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WORKERS' COMPENSATION APPEALS BOARD
STATE OF CALIFORNIA

- - -

NATALIYA VARHAFTIG,)
Applicant,)
vs.) WCAB NO. ADJ12398234
NEIMAN MARCUS; et al.,) ADJ12397730
Defendants.)

Deposition of NATALIYA KAMINSKAYA

VARHAFTIG, taken on behalf of Defendants, at 433
North Camden Drive, 4th Floor, Beverly Hills,
California, commencing at 10:54 A.M., Tuesday,
November 5, 2019, before LAWRENCE SCHUMACHER, CSR
No. 1464.

REPORTED BY: LAWRENCE SCHUMACHER, CSR NO. 1464
JOB NO.: 579508

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A P P E A R A N C E S:

FOR APPLICANT:

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ALSO PRESENT:

IRINI PALEES

1	I N D E X		
2	WITNESS: NATALIYA KAMINSKAYA VARHAFTIG		
3	EXAMINATION		PAGE
4	By Ms. Gilman		4
5	By Ms. Foley		65
6	By Ms. Gilman		70
7	EXHIBITS		
8		DEFENDANT'S	
9	LETTER	DESCRIPTION	PAGE
10		(NONE)	
11		APPLICANT'S	
12	NUMBER	DESCRIPTION	PAGE
13		(NONE)	
14			
15			
16	QUESTIONS WITNESS INSTRUCTED NOT TO ANSWER:		
17		(NONE)	
18			
19	INFORMATION TO BE SUPPLIED:		
20		(NONE)	
21			
22			
23			
24			
25			

1 NATALIYA KAMINSKAYA VARHAFTIG,
2 having first been duly sworn in
3 accordance with CCP Section 2094,
4 was examined and testified as
5 follows:

6

7

EXAMINATION

8

BY MS. GILMAN:

9

Q. Good morning.

10

A. Good morning.

11

Q. Would you please state your name for the

12

record?

13

A. My name is Nataliya Varhaftig. Nataliya

14

Kaminskaya Varhaftig.

15

Q. And Ms. Varhaftig, have you ever had your

16

deposition taken before?

17

A. Don't remember.

18

Q. Okay. I know you've had the opportunity this

19

morning to speak to your attorney regarding the

20

deposition proceeding --

21

A. I did.

22

Q. -- but I'm going to take a few minutes to go

23

over the rules so I can make sure you understand

24

everything that's going to happen today.

25

A. Thank you.

1 Q. First off, my name is Deborah Gilman and I
2 represent Neiman Marcus with regards to the workers'
3 compensation cases that have been filed on your behalf.
4 And as your attorney probably explained to you, a
5 workers' compensation deposition is a fairly informal
6 process, but I need to remind you that the oath you've
7 just taken is the same they would give you in a court of
8 law. So I need you to listen to my questions very
9 carefully, to take your time and to give me your best
10 possible answer.

11 A. Will do.

12 Q. If at any time you don't understand my question
13 please let me know and I'll rephrase it for you. If at
14 any time you feel the need to speak to your attorney
15 please let me know and we will just talk for a few
16 minutes.

17 If you're more comfortable standing up or
18 walking around the room or you need to take a break for
19 any reason whatsoever, please let me know and we'll stop
20 for a bit in order to accommodate your needs.

21 Do you understand everything I've explained so
22 far?

23 A. Yes, I do.

24 Q. After the deposition is over the court reporter
25 will type up your testimony in a booklet form and it

1 will be sent to you and you'll be given the opportunity
2 to look it over and make any changes you would like to
3 make.

4 However, I need to caution you if you make any
5 substantial changes either I or another attorney could
6 comment on them should this matter go to trial. So
7 again just take your time. I'm not here to try and
8 trick you or confuse you.

9 And as the court reporter indicated this is a
10 little bit different than normal conversation, because
11 the court reporter has to take down everything exactly
12 in the order that we say. I would ask that you wait
13 until I finish my question completely and then give me a
14 verbal response for the record which is loud enough for
15 everyone to hear.

16 Do you understand?

17 A. I do.

18 Q. Good. Have you had any medication in the last
19 12 hours?

20 A. Yes.

21 Q. What have you taken?

22 A. Synthroid for low thyroid.

23 Q. Who is the doctor who prescribes that for you?

24 A. Dr. Gary Reznik.

25 Q. Where is Dr. Reznik located at?

1 A. On Wilshire Boulevard. I don't remember the --
2 I can't remember by heart. I have it in my phone.

3 Q. Is he your family doctor?

4 A. He's my doctor.

5 Q. What is your current address, please?

6 A. 9920 Euclid Street, apartment 308, Santa Monica
7 90403.

8 Q. And is there anyone who lives there with you?

9 A. Yes.

10 Q. Who lives there also?

11 A. My husband.

12 Q. What is your husband's name, please?

13 A. Alex Varhaftig.

14 Q. How long have you been married?

15 A. 27 -- 20 years probably. I forgot. I'm sorry.

16 Q. That's okay. So have you had any other
17 marriages?

18 A. I was married before.

19 Q. And what was your married name before?

20 A. Kaminskaya. Nataliya Kaminskaya.

21 Q. How do you spell Kaminskaya?

22 A. K-A-M-I-N-S-K-A-Y-A.

23 Q. Thank you very much.

24 And how long were you married under that name?

25 A. 13 years.

1 Q. What is your date of birth?

2 A. May 25th, 1956.

3 Q. Where were you born, please?

4 A. Russia.

5 Q. And how long have you lived in the
6 United States?

7 A. 28 years.

8 Q. Have you always lived in California?

9 A. No.

10 Q. Where else have you lived?

11 A. Florida and Philadelphia.

12 Q. How many years have you lived in California?

13 A. I don't remember exactly. 20. Around 20
14 all together. 20.

15 Q. And I see in front of you you have what looks
16 like a California driver's license --

17 A. Correct.

18 Q. -- correct?

19 A. Uh-huh.

20 Q. Have you shown that to your attorney yet?

21 A. Not yet. She didn't ask.

22 Q. Would you hand it to her, please.

23 MS. FOLEY: I've got a document that looks like
24 California driver's license, and I'm handing it to the
25 defense counsel.

1 MS. GILMAN: Thank you. Off the record,
2 please.

3 (Discussion off the record.)

4 MS. GILMAN: Back on the record, please.

5 **Q. Did you graduate from high school?**

6 A. Yes.

7 **Q. Have you attended any colleges or other**
8 **educational institutions in the United States?**

9 A. Not -- not college, huh-uh.

10 **Q. Any schools in the United States?**

11 A. It was a training school.

12 **Q. And what type of training school was it?**

13 A. It was endermologie. It's a French type of
14 massage with a machine.

15 **Q. Have you ever been in any automobile accidents?**

16 A. Not major.

17 **Q. Any accidents whatsoever?**

18 A. It was few.

19 **Q. How many is a few?**

20 A. I think it was two.

21 **Q. And did you suffer any injuries in any of those**
22 **accidents?**

23 A. No.

24 **Q. Did you receive any medical treatment after**
25 **either of those accidents?**

1 A. No.

2 Q. Have you ever had any motorcycle accidents?

3 A. No.

4 Q. Have you ever had any boating accidents?

5 A. No.

6 Q. Have you ever had any sports-related injuries?

7 A. No.

8 Q. Have you been hospitalized at all in the last
9 10 years?

10 A. I was.

11 Q. And when were you hospitalized?

12 A. Three years ago I was in Florida, I was
13 hospitalized in Florida for three hours.

14 Q. And what was the condition?

15 A. When I don't take a right amount of Synthroid,
16 I suffer some kind of panic attacks. And they just
17 released me and give me the right amount of Synthroid.

18 Q. And when were you first diagnosed with having
19 thyroid issues?

20 A. In Russia when I was a child.

21 Q. So have you been taking medication your whole
22 life?

23 A. No. Only in America.

24 Q. When did you start taking medication?

25 A. I was put on medication around 23 years ago.

1 Q. And you're doing fine, but both the court
2 reporter and I are going to remind you that you're still
3 answering my questions before I finish. It's okay, but
4 what happens is if you don't wait until I finish my
5 question, when we get the transcript back it doesn't
6 make any sense at all because he has to take down
7 everything exactly in the order that we say.

8 A. Sorry.

9 Q. It's okay. It's just different than normal
10 conversation.

11 Other than the work-related injuries we're
12 going to discuss today have you ever had any other work
13 injury?

14 A. No.

15 Q. Are you working at the current time?

16 A. I start working.

17 Q. Where are you working?

18 A. In the spa.

19 Q. Which spa?

20 A. The spa, C-I-E-L, Ciel.

21 Q. And where is that located?

22 A. SLS Hotel.

23 Q. And when did you start working there?

24 A. October 15.

25 Q. And what do you do at the hotel?

1 A. I do facials.

2 Q. How many hours a week are you working?

3 A. Between 35 and 40. It depends on bookings.

4 Q. Are you being paid on an hourly basis?

5 A. Hourly.

6 Q. You might take a breath before you answer the
7 question. That way it will make it a little easier.

8 You're being paid hourly. How much per hour do
9 you get paid?

10 A. \$35.

11 Q. And who would you identify as your supervisor
12 or person you report to?

13 A. She is the owner of the -- of the spa. Her
14 name is Isabella, and I think the last name Kortez
15 (sic). Kortez with K.

16 Q. And did you have to have any type of physical
17 exam before you started this job?

18 A. No.

19 Q. Did you tell them that you had any type of
20 physical problems that they needed to accommodate or you
21 had any work restrictions when you started?

22 A. I ask the condition of the room and the
23 products I have to use, and she showed me, and I was
24 agree it was different condition than I had in Neiman
25 Marcus.

1 Q. My question was did you tell them you had any
2 physical problems that would affect your ability to do
3 your job.

4 A. Yes, I did.

5 Q. What did you tell them?

6 A. I told her I'm depressed once in a while after
7 what happened, and she was very understandable and
8 sympathetic, and she said she heard about my reputation
9 and she wants me there to work.

10 Q. What about physical problems?

11 A. Yes, I did.

12 Q. What did you tell her?

13 A. I told her that I need, because of my pain I
14 need a special chair and she showed me the chair, and
15 said is it good for me. And it was comfortable for me.
16 And also I asked her to not remove the product from the
17 counter so I don't need to, you know, to hold the heavy
18 box with the product. She agree with this. So now the
19 product is always on the counter.

20 Q. So what type of special chair do you use?

21 A. It's ergonomics chair with support on the back.

22 Q. So when you're doing facials do you sit in a
23 chair the entire time?

24 A. Yes.

25 Q. And the product is in the room when you're

1 doing the facial?

2 A. Correct.

3 Q. What is the product that you're using for your
4 facials?

5 A. Biologic.

6 Q. And this was different than the products you
7 had used before?

8 A. Yes.

9 Q. Are there other facialis ts at the salon?

10 A. Yes.

11 Q. How many other facialis ts are there?

12 A. One.

13 Q. And do you work a regular schedule every day?
14 Do you work every day?

15 A. Yes.

16 Q. And what time do you start?

17 A. Different time. Depends on the booking.

18 Q. How long is the salon open? What time does it
19 open?

20 A. From 9:00 to 9:00.

21 Q. So before being hired at this salon were you
22 off work for a period of time?

23 A. I was doing freelance for two different
24 companies.

25 Q. And what were you doing freelance?

1 A. I was doing freelance on different stores
2 around 20 hours a week.

3 Q. And what were you doing?

4 A. Facials.

5 Q. And what stores were you working at?

6 A. I was working in Saks, Barneys, Nordstrom, and
7 Bloomingdale's.

8 Q. And when did you start doing freelance work?

9 A. Right away when I got fired.

10 Q. And when was that?

11 A. August 2019. I don't remember the exact day.

12 Q. So was there any period of time from when you
13 stopped working at Neiman Marcus until you started doing
14 freelancing?

15 A. It was three weeks. Probably three weeks.

16 Q. And did you receive any type of benefits from
17 the state or anywhere during that three weeks?

18 A. No.

19 Q. And when you're doing freelance work how much
20 per hour are you paid?

21 A. \$32 per hour and \$33. Two different companies.

22 Q. And were you paid by check?

23 A. Yes.

24 Q. Were you paid as an independent contractor so
25 they didn't take taxes out of your check?

1 A. They did.

2 Q. They did.

3 A. Uh-huh.

4 Q. When were you first hired by Neiman Marcus?

5 A. It was August 14, 2014.

6 Q. And for what position were you hired?

7 A. I was business manager for Guerlain counter.

8 Q. I'm sorry. Business manager for what?

9 A. Guerlain Company. G-U-E-R-L-A-I-N, Guerlain.
10 I don't know my pronunciation.

11 Q. And I'm assuming that's a cosmetic line?

12 A. Skin care and cosmetics.

13 Q. And were you hired to work full time?

14 A. Yes.

15 Q. And how many hours a week did you work?

16 A. I don't remember back then. 35.

17 Q. How about when you were terminated, how many
18 hours a week were you working?

19 A. 40.

20 Q. Were you paid on an hourly basis?

21 A. Yes.

22 Q. And how much per hour did you work?

23 A. I start from 28. The new position ends and
24 then they added I think \$3 or 4, and I was paid 32.

25 Q. At the time you were terminated who was your

1 **supervisor, the person you reported to?**

2 A. Mark Bush and Maria, I don't remember her last
3 name. Two managers.

4 **Q. And how long had they been your managers?**

5 A. Mark Bush was around four years and Maria was
6 maybe three years, or two and a half, three years
7 probably.

8 **Q. Did you work a regular schedule every week?**

9 A. Yes.

10 **Q. What were your hours? When did you start?**

11 A. I start from 10:00. 10:00 to 7:00.

12 **Q. 10:00 o'clock A.M?**

13 A. Yes.

14 **Q. And 7:00 o'clock P.M.?**

15 A. Yes, ma'am.

16 **Q. What days of the week did you work?**

17 A. I work all days beside Sunday and Wednesday or
18 Tuesday. It depends on the events I supposed to
19 perform. If the events go on Tuesday, they change my
20 schedule.

21 **Q. So what were your job duties? What did you do?**

22 A. For the first three years I was manager,
23 business manager for Guerlain. Then they create,
24 because of the success I was doing facials, a lot of
25 facials, success of the brand, they create position of

1 the house esthetician for me. And the last two years I
2 was a house esthetician for Neiman Marcus. I was doing
3 facials.

4 Q. What location did you work at?

5 A. I had a room.

6 Q. In Beverly Hills?

7 A. Beverly Hills Neiman Marcus.

8 Q. Did you work at any other Neiman Marcus
9 location?

10 A. No.

11 Q. When you say they created the position of house
12 esthetician, was that something you had requested? How
13 did that come about?

14 A. No, I've been told that because of my success
15 doing facials and bringing the brand up, they want me to
16 do the facial for the whole store.

17 Q. Okay.

18 A. They offered me this position two years before
19 prior to my termination.

20 Q. So prior to them creating this position were
21 you also doing facials at the store --

22 A. Yes.

23 Q. -- part time?

24 A. Uh-huh.

25 Q. So that was part of your prior position?

1 A. I was doing for my counter, for my brand, to
2 promote the skin care.

3 Q. So when you started the in-house facials, did
4 they change your hours, did they give you a raise? Were
5 there any changes in your position?

6 A. They give me 40 hours for sure. I supposed to
7 be working 40 hours. It was a condition.

8 Q. So you wanted to work 40 hours and they
9 confirmed that they would --

10 A. I did not mind.

11 Q. So was that one of your conditions?

12 A. No.

13 Q. So when you say they gave you 40 hours, that
14 was a condition. What did you mean by that?

15 A. They said the position was 40 hours.

16 Q. So they told you it was a 40-hour position and
17 you agreed to it?

18 A. Yes.

19 Q. So as an in-house esthetician what did you do?
20 What were your job duties?

21 A. My job perform facials for every brand who has
22 a skin care.

23 Q. So would you book the appointments yourself?

24 A. No.

25 Q. Someone would book them for you?

1 A. The people from the brand was booking and the
2 management was booking.

3 Q. So when you say the people from the brand, so
4 were you told what brands to use for the facial?

5 A. If it was booked for the facial -- for the
6 facial of the brand I should use this brand.

7 Q. Did you have any other job duties?

8 A. Excuse me?

9 Q. Did you have any other job duties other than --

10 A. Yes.

11 Q. -- providing facials?

12 A. Yes.

13 Q. What did you do?

14 A. I have to do complete laundry exchange.

15 Q. What do you mean?

16 A. In and out. It has to be sent to the laundry,
17 separated in the bags, make protocol how many of what
18 I'm sending to the laundry, towels, big towels, body
19 wraps, whatever, and this was my duty. Keep the three
20 rooms clean because we have three rooms, so I was more a
21 manager on duty for the spa.

22 Q. When you said you did the complete laundry
23 exchange would that mean you would take the laundry out
24 of each of the rooms and send it to laundry?

25 A. My room was priority number one. Sometimes if

1 I found that there dirty laundry in the rooms and
2 somebody didn't take care, I should do this, too. To
3 keep it on the nice level.

4 Q. So typically did someone else take care of the
5 laundry in the rooms or was that your job?

6 A. My job.

7 Q. And when you would do the laundry exchange what
8 would you do?

9 A. I put the gloves and I put the dirty -- dirty
10 laundry in the bags. I put the ^ protocol one for LP,
11 one for me, and one for laundry, and I was taking the
12 heavy bags to the LP. If I would find the cart I was
13 happy to find a cart. If not that's what my job was.

14 Q. So how heavy would the laundry bags be?

15 A. Sometimes it was 30 pounds, sometimes it was 10
16 pounds. It depends how many facials was performed.

17 Q. And how often would you have to take the
18 laundry?

19 A. Every three days.

20 Q. So if you were working six days a week you
21 would do it twice a week?

22 A. Twice a week.

23 Q. Did you have any other job duties?

24 A. Not that I remember.

25 Q. So as you know, your attorney's filed on your

1 **behalf two workers' compensation claims alleging that**
2 **you suffered some type of injury whole working at Neiman**
3 **Marcus. When was the very first time that you thought**
4 **you suffered any type of injury at work?**

5 A. Are you talking about physical injury?

6 **Q. I don't know. You tell me. When did you think**
7 **that you suffered any type of injury at work?**

8 A. It was a year ago when instead of 15 brands
9 which I was assigned to work for they start bringing one
10 by one by one 30 more. So in general I start doing 35
11 brands instead of 15.

12 **Q. So when you say a year ago are you saying a**
13 **year before August of 2019?**

14 A. Correct.

15 **Q. Okay. And one of the applications indicates an**
16 **injury from July 24th, 2018, to July 24th, 2019. So are**
17 **those days specific to you?**

18 A. Specific for me because the way of the storage,
19 the boxes with the heavy product for each line was -- I
20 was handling upper than my height, the shelf was upper
21 than my height.

22 **Q. How tall are you?**

23 A. Five-five.

24 **Q. Okay. So it sounds like in July of 2018 they**
25 **changed and added additional products?**

1 A. Correct. Correct.

2 Q. And so did they tell you why they were adding
3 additional product lines?

4 A. Because they want Neiman Marcus to look
5 different.

6 Q. So they were bringing in different products and
7 that was part of their marketing plan --

8 A. Correct.

9 Q. -- correct?

10 So the products that they brought in, were they
11 skin care products?

12 A. Yes.

13 Q. And so they asked you or told you that you
14 would be using different products and doing different
15 types of facials using these products.

16 Correct?

17 A. Correct.

18 Q. All right. Who told you that?

19 A. My management.

20 Q. And who?

21 A. It was general manager, Gretchen, and it was
22 her assistant, talking about the new products, and my
23 manager.

24 Q. And so did you have an objection to the
25 products that they were bringing in?

1 A. I objected how can I remember 35 brands.

2 **Q. So you were unhappy that they brought in these**
3 **different products in because you were having difficulty**
4 **remembering them?**

5 A. I was happy but I was confused if somebody can
6 do it, if some human can remember 35 brands. This was
7 my confusion. But slowly, slowly, I start learning and
8 going to school of the every brand.

9 **Q. So you started learning the various brands?**

10 A. Correct.

11 **Q. You mentioned that the products were kept in a**
12 **storage area.**

13 A. Every brand supposed to create for me box
14 individual with the name of the brand. Why? Because
15 one day I can have only La Prairie facials, the other
16 day I can have five different brands. So what I have to
17 do I have to finish one facial, put everything in a box,
18 put it on the shelf, bring another brand, and it was --
19 sometimes it was every day.

20 **Q. So where were these boxes stored?**

21 A. Unfortunately was no stockroom. This was my
22 first complaint. There was no created stockroom for me
23 for 35 boxes.

24 **Q. So where were they kept?**

25 A. Everywhere. They were under the sink, they

1 were on the shelves. They were -- we were putting them
2 anywhere I can. Basically three boxes was under the bed
3 when I was doing the facials.

4 Q. So did you keep a list of where you put these
5 boxes?

6 A. No, I didn't.

7 Q. How did you know where they were?

8 A. I was looking for them.

9 Q. So you said some boxes were under the bed where
10 you were --

11 A. Right.

12 Q. -- conducting the facial.

13 A. Uh-huh.

14 Q. Yes?

15 A. Yes.

16 Q. And some were on shelves?

17 A. Yes.

18 Q. Where were the shelves?

19 A. In the hall of the manager office.

20 Q. And you mentioned that you would have to take
21 the boxes off the shelves. They were taller than you?

22 A. Correct.

23 Q. And how heavy would the boxes be?

24 A. A few companies, probably five, six companies
25 was around 40 pounds, each box.

1 Q. And is that because there were multiple
2 products in the box?

3 A. Yes. And also commercial sizes, not the
4 regular size. Commercial size. They very heavy.

5 Q. So when you would have to take the boxes off
6 the shelf, would you have to use a ladder or a
7 stepstool?

8 A. No.

9 Q. So you could reach the shelves just to pull it
10 down from overhead?

11 A. Barely.

12 Q. So again my question is at what point did you
13 realize or you think that you were having any type of
14 physical problem because of the job duties?

15 A. When I couldn't move my shoulder (indicating)
16 after the heavy box. And my back.

17 Q. And you're pointing to your right shoulder.
18 Correct?

19 A. First was the right shoulder.

20 Q. And when --

21 A. Because I'm right-handed so I pulled the box
22 with the right hand and this (indicating) was under. So
23 this was the first sign of pain, on my shoulder and my,
24 actually my neck.

25 Q. And as your attorney probably explained to you,

1 because the court reporter needs to have a verbal
2 response, I need you to describe what you're doing and
3 what shoulder you're pointing to. So for the record
4 you're indicating -- you're pointing to your right
5 shoulder and the right side of your neck.

6 Correct?

7 A. It was the first pain I experience.

8 Q. And when was that?

9 A. It was year ago, in the summer of 2018.

10 Q. And did you report it to anyone?

11 A. I told my manager.

12 Q. Who did you tell?

13 A. I told my manager. Her name is Maria.

14 Q. And what did you tell Maria?

15 A. I told her then it's impossible for me to pull
16 the boxes with the product.

17 Q. Did you tell her you had injured yourself?

18 A. I said I have pain. Uh-huh.

19 Q. And did you tell her where you had pain?

20 A. She didn't ask.

21 Q. Did you ask to go see a doctor?

22 A. Not in July 2018.

23 Q. When was the first time you saw a doctor?

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

25 Q. Was it before you were terminated?

1 A. Oh, yeah.

2 Q. Well, then I need an approximation.

3 A. This was -- I think it was June because it was
4 excruciating pain in different place. And I could not
5 handle this anymore.

6 Q. Are we talking about June of 2019?

7 A. Yes, correct.

8 Q. So from July of 2018 to June of 2019, did you
9 see any doctors for any physical problems you were
10 having?

11 A. I do not remember this.

12 Q. Did you tell Maria other than that one time
13 that you were having difficulty with the boxes?

14 A. Yes.

15 Q. How many times did you tell her?

16 A. Approximately five times.

17 Q. And did you ever tell her you were in any pain?

18 A. Yes.

19 Q. And how many times did you tell her?

20 A. Exactly the same time. Five times, six times.

21 Q. So the first time you told her was in July of
22 2018. When was the next time you told her?

23 A. I don't remember the date. I don't wanna lie
24 to you. It was every month the new box arrived, two box
25 arrived, and I have to handle all this.

1 Q. And so did you go to her specifically to have
2 that conversation or was she working with you and you --

3 A. No.

4 Q. -- told her?

5 A. Her door is next to the shelf. Every time I
6 can do something I have to knock the door.

7 Q. So when you went to speak to her did you go to
8 her office?

9 A. I knocked the door, she went out.

10 Q. And when you told her you were having trouble
11 with the boxes did she have a response for you?

12 A. Yes.

13 Q. What did she say?

14 A. She said I should call somebody from the brand
15 younger than me to pull the box in my room.

16 Q. And did you do that?

17 A. I laughed in her face.

18 Q. Why?

19 A. It's impossible.

20 Q. Why is it impossible?

21 A. Time. I have booked the facial, I have to call
22 somebody who was not available, because they with a
23 customer. I have to run to the floor, I have to take
24 somebody from the floor, bring back to the shelf, then
25 bring this box to my room, then unload it. It was

1 impossible, physically impossible. Physically.

2 **Q. Did you ever try it?**

3 A. Oh, yes. Oh, yes.

4 **Q. And when you tried it what happened?**

5 A. Well, say Di or facial, there is three young
6 people in Di or facial who can help you. Patrick.
7 Patrick with a customer doing makeup. What should I do?
8 My facial is already waiting in the chair outside.

9 I go back, I schlep the box and I put it down
10 on the counter. I'm sorry. It was impossible task.
11 What she wants me to do instead of stockroom? Instead
12 of officially stockroom for 35 boxes they want me to
13 look for somebody available younger than me. It was
14 impossible. I tried.

15 **Q. I'm asking you, you tried.**

16 A. I tried.

17 **Q. How many times did you try?**

18 A. Millions. If you can write it down. Millions
19 for this year. Million times.

20 **Q. I know --**

21 A. I even asked the security to help me a couple
22 of times because I could not operate with my shoulder.
23 They helped me.

24 **Q. Who was the security person you asked?**

25 A. I don't know their names. I'm sorry.

1 Q. Can you describe them?

2 A. There's a young boy who is very nice who help
3 me with the locker sometimes. I asked him to help. And
4 because they always short in the LP area, they can't
5 even leave the booth, it was -- it was one time or two.

6 Q. The security person that you asked, a
7 gentleman?

8 A. A gentleman.

9 Q. Dark hair? Light hair?

10 A. Dark hair.

11 Q. And how many times did you ask him for help?

12 A. It was couple times.

13 Q. And the other facialis ts that were working,
14 did they have the same issues that you had?

15 A. They don't have another facialist. I was only
16 one.

17 Q. You were the only one?

18 A. Uh-huh.

19 Q. "Yes"?

20 A. Yes.

21 Q. Did you ever tell anyone other than Maria that
22 you were having trouble?

23 A. Yes.

24 Q. Who did you tell?

25 A. General manager, Gretchen.

1 **Q. And when did you talk to Gretchen?**

2 A. A couple times through this year, 2018 to '19,
3 through the year.

4 **Q. What did you tell her?**

5 A. I told her then, "I cannot work in this
6 condition without stockroom for my boxes."

7 **Q. So you told her that you couldn't do the job
8 unless the boxes were in a stockroom?**

9 A. Yes, I told her, "It's very difficult to do my
10 job."

11 **Q. Were any changes made to find a place to put
12 your boxes?**

13 A. No.

14 **Q. So when you went to see a doctor in June of
15 2019, who did you go see?**

16 A. It was urgent care, urgent care on Wilshire
17 Boulevard and 19th in Santa Monica.

18 **Q. And why did you go to urgent care?**

19 A. I had excruciating pain in my groin and I could
20 not move. Left side. I could not sit and I could not
21 move. And I complained to my manager and she said
22 immediately go to see the doctor.

23 **Q. And do you know the name of the urgent care?**

24 A. Family Urgent Care? I don't know. I think my
25 attorney has the name. I don't remember the name.

1 Q. So I glanced at the medical report your
2 attorney handed me before your deposition, and it
3 indicated that you thought you had a hernia.

4 Correct?

5 A. (Witness nods head up and down.)

6 Q. Yes?

7 A. That's what -- that's what I thought because of
8 the pain.

9 Q. But they told you you didn't have a hernia?

10 A. No, that's not what she said.

11 Q. What did she say?

12 A. She send me to a doctor who has ultrasound
13 because they don't have ultrasound in urgent care. So
14 next time I visit the urologist who has a ultrasound,
15 and urologist call a specialist, hernia specialist to
16 consult me.

17 Q. Who was the urologist you saw?

18 A. Dr. Gershman. Alexander Gershman.

19 Q. And when did you see Dr. Gershman?

20 A. I don't remember the date.

21 Q. How many times have you seen him?

22 A. I believe one time.

23 Q. And were you seen by a hernia specialist?

24 A. Yes.

25 Q. What was the name of that doctor?

1 A. I don't remember. He's sharing the office. I
2 don't remember his name. They call him.

3 Q. So he's in Dr. Gershman's --

4 A. Correct.

5 Q. So I'm going to try and speak a little slower
6 and I'm going to ask you again to wait until I finish.
7 I know that you're trying to give me as much information
8 as possible, and I appreciate that.

9 So the hernia specialist is in Dr. Gershman's
10 office?

11 A. Yes.

12 Q. So he just came in the examining room and spoke
13 with you.

14 Correct?

15 A. Yes.

16 Q. All right. And did they give you a diagnosis?

17 A. Yes.

18 Q. What did they tell you?

19 A. Approximately he said I need to do MRI because
20 he does not feel it's a hernia, but it might be very
21 deep inside, which is not palpated with the hands or
22 ultrasound. So my next step would be MRI.

23 Q. And did you have the MRI done?

24 A. No.

25 Q. Have you been back to see any type of urologist

1 or hernia specialist?

2 A. No.

3 Q. Do you still have pain in your groin area?

4 A. Yes.

5 Q. Was there something specific that happened in
6 June that you think caused this pain? Were you doing
7 anything at the time that the pain happened?

8 A. I was very busy at work with facial. I was
9 sitting more than as usual.

10 Q. So other than going to urgent care and to see
11 Dr. Gershman and the hernia specialist, did you see any
12 other doctors before you were terminated?

13 A. I was at the Dr. Eric Sue, S-U-E. Eric Sue.

14 Q. What type of doctor is Dr. Sue?

15 A. He's a general doctor.

16 Q. Is he your family doctor?

17 A. No, he's not.

18 Q. And why did you go see Dr. Sue?

19 A. Because my dentist wants me to see different
20 doctor then. Dr. Eric. She wants me to see this
21 doctor.

22 Q. And why did your dentist send you to see this
23 doctor?

24 A. Because she is his patient.

25 Q. So --

1 A. She just his patient. She said, "He's a young
2 doctor, young school." She said, "Try him, maybe he's,
3 you know, different." They were just exchanging
4 doctors.

5 **Q. All right. So have you seen any Dr. Sue for**
6 **any particular physical issues that you're having?**

7 A. Just a physical.

8 **Q. Has he prescribed any treatment for you?**

9 A. He prescribed -- I don't remember what he
10 prescribed. I was very upset when I saw him because it
11 was already -- it was already the time when they suspend
12 me from the work. I was suspended from work.

13 **Q. And when were you suspended from work?**

14 A. I believe it was 19 -- July 19.

15 **Q. And when did you go back to work after that, if**
16 **you did?**

17 A. I believe it was three weeks before I start
18 freelance.

19 **Q. So when you were suspended on July 19th you**
20 **never went back to work at Neiman Marcus.**

21 **Correct?**

22 A. No.

23 **Q. And did they tell you why you were suspended**
24 **from work?**

25 A. He -- the manager, HR manager, called me five

1 days later or six days later, I think it was Wednesday.

2 And he said that unfortunately they have to let me go.

3 And when I asked why, he said, "You broke the conduct."

4 That was it.

5 **Q. Who told you that you were suspended?**

6 A. HR manager.

7 **Q. And what is his or her name?**

8 A. His name is Jim -- I don't know the last name.

9 Sorry.

10 **Q. And when you were suspended, did they tell you**
11 **in person or over the telephone?**

12 A. No, when I was suspended I was in the Neiman
13 Marcus. After two facials they called me in the office.

14 **Q. Into the HR office?**

15 A. Yes.

16 **Q. And why did they tell you you were being**
17 **suspended? What did they tell you?**

18 A. He said then they received the complaint.

19 **Q. A complaint from who?**

20 A. When I asked, "Is it from customer?" He said,
21 "No."

22 **Q. So was it from a coworker?**

23 A. Yes.

24 **Q. Do you know who the coworker was?**

25 A. Yes.

1 Q. And who was it?

2 A. Her name is Gina.

3 Q. And what is Gina's position at the store?

4 A. She was working for I think Marc Jacobs
5 Company, but the last month before I was fired she got
6 the position in Guerlain which I started from.

7 Q. So did you interact and work with Gina
8 every day at the store?

9 A. Not with her particular.

10 Q. And so what was the complaint they received
11 from Gina?

12 A. When she -- when he start reading me a
13 complaint I start crying because she said she was
14 sexually harassed by me, she was physically abused by
15 me, she was verbally abused by me, and it was so
16 ridiculous.

17 Q. And --

18 A. That's -- that's what he told people.

19 Q. Did he tell you what she claimed the harassment
20 consisted of?

21 A. No.

22 Q. Did he tell you what she said you did to her?

23 A. No. I told him what happened.

24 Q. And what did you tell him?

25 A. The day before they move the counter of

1 Diptyque product from France. I was talking not even to
2 her. I was talking to the Russian girl who works at the
3 same counter. She was sitting down, Gina. I did not
4 see her. I made a comment about this Diptyque which
5 everybody in the store does not call Diptyque, they call
6 it Dyp. But the word, second word, you know, it's a
7 different word.

8 So that's what I told the Russian girl. And
9 she start laughing, and then suddenly Gina arrives from
10 behind, and when I saw her I said, "I hope you didn't
11 hear what I was joking." Because, you know, not
12 everybody wants to hear this word. And she said, "No."

13 **Q. What was the word?**

14 A. It was -- the company, everybody called
15 "Dypdick" instead of "tyque."

16 **Q. The Russian girl that you were speaking to,**
17 **what is her name?**

18 A. Victoria.

19 **Q. So at the time you didn't realize that Gina was**
20 **sitting close by?**

21 A. I did not see her because she was down fixing
22 the cases. When you're sitting down behind the cases
23 nobody can see you.

24 **Q. So when Gina stood up did she say anything to**
25 **you? Did she --**

1 A. She start approaching. She start approaching
2 me. Because I was behind the counter, outside.

3 Q. Did she say anything to you?

4 A. She start laughing.

5 Q. Did she say any words to you?

6 A. We were -- we was not exchanging the words
7 after this.

8 Q. Did you put your hands on her?

9 A. Yes. I hugged her from the behind.

10 Q. Did she act as if she were uncomfortable when
11 you hugged her?

12 A. No, she was laughing.

13 Q. Had you ever had any confrontational issues
14 with Gina before this day?

15 A. Never.

16 Q. Had you ever had angry words with her before
17 this day?

18 A. Never.

19 Q. Had she ever told you to leave her alone or
20 that she thought you were harassing her?

21 A. Never.

22 Q. When she said or she complained that you had
23 physically harassed her --

24 A. Uh-huh.

25 Q. -- what did the complaint say?

1 A. I did not read the complaint. It was what he
2 explained to me. That's what -- probably the physical
3 when I hugged her that's what she meant. I don't even
4 understand. Till now I don't understand what did she
5 mean.

6 **Q. So after you hugged her did you have any**
7 **conversation with her?**

8 A. We were laughing about the name of this.

9 **Q. Was there anybody else around that --**

10 A. No.

11 **Q. So just you and Gina and Victoria?**

12 A. I don't think Victoria was a witness because
13 she was busy with something else, because she does not
14 remember anything of this.

15 **Q. Did you see Gina later that day at all?**

16 A. Yes.

17 **Q. Did you talk to her?**

18 A. Yes.

19 **Q. And what was the conversation?**

20 A. First time I saw her around hour later after my
21 facial and I asked her, apology, I said, "I apologize if
22 I in any way I offended your ears with my joke." She
23 said "No, we're fine. We're cool."

24 Another time at the same day one hour later,
25 she approach me and we were walking toward to the CBD,

1 CBD area. CBD -- walking from one point to another
2 toward to the CBD counter. And she was asking my --
3 what my thoughts about pain reliever and everything. We
4 sell the CBD product for pain. Yeah. Marijuana. It's
5 called CBD.

6 It was three times we were talking at the same
7 day and it's all under the camera. The camera always
8 can prove that we were talking like friends, laughing.
9 And there was no events in my mind then in three days
10 later she can do something like this.

11 Q. So from that day until three days later when
12 she filed the complaint, did you see her?

13 A. Oh, yes.

14 Q. Did you have conversations with her?

15 A. No.

16 Q. Did anybody tell you that she was upset with
17 you?

18 A. No.

19 Q. And so when you were called into the office
20 three days later was that the first time that you heard
21 that she was upset?

22 A. Correct.

23 Q. Have you tried to talk to Gina since then?

24 A. No.

25 Q. Have you talked to anybody else in the

1 department then about this incident?

2 A. Well, people call me.

3 Q. Who called you?

4 A. Whole department.

5 Q. And what was the conversation?

6 A. They could not believe that I was fired.

7 Q. But did they know about the incident with Gina?

8 A. Well, somehow they do.

9 Q. Okay --

10 A. I was ashamed to talk about it.

11 Q. So when people called you did you talk to them
12 about it?

13 A. I cried.

14 Q. Do you know if anybody's spoken to Gina?

15 A. No, I don't know about it. I have no knowledge
16 about it.

17 Q. But you've not tried to speak to her?

18 A. Oh, no.

19 Q. So after you were called into the HR office and
20 you were suspended how long after that did you receive a
21 call that you were terminated?

22 A. I worked Friday and I believe they called me
23 Wednesday.

24 Q. And you were told that you were being
25 terminated for violating company policy?

1 A. Broke the conduct. That was exact his word.

2 Q. And that was the HR manager?

3 A. Yes.

4 Q. And then it looks like a few days after that
5 you went to see your attorney.

6 Correct?

7 A. I didn't know what to do else.

8 Q. So from the day you were terminated until you
9 went to see your attorney did you see a doctor?

10 A. I don't remember.

11 Q. So the report your attorney handed me is from a
12 chiropractor.

13 A. Uh-huh.

14 Q. "Yes"?

15 A. Yes, ma'am.

16 Q. And it's dated October 16th.

17 Is this the first time you've seen a
18 chiropractor?

19 A. Yes.

20 Q. Had you ever treated with a chiropractor
21 before?

22 A. Maybe 20 years ago.

23 Q. And for what condition did you see the
24 chiropractor before?

25 A. I fell on the floor. I fell when I was

1 working.

2 **Q. Where were you working at at the time?**

3 A. Oh, my goodness. I think it was Origins.

4 **Q. Origins?**

5 A. Origins. I think so, yeah. I don't believe --
6 I don't believe I remember for sure. It was very long
7 time ago.

8 **Q. How long did you treat with the chiropractor?**

9 A. Four times he give me the -- the therapy,
10 adjustment. It was adjustment.

11 **Q. And what part or parts of your body did he**
12 **treat?**

13 A. She just did adjustments. Because I fell and I
14 think I need adjustment.

15 **Q. On your back and your neck?**

16 A. Neck.

17 **Q. So from July 24th until you saw this**
18 **chiropractor did you see any other doctors for**
19 **treatment?**

20 A. No.

21 **Q. And why did you feel the need to go see a**
22 **chiropractor?**

23 A. I cannot walk and sleep and function. I cannot
24 function physically. I have pain everywhere. Like
25 basically everywhere.

1 Q. What parts of your body do you have pain in?

2 A. Very bad low back. And I mean as bad as I
3 cannot sleep. So I felt I need to do something about
4 it. And then my shoulders. I never had pain
5 (indicating) before in my shoulders.

6 Q. In both shoulders?

7 A. Both, but I think the right (indicating) is
8 always worse. The right shoulder is always worse.

9 Q. And you mentioned that you're right-handed.
10 Correct?

11 A. I'm right-handed.
12 And my hands (indicating).

13 Q. Do you think -- strike that.
14 So you're doing facials now, and after you left
15 Neiman Marcus you continued to do facials. So does
16 doing the facials bother your hands?

17 A. Not anymore because I don't do the boxes. I
18 don't pull the boxes anymore. I don't do five facials a
19 day, six facials a day anymore.

20 Q. Well, you just mentioned that you have pain in
21 your hands.

22 A. It's still painful but not as much as it was
23 before.

24 Q. So it's better than it was before?

25 A. Much better.

1 Q. Okay. So is the pain in your back better than
2 it was before?

3 A. No.

4 Q. So the pain in your back has stayed the same?

5 A. I would say little bit better, but I still -- I
6 still need the treatment from the doctor. I am planning
7 to go see him for physical adjustments and treatments.

8 Q. What I'm trying to figure out is that you
9 stopped working for Neiman Marcus in July.

10 A. Yes.

11 Q. And you didn't see a doctor until three months
12 later.

13 A. Yes.

14 Q. So if you felt the need to have this treatment
15 why did you wait three months?

16 A. Well, first of all I have no insurance to go to
17 the doctor.

18 Q. Okay. But you saw your attorney in July?

19 A. Yeah.

20 Q. And she sent to you see this doctor. So why
21 did you wait three months to see a doctor?

22 A. Well, because physical pain cannot compare to
23 my emotional pain and my heart pain. To pull myself
24 together and go -- put on makeup and go see the people
25 it took exactly three months.

1 Q. But you were working 20 hours a week during
2 this time so you were getting up every day and putting
3 makeup on and getting ready to go to work. So you were
4 able to do that. So why did it take three months for
5 you --

6 A. I was not working every day. It was couple
7 days a week. And this couple days a week it took a lot
8 of strength to put myself together.

9 Q. So 20 hours a week you were working two days?

10 A. Approximately, I told you. Was approximate.

11 Q. And you said depending upon the week. So if
12 you were working approximately 20 hours a week, how many
13 days were you working?

14 A. Sometimes two weeks -- two days a week,
15 sometimes three days, sometimes a week nothing go forth.

16 Q. So was the reason that you didn't see a doctor
17 because you were having this heart pain and the
18 emotional pain?

19 A. Uh-huh.

20 Q. "Yes"?

21 A. Uh-huh. Yes.

22 Q. So when was the first time that you saw a
23 doctor for the emotional pain you were having?

24 A. At the same time I went to the chiropractor.

25 Q. Okay. And who was the doctor that you went to

1 see?

2 A. I don't remember his name.

3 Q. Your attorney before the deposition told me
4 that it's Dr. Curtis, Thomas Curtis.

5 A. Yes. Yes.

6 Q. Have you only seen him one time?

7 A. Yes.

8 Q. And your attorney sent you to see him?

9 A. Yes.

10 Q. So the heart pain and the emotional pain, and
11 when you say heart pain you're referring to emotional
12 pain.

13 Correct?

14 A. Uh-huh. Yes, ma'am.

15 Q. So the emotional pain that you have, why is
16 that? Why do you think you have this emotional stress?

17 A. Because I think the termination my position and
18 me from the store was fabricated by the company because
19 I was demanding the last year of my right to have a
20 normal condition and as more I complained is less they
21 wanna hear it.

22 Q. So when you say fabricated by the store,
23 obviously they didn't fabricate the situation with Gina.
24 That happened.

25 Correct?

1 A. No. It was spontaneous. They did not. No,
2 they did not. But it was played later altogether.

3 Q. So how would the store know about the incident
4 with Gina if she didn't come to them and complain?

5 A. Well, she did come.

6 Q. So you acknowledge that Gina did file a
7 complaint.

8 Correct?

9 A. I found out from my HR manager.

10 Q. So Gina did file the complaint?

11 A. I don't know she was filed complaint or she was
12 told to file complaint. I don't know.

13 Q. How would the store have known --

14 A. Let me tell you.

15 Q. No. Let me ask the questions.

16 A. Yes.

17 Q. So how would the store have known about the
18 incident if Gina didn't come to them to tell them?

19 A. The camera. Security. The cameras there.
20 They see every -- every movement.

21 Q. So you feel like this was a plan by the store
22 to get rid of you?

23 A. It was a lucky coincidence for them to
24 terminate me because I had a flawless, flawless record
25 for five years.

1 Q. So when you were hired were you given an
2 employee book that told you what the rules of conduct
3 were?

4 A. It was a book.

5 Q. And you were told that there were rules against
6 sexual harassment and physical harassment.

7 Correct?

8 A. No, you have to read it yourself.

9 Q. And did you read the book?

10 A. As much as I understand the language in the
11 book.

12 Q. But you understand as an employee that you
13 cannot sexually harass or physically harass another
14 employee?

15 A. Yes, I do.

16 Q. So your emotional stress that you're having, is
17 that because you feel like you were terminated wrong?

18 A. Yes, ma'am.

19 Q. Okay. So before you were terminated did you
20 have any problems with anybody at work?

21 A. Never.

22 Q. Did you have any conflicts with any of your
23 coworkers?

24 A. Never.

25 Q. Did you have any conflicts with any of your

1 **supervisors?**

2 A. I did not have.

3 **Q. So when you went to see Dr. Curtis did he**
4 **provide you with any treatment?**

5 A. They gonna provide me with a treatment as soon
6 as we do the schedule.

7 **Q. And what type of treatment is he going to give**
8 **you?**

9 A. Therapy.

10 **Q. What type of therapy?**

11 A. To make me happy again. To make me confident
12 again. To not be afraid to touch people when I do
13 facials, because now I thinking how far should I touch
14 her? I never did it before. I never think about it
15 before.

16 **Q. So are you talking about like group therapy or**
17 **individual therapy?**

18 A. I would say it's probably both. I don't know
19 how they gonna fix it.

20 **Q. Have you ever treated with a psychiatrist**
21 **before?**

22 A. Never.

23 **Q. Have you ever had any type of counseling**
24 **before?**

25 A. I did not have any counseling.

1 Q. Any type of marriage counseling?

2 A. No.

3 Q. Do you have children?

4 A. I do have.

5 Q. How many children do you have?

6 A. I have two daughters.

7 Q. And are they grown and on their own?

8 A. They very grown, yes.

9 Q. And did you ever have to have any counseling
10 with either of your children?

11 A. Thank God, no.

12 Q. Have you ever taken any medication for anxiety
13 or depression?

14 A. No, ma'am.

15 Q. Has Dr. Curtis prescribed any medication for
16 you?

17 A. No.

18 Q. Have you ever had to file bankruptcy?

19 A. No.

20 Q. Have you ever been the victim of any type of
21 violent crime, like any sexual abuse --

22 A. No, ma'am.

23 Q. -- or any mugging, anything like that?

24 A. Never.

25 Q. So when you say that you're depressed, how does

1 **that manifest itself, what kind of symptoms do you ever?**

2 A. I used to wake up in the morning and I used to
3 wanna do makeup and I used to wanna see people and I
4 love my job yearly, I love doing facials and interact
5 with people, and after what happened I don't feel like
6 even put the makeup. I don't feel -- I don't feel very
7 good. Especially the first couple months it was very
8 painful.

9 I'm 63 years old. I love men. I never love
10 woman. To tell me that I was sexually harassed somebody
11 at work under the camera, it was so ridiculous and so
12 painful and so unfair, that I can't even describe what
13 is the cosmetic department is. We all about hugging and
14 kissing, and this is the cosmetic department. Full of
15 gay people which, you know, they love to hug and they
16 love to talk, and nobody ever in the store or anywhere
17 else in America when I was working ever told me that I
18 sexually harassed or physically abused.

19 This was so painful. This is like a knife in
20 my heart until now. But I feel much better because I
21 have friends and people trust me and they give me job
22 because of my reputation. That's it.

23 **Q. Are you enjoying your new job?**

24 A. Oh, yes.

25 THE REPORTER: Deborah, could we take a

1 five-minute break?

2 MS. GILMAN: Sure. Of course.

3 Let's go off the record for a few minutes.

4 (Recess taken from 11:58 A.M. until 12:05 P.M.)

5 BY MS. GILMAN:

6 Q. Back on the record.

7 So we took a short break, and we were talking
8 about the fact that you're enjoying your new job.

9 Correct?

10 A. Yes.

11 Q. And you're enjoying working and doing facials
12 and meeting people.

13 Correct?

14 A. Correct.

15 Q. So other than feeling depressed and you
16 indicated that during those two months that you had
17 difficulty speaking with people or meeting people, are
18 there any other symptoms that you have with regard to
19 your depression?

20 A. I could not sleep at all.

21 Q. Okay. And you're talking in the past tense or
22 are you still having trouble sleeping?

23 A. You know, my anxiety actually started when they
24 start bringing new -- new brands and my job become --
25 become really hell with all these boxes and all this

1 names and all this vendors and all this training. It
2 was all -- it was too much, so anxiety, I would say
3 anxiety started before this incident. But what happened
4 later it just added. It just added. I -- yeah, I
5 feel -- I feel sleepless before, but not as much as
6 after my termination.

7 **Q. Okay. So this is different. You're testifying**
8 **to something different than what you said before. So**
9 **before you said that all of your anxiety and depression**
10 **started after you were terminated. But now you're**
11 **indicating that it actually started before.**

12 **A. I -- I feel you have to know this. I feel you**
13 **have to know this. Anxiety started early than the**
14 **termination. But it just elevated to the point and**
15 **right now I felt destroyed. Until I start thinking**
16 **about my children and my work and my pension. I have to**
17 **work. I cannot die.**

18 **Q. So did you see any doctors for your anxiety**
19 **before you were terminated?**

20 **A. I did not.**

21 **Q. Did you take any medication for your anxiety?**

22 **A. I did not.**

23 **Q. So since you've been back working first as a**
24 **freelancer and now working at the spa has your anxiety**
25 **decreased?**

1 A. My anxiety decreased.

2 Q. Do you still have anxiety?

3 A. Yes.

4 Q. And what is the anxiety about?

5 A. My anxiety is touching people. I'm afraid that
6 I'm touching wrong, in the wrong place.

7 Q. So that arose out of the termination?

8 A. Yes.

9 Q. And I have had facials before and massages
10 before, I know there are very strict guidelines as to
11 what estheticians can and cannot do.

12 Correct?

13 A. Not -- not with my new line. The Biologic has
14 a very strict protocol, and No. 3 step in protocol you
15 apply on your hands, you apply the oil, essential oil,
16 and you put your hands in the middle of the woman's
17 chest and you help her exhale, and so when she inhale
18 you have to push her decollete very deeply to exhale.
19 This is the protocol. So every time I do this I'm
20 thinking am I do this too low? Am I hold my hands too
21 low in her decollete? Or -- I never had it before.

22 Q. Did you ever have to do that with any of the
23 prior products that you used?

24 A. No.

25 Q. So this is new --

1 A. This is new.

2 Q. -- to this spa.

3 Correct?

4 A. Correct.

5 Q. And I assume -- as I said before, I've had
6 massages and facials -- that the esthetician, you always
7 ask the client before you place your hands on her.

8 Correct?

9 A. Correct.

10 Q. So you always get an affirmative answer before
11 you start that protocol.

12 Correct?

13 A. Correct.

14 Q. Do you have anxiety about anything else?

15 A. Well, anxiety is a very major, you know,
16 condition. I don't know right now. When I'm driving I
17 have anxiety, which I didn't have it before. I don't
18 know if it's related to my physical and psychological
19 right now or . . .

20 Q. Well, anxiety is a very subjective condition.

21 A. Correct.

22 Q. So each individual handles it or notices it
23 differently, so do you have other issues that you are
24 anxious about?

25 A. Right now I think it's much better, when I'm

1 not in the toxic environment as I was before.

2 **Q. And what toxic environment are you talking**
3 **about?**

4 A. The handling the boxes, the changing the brand.
5 Instead of 15 brands what I have to do when I was
6 offered the position, I have to do 35 brands suddenly in
7 the year. And adjustment was very hard for -- for any
8 esthetician, I believe.

9 **Q. So the chiropractor's report indicates that you**
10 **have pain in multiple parts of your body, and you**
11 **mentioned your shoulders before and your low back.**

12 **Do you have pain anywhere else in your body?**

13 A. I have pain, running pain in my left in my
14 calf, and I think it comes from the lower back, but I
15 prefer the doctor see what is going on, why is there
16 pain in my legs.

17 **Q. And the doctor's report indicates that you had**
18 **some sort of injury to your left ankle?**

19 A. Correct.

20 **Q. What type of injury was it?**

21 A. I broke my ankle 25 years ago.

22 **Q. And you wear some type of brace on it?**

23 A. Yes.

24 **Q. Do you wear any type of orthotics in your**
25 **shoes?**

1 A. Sometimes.

2 Q. Do you have trouble standing for any periods of
3 time because of your left ankle?

4 A. Yes.

5 Q. Have any doctors ever told you that because of
6 an altered gait or the way that you walk or stand that
7 it affects your back?

8 A. No.

9 Q. So how often do you have pain in your low back?

10 A. Every day.

11 Q. Do you have it when you wake up in the morning?

12 A. Yes.

13 Q. Does it change at all during the day depending
14 upon what you're doing?

15 A. It changes.

16 Q. What sorts of activities changes the pain?

17 A. Activities. If I take a bath I feel better.

18 Q. So does the pain ever go away?

19 A. I don't have it right now.

20 Q. So when you have it how long does it last for?
21 Does it come and go depending upon what you're doing?

22 A. When I'm sitting for long time it's kind of all
23 the time. So right now I'm even surprised that I have
24 it.

25 Q. So how long can you sit before you notice?

1 A. Hour.

2 Q. So you're sitting for an hour and you notice
3 pain in your back, if you stand up does the pain go
4 away?

5 A. I -- yes. Yes.

6 Q. If you change positions the pain goes away?

7 A. Yes.

8 Q. And is that true if you're standing for an
9 hour, then you sit down the pain goes away?

10 A. Say again. If I stand?

11 Q. If you stand for an hour and then you sit down
12 does the pain go away?

13 A. No. Actually, opposite. When I sit in pain
14 and I stand, then my pain will go away for some reason.

15 Q. Okay. Do you take any medication for it?

16 A. I took Advil couple times from counter. I
17 bought in pharmacy. I don't believe in medication.
18 Sorry.

19 Q. So just over-the-counter medication?

20 A. Yes.

21 Q. And you mentioned having problems with your
22 legs. Do you feel like the pain goes from your back
23 down into your legs?

24 A. That's what -- that's what I assume, because I
25 never had pain in my calf before, and I don't -- I'm not

1 a support lady, I'm not overworking my calves. But when
2 I start having pain in my low back I start feeling a
3 throbbing pain in my calves.

4 **Q. Does it seem like one leg is worse than the**
5 **other?**

6 A. Yeah, sometimes one leg is worse. And I
7 believe the left leg is worse because I have varicose
8 veins in the left foot.

9 **Q. Have you had any surgery for your varicose**
10 **veins?**

11 A. I was not recommended by doctor surgery.

12 **Q. Do you have pain in your shoulders every day?**

13 A. Yes.

14 **Q. And does it go down your arms or does it**
15 **just --**

16 A. It goes up (indicating).

17 **Q. It goes up your neck?**

18 A. Yes.

19 **Q. Does it seem to you that it starts in your**
20 **shoulders and goes up your neck, or it starts in your**
21 **neck and goes down into your shoulders?**

22 A. I think it starts from my shoulder and go up.

23 **Q. And you mentioned before that your right**
24 **shoulder seems worse.**

25 **Correct?**

1 A. I feel sometimes, yes.

2 Q. I don't want you to do it, because I don't want
3 you to hurt yourself, but do you have trouble lifting
4 your arms out in front of you or to your sides?

5 A. Not if it's high.

6 Q. I'm sorry. Not if it's high?

7 A. Uh-huh. When it's high, yes, I feel pain.

8 Q. So when you say it's high you mean overhead?

9 A. Uh-huh.

10 Q. "Yes"?

11 A. Yes, ma'am.

12 Q. Do you belong to a gym?

13 A. No.

14 Q. Do you play any sports?

15 A. No.

16 Q. I noticed in the report that you do
17 needlecraft.

18 Do you do knitting?

19 A. Well, I used to.

20 Q. When was the last time you did knitting?

21 A. I believe six months I tried to do a scarf.

22 Q. And why couldn't you do a scarf?

23 A. I fell pain in my hands. I start feeling pain
24 six, like, months, more. And over here the muscle pain.
25 So it's not fun anymore.

1 Q. How long have you been knitting?

2 A. 40 years.

3 Q. And what types of things do you knit?

4 A. I can do everything.

5 Q. Sweaters?

6 A. Yes.

7 Q. Afghans? Scarves? Hats?

8 A. Correct.

9 Q. Have you ever seen a doctor for the pain in
10 your hands?

11 A. I did not.

12 Q. Have you ever been diagnosed with arthritis?

13 A. I do not have arthritis.

14 Q. How do you know you don't have arthritis?

15 A. When I do physical twice a year, twice a year
16 the doctor never mention arthritis to me.

17 Q. You mentioned that you're 63. Have you applied
18 for Social Security?

19 A. No. I'm too young.

20 Q. Do you know when you'll be eligible for Social
21 Security?

22 A. I believe it's 66 right now if they not going
23 to prolong.

24 Q. Does your husband work?

25 A. My husband still -- he still works, yes.

1 **Q. Do you belong to any social organizations or**
2 **groups that you're active in?**

3 A. I send my checks to charity.

4 **Q. Do you do any type of volunteer work or belong**
5 **to any organizations?**

6 A. No. No.

7 MS. GILMAN: All right. I don't have any other
8 questions.

9 MS. FOLEY: Can I have a few moments?

10 MS. GILMAN: I'm sorry?

11 MS. FOLEY: I have a few more questions.

12 MS. GILMAN: Of course. Go ahead.

13 MS. FOLEY: Thank you.

14

15

EXAMINATION

16 BY MS. FOLEY:

17 **Q. We've been talking today about sexual**
18 **harassment. Can you please give us your understanding**
19 **of sexual harassment?**

20 A. When you touch somebody in -- inappropriately
21 without their consent, and it makes people, you know,
22 not -- not comfortable. That's my understanding of
23 sexual harassment.

24 **Q. Did you have any special training at work in**
25 **regard to what sexual harassment is?**

1 A. If we did it was probably a very long time ago
2 because I don't recall it lately. They don't do this
3 very often.

4 **Q. In your mind, do you consider friendly hugging
5 to be sexual harassment?**

6 A. No. No, we hug each other all the time.

7 **Q. Do you remember a time when you've been hired
8 by your employer, Neiman Marcus?**

9 A. Yeah.

10 **Q. Do you remember signing some papers?**

11 A. It was a lot of papers.

12 **Q. Do you remember anyone explaining to you how to
13 report an injury?**

14 A. It was a clause about the injury, yes.

15 **Q. Do you remember anyone explaining to you the
16 difference between specific injury and cumulative
17 injury?**

18 A. No.

19 **Q. When did you first heard about cumulative
20 injury?**

21 A. I don't remember. I don't remember when was
22 it. When did you tell me. It was the first time that
23 we meet. I don't remember.

24 **Q. So now you know what is cumulative injury?**

25 A. Yes.

1 Q. When you -- today you've been saying to us that
2 you complained about your pain to your supervisor.

3 A. Yes.

4 Q. When you did, did she suggest you to go to the
5 clinic and get medical help?

6 A. Not she. Bush. Mark Bush, the other manager
7 suggest it.

8 Q. Did they send you to the clinic?

9 A. No, he said, "You have to see the doctor."
10 That was the response.

11 Q. But he didn't provide any paperwork --

12 A. No.

13 Q. You called today your environment toxic. Can
14 you please explain what do you mean by that?

15 A. Well, toxic is when you come to work and you
16 don't have a room where you storage your stuff. This is
17 toxic. When you have to run and -- and locate this box,
18 and this box is not here because somebody touch it and
19 somebody move it. I think it's toxic.

20 Q. So you mean your emotional response to the
21 situation?

22 A. Well, yeah.

23 Q. And before you started representing more than
24 15 brands the environment was comfortable to you?

25 A. It was handled -- yes, I handle it very

1 appropriately and good.

2 **Q. So from the moment you start handling a lot of**
3 **different brands and had boxes what was your emotional**
4 **state?**

5 A. I was happy.

6 **Q. From the moment you start handling heavy boxes?**

7 A. Oh, from the moment. No, I'm talking about the
8 first when they give me the position.

9 From the moment I understood them this is
10 impossible, but nobody can hear me. Like I was talking
11 to the wall. And when I approach general manager and I
12 ask her, "How come we don't have a stockroom for me?"
13 Her answer was, "We did not think it over." This was
14 her answer, "We did not think it over" before they bring
15 these brands.

16 **Q. You testified today that you became very upset**
17 **after you'd been terminated.**

18 **Did you feel depression and anxiety before**
19 **you'd been terminated?**

20 A. Yes.

21 **Q. And that was because of what?**

22 A. Because it was not impossible -- it was
23 impossible to handle the last year situation. It was
24 humanly impossible to -- to handle the situation what
25 the company created for me. You know, if you have a

1 position you have to create the normal condition to --
2 to -- to do your task. It was not created.

3 **Q. One more question. You mentioned that there**
4 **was a Russian lady working within the same --**

5 A. Yes.

6 **Q. -- environment.**

7 **Did you ever feel discriminated based on your**
8 **Russian origin?**

9 A. It was one time very unpleasant. It was a
10 remark from manager Maria to a Russian guy who works
11 with us, Evan. She told him "I don't wanna hear Russian
12 language on the floor." And he approach me and he said,
13 "Don't talk to me Russian anymore." I said, "Why?" He
14 said, "Because Maria said we can't."

15 And I went to HR office and I asked my HR
16 manager where is the reason, paper I can see that we not
17 allowed to speak to each other in Russian when there is
18 no customer around. And later she came apologize.
19 Because he call her to the office and she came to me.
20 She apologize. She said, "You didn't understand. You
21 should not speak when it's customer." She said, "I'm
22 sorry, yeah, I did not say you cannot speak Russian.
23 You should not speak Russian when it's a customer."

24 But you understand, we never speak Russian in
25 front of the customer because the customers does not

1 understand Russian. So this was not a nice feeling
2 because everybody else speak their language. Hispanic
3 people speak in Spanish. Persian people speak their
4 language. So I never heard such a thing anybody would
5 say don't speak Spanish or don't speak Persian. So it
6 was very unpleasant.

7 MS. FOLEY: I have no further questions.

8

9

FURTHER EXAMINATION

10 BY MS. GILMAN:

11 Q. So when Maria told you that you should not be
12 speaking Russian, did you understand that it meant that
13 you shouldn't be speaking Russian when there were
14 clients present?

15 A. She did not talk to me. She talked to the man
16 who was Russian. He told me, "Don't ever speak to me
17 Russian." When I said, "Why?" He said, "Maria said
18 don't ever speak. I don't want to hear you speaking
19 Russian on the floor."

20 Q. So you don't know what she said to him with
21 regard to not speaking Russian?

22 A. No. But she apologized after.

23 Q. So she explained to you that you are not to
24 speak Russian when there were customers on the floor.

25 Correct?

1 A. She did not explain. She did not speak to me
2 about this. She just apologized. She did not explain
3 it to me. She did not speak to me about this. She did
4 not explain it to me. She just came to apologize,
5 because she never told me do not speak. The boy told
6 me, and I went to HR and I said, "I want to see the
7 reason, protocol where it says by company that we're not
8 supposed to speak at all Russian, because that's how I
9 understand." So what happened after 30, 40 minutes, I
10 don't know. She probably was called to the office
11 because she came to me and she apologized. She said,
12 "I'm sorry, I was not understood correctly."

13 **Q. That he misunderstand what she was trying to**
14 **say?**

15 A. Yes. And I said, "We're fine."

16 **Q. So was it your understanding that they had**
17 **asked all of the employees not to speak their native**
18 **languages while there were customers present?**

19 A. No, I understood only about Russian language.

20 **Q. Well, that was your perception of what the**
21 **young man told you.**

22 **Correct?**

23 A. No. Nobody else complain from -- from
24 different people, from different society people. Nobody
25 complain. Nobody, Hispanic people never say, "We cannot

1 speak Spanish." So somebody would complain in the
2 department. I would hear this.

3 Q. You would think that, but you don't know that
4 nobody --

5 A. I don't.

6 Q. Where did you work before you were hired at
7 Neiman Marcus?

8 A. Let me think. I can't remember the last
9 before.

10 It was Origins. And I think that's -- Origins
11 was closed, that's why I had no job.

12 Q. How long did you work there?

13 A. It was around six years.

14 Q. And what were your dates of employment?

15 A. Oh, I don't remember. Sorry.

16 Q. So was there a break between Origins and Neiman
17 Marcus?

18 A. It was I think -- I think it was very short
19 break.

20 Q. Weeks? Months?

21 A. Maybe year.

22 Q. And during the time that you worked at Neiman
23 Marcus did you do any freelance facials on your own?

24 A. No.

25 Q. Did you run any businesses out of your home?

1 A. No.

2 Q. How long have you been working as an
3 esthetician?

4 A. 38 years.

5 Q. So where else have you worked besides Origins
6 and Neiman Marcus?

7 A. I work in doctor's office, Dr. Jacobs, in
8 Florida. I worked as a personal esthetician for
9 celebrity Christina in Florida. I was her personal
10 esthetician. Then I worked in Alejo Spa. It's a
11 Spanish, Alejo, I think with a J. With a J.

12 Q. Like A-L-E-J-O?

13 A. Correct. Yes.

14 Q. Is that in Florida?

15 A. No, this was here. I work in Burdines.
16 Burdines is a Florida store, it's like -- Burdines.
17 B-U-R-D-I-N-E-S. It was a Mr. Burdines, he opened the
18 store many years ago.

19 Q. Have you ever had any other type of employment
20 other than working as an esthetician?

21 A. No.

22 MS. GILMAN: All right. I don't have any other
23 questions.

24 Before the deposition started the court
25 reporter indicated to me that we're going to do a

1 different stipulation with regard to the closing of this
2 deposition, so I would stipulate that we will handle
3 this deposition according to the Code; that the original
4 transcript will be sent to my office, that a certified
5 copy will be sent to applicant's attorney's office for
6 the applicant to review and sign, and that we will be
7 notified of any changes within 45 days.

8 MS. FOLEY: So stipulated.

9 (Ending time: 12:30 P.M.)

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1 REPORTER'S CERTIFICATE

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4 I, LAWRENCE SCHUMACHER, CSR No. 1464, Certified
5 Shorthand Reporter, certify:

6 That the foregoing proceedings were taken before me
7 at the time and place therein set forth, at which time
8 the witness was put under oath by me;

9 That the testimony of the witness, the questions
10 propounded, and all objections and statements made at
11 the time of the examination were recorded
12 stenographically by me and were thereafter transcribed;

13 That the foregoing is a true and correct transcript
14 of my shorthand notes so taken.

15 I further certify that I am not a relative or
16 employee of any attorney of the parties, nor financially
17 interested in the action.

18 I declare under penalty of perjury under the laws of
19 California that the foregoing is true and correct.

20 Dated this 24th day of November, 2019.

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LAWRENCE SCHUMACHER, CSR No. 1464

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ERRATA SHEET

I declare under penalty of perjury that I have read the
foregoing _____ pages of my testimony, taken
on _____ (date) at
_____(city), _____(state),
and that the same is a true record of the testimony given
by me at the time and place herein
above set forth, with the following exceptions:

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21 applying "minimum necessary" standards where appropriate. It is

22 recommended that your office review its policies regarding sharing of

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24 disclosure - for compliance with Privacy Laws.

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