTEIN: Can you read it back, please?

(Testimony was read back.)

MR. BERNSTEIN: Note my objection.

A. I don't know how to answer that one. No, it doesn't.

Q. Did you read this document before you signed it?

A. I may have read it and I may not have read it.

Q. But you signed it?

A. Possibly.

Q. Is that not your signature?

A. It appears to be my signature.

Q. The handwriting above it, where it says "employee's name," is that your print?

A. It appears to be. It's possible.

Q. And it says, "Claudia Gayle" -- what's after that? Is that LPN?

A. I guess.

Q. What do you mean, you guess? Did you write that or not?

A. Maybe. I usually sign LPN after my name.

1 GAYLE

2 Yes, it's my title.

3 Q. During the time that you were on the
4 Harry's Nurses Registry, were you paid on an hourly
5 basis for the work you performed?

6 A. Yes.

7 Q. How much?

8 A. I was told \$20 per hour.

9 Q. Twenty dollars per hour?

10 A. Mm-hm.

11 Q. Did you negotiate that fee?

12 A. I tried to.

13 Q. What do you mean by that?

14 A. I tried to ask for more but I was told
15 that I wasn't getting more than \$20.

16 Q. Who did you ask for more?

17 A. I spoke to Carmen and she would direct me
18 to Cherrilyn, who was the director of nursing at the
19 time. I was told that Mr. Harry wasn't paying any
20 more than \$20.

21 Q. Who exactly told you how much you were
22 going to get paid?

23 A. Between Carmen and Cherrilyn.

24 Q. Carmen and Cherrilyn?

25 A. Between Carmen and Cherrilyn, yes.

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I would ask, How much is for that case,
and they would say \$20 an hour.

Q. Was everybody at Harry's making \$20 per
hour?

MR. BERNSTEIN: Objection.

A. I wouldn't know that.

Q. Do you know of anybody else at Harry's who
was not making \$20 per hour?

A. Yes.

Q. Who? I am talking about LPNs, only LPNs?

A. I don't know.

Q. You don't know?

A. That's what I said, I don't know.

Q. Did Cherrilyn or Carmen explain to you why
Harry's only paid \$20 per hour?

A. Because that's what he chooses to pay.

Q. Do you have any understanding of what the
Medicaid rate is for LPNs?

A. There is no set Medicaid rate for LPNs.

Q. How do you know that?

A. Based on information that I've gotten, it
depends on the client. If the client is just an
easy case, so to speak, I am just using laymen
terms, or if the client is a fragile case.

1 GAYLE

2 If the client is, say, on vent or what
3 have you, you might get higher pay -- not might, but
4 Medicaid will pay you, the nurse, or the agency a
5 higher rate of pay for a client who is a vent, who
6 has a trach, who has a GT versus a client who sits
7 at home, bedridden.

8 Q. Is your understanding that it's a floating
9 rate or it's either one rate or another rate?

10 A. From Medicaid to the agency?

11 Q. Correct.

12 A. There is a standard rate, I believe. It
13 depends, again, if the client is geriatric or
14 pediatric?

15 Q. Okay.

16 A. If the client is geriatric or pediatric,
17 that's one, or if the client is an easy patient or
18 if the client is a fragile client.

19 Q. That's a different rate?

20 A. That's a different rate.

21 Q. Your understanding is that there are two
22 different rates?

23 A. Yes.

24 Q. What's the basis of your understanding?

25 A. I'm not sure what you are asking me.

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Q. Where did you learn that information?

A. Where did I learn that information?

Q. Yes.

A. From Medicaid.

Q. Directly?

A. More or less.

Q. When?

A. I don't have a specific period of time.

Q. Before February 2007 or after February 2007?

A. It could be before, during and after.

Q. Do you have any documents from Medicaid in your possession.

A. Yes. I do have documents from Medicaid in my possession, but specifically what are you asking for, documents as to what?

Q. As to the rate of pay that they pay LPNs.

Do you have any documents reflecting that?

A. No, sir.

Q. What documents do have you from Medicaid?

A. Just paper documents for like what Medicaid is about.

MR. SILBERSTEIN: I call for the production of those documents.

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MR. BERNSTEIN: I'll take it under advisement.

Q. Did anyone ever tell you that the Medicaid rate for LPNs was \$23 per hour?

A. No, because there is no such thing.

Q. What's the basis of that assertion?

A. I just told you before, it depends on the client.

Q. That's from information the you obtained from Medicaid, correct?

But you also said that you don't have any documents from Medicaid reflecting anything about the Medicaid rate for LPNs. So what's the basis for the assertion?

A. I know people who are direct Medicaid providers and they tell me what they get for the case. And also -- sorry about pointing the finger not to mean anything -- when you go to the client's home, they will tell you what Medicaid pays for the case. They do tell you that.

Q. What's your understanding of how much Medicaid pays for the case? What are the rates?

A. You go to some places and they are like, you get \$25 an hour. I say, No, that's what they

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told me they pay for the case. I say, Well, that's not what Harry pays us.

Q. Have you ever communicated directly with anyone at Medicaid on that issue?

A. I don't recall exactly. It's possible and it may not be.

Q. It may have happened, you just don't remember one way or the other?

A. Exactly.

Q. What was your understanding during the time that you were on the Harry's Nurses Registry about how Harry's was paid for the LPN services that you performed?

A. What was my understanding --

Q. Yes.

A. -- of how the LPNs are paid by Harry's?

Q. No. How Harry's was paid for the services that you provided.

A. How he was paid for them?

Q. Yes.

A. Medicaid paid him.

Q. That Medicaid paid him?

A. Yes.

Q. How did you know that?

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A. Because I was told that the cases were Medicaid cases.

Q. All of them?

A. More or less. The ones that I have been on, I believe.

Q. All of the cases that you've had through Harry's were Medicaid cases?

A. I can't say for sure, 100 percent, but I would say most of the cases were Medicaid cases.

Q. How many cases did you have through Harry's?

A. I've had -- let me see -- one in Astoria, Brooklyn, I've had probably two or three, one in Long Island, another one out in Queens. That's what I can recall right now.

I've had both pediatric and geriatric patients.

Q. Is it approximately six? Is that fair to say? I lost count while you were listing those.

A. I've had about two or three pediatric cases, at least a minimum of two. The cases were mostly geriatric, as in older patients. And I've had one young guy who was 30-something. I really wouldn't call him a geriatric patient.

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Q. I just want to determine right now the total amount of cases you had during the February through November 2007 period.

Was it about six?

A. About. Somewhere around there, give or take.

Q. Did you work on an uninterrupted basis during that period from February through November for different Harry's Nurses patients?

A. I wouldn't say "uninterrupted." Will you elaborate on when you say "uninterrupted."

Q. Did one case end and then the next day started on another case?

A. No, that wasn't the case. There were times when I didn't have a case.

Q. What did you do during those periods of times between cases?

A. Keep calling and asking for a case.

Q. Whom did you speak to, Carmen?

A. Carmen.

Q. What were the different periods of time between the cases, do you remember?

A. It could be days, a couple of days, maybe a week.

1 GAYLE

2 Q. Were you aware of any arrangement between
3 Harry's and Medicaid?

4 A. What do you mean "aware of an
5 arrangement."

6 Q. About how Harry's receives payment through
7 Medicaid for your LPN services?

8 A. I would not have been privileged to that
9 information.

10 Q. I understand that you may not have been
11 privileged to the information but did you discuss it
12 nonetheless with Carmen or Cherrilyn or anybody
13 else?

14 A. Are you asking me if I asked them how
15 Harry was being paid?

16 Q. Yes.

17 A. No.

18 Q. You did not?

19 A. No. I was told that the cases were
20 Medicaid cases. Medicaid pays Harry, Harry pays me.
21 That's the information I had.

22 How much he was being paid for each case,
23 no, I didn't know. How often he was being paid, no,
24 I didn't know.

25 Q. Did anyone ever tell you or did you know

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that Harry's derives all of its income through Medicaid?

A. That I don't know either.

(Defendants' Exhibit D-10, document, was marked for identification as of this date.)

Q. I show you the document that's been marked as Exhibit D-10. It's also Bates stamped as D-9. It's the rules and regulations for the New York State Department of Health distributed by Harry's Nurses Registry.

Ms. Gayle, is that your signature on the bottom of the page?

A. It appears to be.

Q. Did you read this document before you signed it?

A. I might have.

Q. I'm going to direct your attention toward the bottom part of the document under the section that says, "patients admitted to the hospital."

A. Yes.

Q. Underneath that it says, "All nurses, upon arrival to the hospital, if when a patient is admitted, Harry's Nurses Registry, Inc. stops billing to Medicaid and the hospital starts