

Deposition of Bryce Schuenke taken 12/10/14

1 UNITED STATES DISTRICT COURT
 2 DISTRICT OF MINNESOTA
 3
 4 File No. 13-CV-266
 5
 6 -----
 7 Forest Olivier et al.,
 8 Plaintiffs,
 9 vs.
 10 Karl Willers et al.,
 11 Defendants.
 12 -----
 13
 14 DEPOSITION OF BRYCE SCHUENKE, taken pursuant
 15 to Notice of Taking Deposition and taken before Debra J.
 16 Mokszycke, a Notary Public in and for the County of Anoka,
 17 State of Minnesota at 222 South Ninth Street, Suite 2200,
 18 Minneapolis, Minnesota, on the 10th day of December, 2014,
 19 commencing at approximately 1:30 p.m.
 20
 21
 22
 23
 24
 25

3

1 APPEARANCES:
 2 NATHAN M. HANSEN, Attorney at Law, HANSEN LAW
 3 OFFICE, 2440 North Charles Street, Suite 242, North St. Paul,
 4 Minnesota, 55109, appeared representing the Plaintiffs.
 5
 6 JANINE WETZEL KIMBLE, Attorney at Law, GREENE
 7 ESPEL, PLLP, 222 South Ninth Street, Suite 2200, Minneapolis,
 8 Minnesota, 55402-3362, appeared representing Defendants
 9 Nicholas Jacobson and the Olmsted County Sheriff's Office.
 10
 11 STEPHANIE A. ANGOLKAR, Attorney at Law,
 12 IVERSON, REUVERS, CONDON, 9321 Ensign Avenue South,
 13 Bloomington, Minnesota, 55438, appeared representing Defendants
 14 Karl Willers, the Hutchinson Police Department, Kenneth
 15 Willers, the Nobles County Sheriff's Office, Daniel Lewis,
 16 Steve Schulz, the Kanabec County Sheriff's Office, Michael
 17 Hadland and the Fillmore County Sheriff's Office.
 18
 19 HELEN R. BROSNAHAN, Assistant County Attorney,
 20 DAKOTA COUNTY JUDICIAL CENTER, 1560 Highway 55, Hastings,
 21 Minnesota, 55033-2392, appeared representing Defendant Bryce
 22 Schuenke and Dakota County.
 23
 24
 25

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 2 - - -
 3 WHEREUPON, the following proceedings were duly had:
 4 - - -
 5
 6 BRYCE SCHUENKE,
 7 After having been first duly sworn,
 8 testified under oath as follows:
 9
 10 EXAMINATION
 11 BY MR. HANSEN:
 12 Q Could you state your name for the record?
 13 A Bryce Schuenke, S-c-h-u-e-n-k-e.
 14 Q Good afternoon, Mr. Schuenke. My name is Nathan Hansen and
 15 I'm an attorney for the plaintiffs in this case and I'm
 16 going to be taking your deposition today.
 17 Have you had your deposition taken before?
 18 A No.
 19 Q Have you testified in court before?
 20 A Yes.
 21 Q This is kind of the same or similar to testifying in court
 22 in that we're making a record and so we will try not to
 23 talk over each other so the court reporter can make an
 24 accurate record.
 25 In addition to that, you want to make verbal responses

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1 as opposed to nodding your head or something like that so,
2 again, we can make a record about it.
3 If you don't understand a question, let me know. I'll
4 try to ask it again or I'll try to rephrase it. Is that
5 fair enough?
6 A Yeah.
7 Q How many times have you testified in court?
8 A Countless. Quite a few.
9 Q How old are you?
10 A I'm 27.
11 Q When did you start working for the Dakota County Sheriff's
12 Office?
13 A January 19, 2010.
14 Q And what did you do prior to that?
15 A I worked as a loss prevention investigator for Mills Fleet
16 Farm and I also worked for Target Corporation in the store.
17 Q What is your educational background?
18 A I have a Bachelor of Arts in Criminal Justice Studies and I
19 have a Master of Science in Public Safety Executive
20 Leadership. I have a certificate in law enforcement as
21 well.
22 Q Where is the bachelor's degree from?
23 A St. Cloud State University.
24 Q Where is the master's degree from?
25 A St. Cloud State University.

6

1 Q What years did you attend?
2 A I attended St. Cloud from 2006 to 2009 for my bachelor's
3 and 2010 to 2012 for my master's.
4 Q My brother was there in the '80s for the riots. That's
5 probably before your time.
6 What kind of certificate -- what is that certificate
7 you said you had?
8 A For law enforcement.
9 Q Where does that come from?
10 A Alexandria Technical College.
11 Q When did you attend there?
12 A Summer of 2009.
13 Q Do you have any medical training?
14 A I'm a first responder, certified.
15 Q Certified by what?
16 A By the Minnesota Emergency Medical Services Board.
17 Q Is that like a -- that's a board of the State of Minnesota?
18 A Correct.
19 Q And what does that entitle you to do?
20 A It just gives me extra training to be a first responder.
21 Q Do you have any other medical training?
22 A No.
23 Q What science classes did you take at St. Cloud State?
24 A I took forensic science.
25 Q Anything else?

7

1 A No.
2 Q What's that bachelor's degree in again?
3 A Criminal justice studies.
4 Q Are you presently working for the Dakota County Sheriff's
5 Office?
6 A No.
7 Q When did that end?
8 A July of 2013.
9 Q And where are you working now?
10 A City of Prior Lake.
11 Q What do you do there?
12 A I'm a police officer.
13 Q How long have you been doing that?
14 A For the City of Prior Lake?
15 Q Yeah.
16 A Since August of 2013.
17 Q Are you certified as a drug recognition evaluator?
18 A Yes.
19 Q And who gave you that certification?
20 A International Association of Chiefs of Police.
21 Q Do you have a certificate?
22 A I know I've received one. I don't know if I have it.
23 Q Do you have a little insignia for your uniform that says
24 you're a DRE?
25 A Yes.

8

1 Q Where did you get that from?
2 A I received that from Sergeant Munoz of the Minnesota State
3 Patrol.
4 Q Who signed the certificate certifying you to be a drug
5 recognition evaluator?
6 A I don't know.
7 Q Is there any continuing education for a drug recognition
8 evaluator?
9 A Yes.
10 Q And who puts that on?
11 A The Minnesota State Patrol.
12 Q And when did you last go to one of those?
13 A November 13th of this year.
14 Q Where was that put on?
15 A Duluth.
16 Q Did they do any tests there or was it just classroom work?
17 A I -- I wasn't involved in any testing.
18 Q Was anybody else doing any testing?
19 A Yes.
20 Q When was that?
21 A November 13th.
22 Q 2013 --
23 A Yes.
24 Q -- or 2014?
25 A 2014.

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1 Q So this year?
2 A This year.
3 Q So they were running some exams on people up in Duluth,
4 huh?
5 A It was -- yes.
6 Q Who did you see do that?
7 A I didn't see it.
8 Q How do you know that it happened?
9 A Because I received an e-mail that it was going to take
10 place.
11 Q What were they testing for?
12 A They were conducting recertification for DREs using alcohol
13 impaired subjects.
14 Q Anything else?
15 A No.
16 Q Did you ever see the police release where they said that
17 they were ending the DRE program here and they weren't
18 going to do it anymore and they were going to do it in
19 California?
20 A No.
21 Q Let me direct your attention to your original DRE training
22 in -- it would be around April of 2012. When did you first
23 become aware of the DRE program?
24 A It would have been sometime in the beginning of 2013 -- or
25 2012. I'm sorry.

10

1 Q When was that again? I'm sorry.
2 A Beginning of 2012.
3 Q And how did you hear about it?
4 A I was given a training announcement by a sergeant in my
5 department.
6 Q Who was that?
7 A Sergeant Tim Samuelson.
8 Q Who is the second in command at the Dakota County Sheriff's
9 Office?
10 A Currently it's Chief Deputy Tim Leslie.
11 Q Did you ever have any conversations with him about this
12 program?
13 A No.
14 Q Tell me about the classroom portion of the DRE training in
15 April of 2012, where it was, who put it on, what it
16 entailed.
17 A It was put on by the Minnesota State Patrol and it was held
18 at the White Bear Lake Police Department.
19 Q Do you know why it was held at the White Bear Lake Police
20 Department?
21 A No.
22 Q Were there any medical doctors there to teach you for the
23 classroom portion?
24 A No.
25 Q Were there any nurses there?

11

1 A No.
2 Q Were there any science teachers?
3 A There was forensic scientists from the Bureau of Criminal
4 Apprehension.
5 Q What did they teach?
6 A They talked about the laboratory testing process.
7 Q What did they tell you about the laboratory testing
8 process?
9 A They told us the drugs that they could test for and the
10 drugs they couldn't test for. They also told us about
11 different types of samples and the amounts required to test
12 those samples.
13 Q What kind of drugs did they -- what kind of drugs can they
14 not test for?
15 A I don't know the whole list.
16 Q Can you give me a couple?
17 A Bath salts.
18 Q What are bath salts?
19 A It's a synthetic type of stimulant.
20 Q What is an SSRI?
21 A I'm familiar with it, but I don't know what it stands for
22 exactly.
23 Q It's called a serotonin reuptake inhibitor.
24 A That sounds familiar.
25 Q If you were testing for an SSRI -- testing a subject for a

12

1 drug recognition evaluation, how would an SSRI show up for
2 the drug recognition evaluator evaluation?
3 A I don't know what you mean by "how it would show up."
4 Q Well, there's seven different categories of drugs. What
5 category of drugs do you think it would show up as?
6 A CNS depressants.
7 Q So it's a depressant?
8 A It's an antidepressant.
9 Q But it's a depressant?
10 A Yes.
11 Q So it's an antidepressant and a depressant simultaneously?
12 A There are several categories within the CNS depressants.
13 One of them is antidepressants.
14 Q I want to fast-forward a little bit to after you completed
15 the classroom portion of the training. Then there was a --
16 we'll call it a lab part or a clinicals part or something.
17 Where did that take place?
18 A What are you referring to?
19 Q The clinicals part where people were actually tested.
20 A We didn't do anything clinical.
21 Q Where was the -- we'll call it the field portion then. I'm
22 not trying to put words in your mouth. Let's call it the
23 field portion. Where did that take place?
24 A The certification took place in the city of Minneapolis.
25 Q Was there also a -- were there also some tests that were

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1 taken at a MnDOT facility out by the airport?
2 A Yes.
3 Q And some of the other tests happened at the Minneapolis
4 Fifth Precinct?
5 A Correct.
6 Q And how were test subjects acquired?
7 A We found different subjects within the city of Minneapolis
8 and approached them and asked them to be voluntary subjects
9 of an evaluation.
10 Q Did you see anybody give anybody any drugs?
11 A No.
12 Q Did you witness anybody do drugs in front of you?
13 A Yes.
14 Q What kind of drugs?
15 A Marijuana.
16 Q When was that?
17 A It was an evaluation before an evaluation that I conducted
18 at the Fifth Precinct.
19 Q Where did they smoke it?
20 A On a curb.
21 Q Did you assist with going out and obtaining test subjects?
22 A Yes.
23 Q Who told you where to go look for test subjects?
24 A Sergeant Munoz and officers with the Minneapolis Police
25 Department.

15

1 Q Could you be impaired by it if you take it as prescribed?
2 A It depends.
3 Q Could you be impaired by Adderall if you took it as
4 prescribed?
5 A It depends.
6 Q What does it depend on?
7 A It depends on each individual person.
8 Q In what regard?
9 A To how it affects their body.
10 Q How would you know?
11 A Based upon the tests that I conducted during the
12 evaluation.
13 Q Who else do you recall being present out at the MnDOT
14 facility by the airport?
15 A Can you be more specific as to when?
16 Q At the times you were out there conducting your
17 evaluations.
18 A People were coming and going constantly, so to be able to
19 tell you exactly who was out there at any given moment, it
20 wouldn't be possible.
21 Q Well, explain that to me a little bit. So people were
22 coming and going. Why were they coming and going?
23 A Because people would bring voluntary subjects to the
24 facility, conduct an evaluation, bring them back to
25 wherever they picked them up at, and find another subject

14

1 Q Do you remember any of the names of the people from the
2 Minneapolis Police Department?
3 A I don't.
4 Q Where did they tell you to go look?
5 A They said Lake Street, Franklin Avenue, Chicago Avenue,
6 under bridges.
7 Q It's my understanding for the evaluations that you have to
8 test for four of the seven categories to get certified; is
9 that correct?
10 A Yes.
11 Q So somebody could -- you could test somebody for -- strike
12 that.
13 If somebody was under the influence of Paxil or
14 something, you could conduct an evaluation on them to see
15 whether or not they were under the influence, correct?
16 A Yes.
17 Q Did you ever think about maybe coming up here and seeing if
18 there's somebody in this office that maybe took an
19 antidepressant that might want to do an evaluation?
20 A No.
21 Q Why not?
22 A Because I was looking for people who were impaired by
23 drugs.
24 Q But can you be impaired by Paxil?
25 A If you don't take it as prescribed, yes.

16

1 to bring back to conduct another evaluation.
2 Q How many subjects do you think you picked up?
3 A I can't say for certain.
4 Q Ballpark?
5 A Maybe six, seven.
6 Q Did you pick up anybody around Peavey Plaza?
7 A No.
8 Q Where did you pick up people from?
9 A I found several people on Lake Street, Franklin Avenue,
10 Chicago Avenue, Nicollet Mall. Those were the main places
11 where I found subjects.
12 Q Have you heard the name Peter Zajac?
13 A Yes.
14 Q And who is he?
15 A He's an officer for the Farmington Police Department.
16 Q And how do you know him?
17 A I know Pete from when he was an officer with the Faribault
18 Police Department because I was a reserve officer for that
19 department, so I know Pete Zajac from working as a deputy
20 in Dakota County.
21 Q Who is Mark Hanneman?
22 A Mark Hanneman is an officer for the Hutchinson Police
23 Department.
24 Q And how do you know him?
25 A I just know him from being in the same class for the DRE

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1 program.
2 Q How about Karl Willers, do you know him?
3 A He's also a Hutchinson police officer.
4 Q And how do you know him?
5 A Through the DRE program.
6 Q Did you rely on any, like, learned treatises or scientific
7 textbooks during the classroom portion of your training?
8 A I didn't use scientific textbooks, no.
9 Q There's no scientific textbooks used in the DRE training?
10 A We had manuals, but I don't know whether they came from a
11 scientific source or not.
12 Q What is an institutional review board?
13 A I don't -- I don't know.
14 Q What is a controlled experiment?
15 A I'm familiar with the term, but wouldn't be able to explain
16 it.
17 Q What is the scientific method?
18 A Again, same.
19 Q You don't know?
20 A I don't know.
21 Q Did any Minneapolis police officers pick anybody up for
22 you?
23 A No.
24 Q Were any of these people that were picked up, were they
25 given any waiver or informed consent form to sign before

19

1 A No.
2 Q How many drug recognition evaluations have you conducted?
3 A Approximately 38 or so.
4 Q It's my understanding that for these evaluations that you
5 conducted for the training, there's four categories out of
6 the seven that you have to test for, and then there had to
7 be some sort of corroboration with like a urine test and
8 your result; is that correct?
9 A Correct.
10 Q And did you get those results?
11 A Yes.
12 Q And what was your percentage?
13 A I never calculated my percentage.
14 Q Did anybody calculate it?
15 A The state patrol did.
16 Q Do you know Peter Zajac socially? Have you kept in touch
17 with him?
18 A No.
19 Q But you were familiar with him and had contacts with him
20 prior when you were involved in the DRE training in April
21 2012; is that correct?
22 A Yes.
23 Q I have some of your evaluations here. This is not -- the
24 evaluations that I have here are complete evaluations, but
25 they're not every single one of the evaluations that you

18

1 they participated in the program?
2 A No.
3 Q Did you check into the people's medical history?
4 A No.
5 Q Do you have any idea why -- aside from any conversations
6 with your attorneys, any idea why they would be interested
7 in people's medical history now?
8 A No.
9 Q Could you train someone to be a drug recognition evaluator,
10 do you think?
11 A It's very complex.
12 Q Do you keep a log of your drug recognition evaluations?
13 A Yes.
14 Q Did you add in the evaluations that you did for the
15 training portion at the facility in April 2012 and at the
16 Fifth Precinct to your official DRE log?
17 A Yes.
18 Q And where do you keep that log?
19 A I have it on a jump drive at our police department.
20 Q And what do you keep it for?
21 A To maintain those records.
22 Q So those are official records?
23 A Yes.
24 Q Have you testified in court as a drug recognition
25 evaluator?

20

1 did in your training. I've just picked some out. So let's
2 start with this one.
3 MR. HANSEN: If you could mark this as an
4 exhibit.
5 (Exhibit 1 marked.)
6 BY MR. HANSEN:
7 Q All right. I want to put in front of you what's been
8 marked for this deposition as Exhibit 1. I'm going to
9 represent to you that this is an evaluation of someone
10 named Jesus Mendoza-Osornio and it's been stamped DC-524 to
11 DC-526. DC presumably meaning Dakota County, because
12 that's where it came from.
13 I just want to ask you something about this. Jesus
14 Mendoza-Osornio, is this his real name?
15 A No.
16 Q How do you know that?
17 A Because I didn't obtain a real name from any of the
18 subjects that I conducted an evaluation on during the
19 certification process.
20 Q Is that his correct date of birth?
21 A I don't know.
22 Q How did you check to see if people were 18 or not?
23 A I didn't.
24 Q I want to direct your attention to the second page of this
25 where it says Notification/Interview of Arresting Officer,

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1 kind of right above the top half.
2 Is this -- is that accurate, about how he was -- this
3 person came to the testing facility? Did you go observe a
4 vehicle with a suspended object and pull him over?
5 A I made up each of these narratives.
6 Q Do you have any idea how this guy actually did come to the
7 training facility?
8 A I don't remember.
9 Q Was it you that brought him to the Fifth Precinct?
10 A Yes.
11 Q Do you have any recollection as to where you got this
12 person from?
13 A No.
14 Q I want to direct your attention to the bottom part of it
15 where it says CLINICAL INDICATORS. Could you explain to me
16 what this clinical indicators portion is?
17 A It's where -- numerous times during the evaluation we take
18 pulse, we check blood pressure, and also take a look at
19 their eyes for dilation or constriction, and to observe if
20 there's any horizontal gaze nystagmus or lack of
21 convergence.
22 Q Who taught you to examine people's eyes like this?
23 A I don't remember the exact instructors.
24 Q What was their background?
25 A Police officers.

22

1 Q Were they also trained as optometrists or eye doctors?
2 A I don't know.
3 Q What happened to the results of the urine samples, do you
4 know at all?
5 A What do you mean by "what happened to the results?"
6 Q Well, it says there was a toxicological sample for this
7 person and it was given to the Minnesota Bureau of Criminal
8 Apprehension, so presumably at some point they had to check
9 it to make sure you could be certified. There would be
10 some sort of sheet showing what they would -- what they
11 tested positive for. Have you ever seen that with regard
12 to this person?
13 A I was given an Excel spreadsheet with the kit numbers and
14 the test results at the conclusion of the testing process.
15 Q After all your evaluations were completed?
16 A After the samples were analyzed by the BCA.
17 Q Do you still have that spreadsheet?
18 A No.
19 Q What happened to it?
20 A It was in an e-mail format and it was deleted after I
21 entered all of my evaluations into my rolling log.
22 Q Who sent it to you?
23 A Sergeant Munoz.
24 Q How do you know Sergeant Munoz?
25 A I know him from the DRE program.

23

1 MR. HANSEN: Could you mark this one as
2 Exhibit 2.
3 (Exhibit 2 marked.)
4 BY MR. HANSEN:
5 Q This has been marked as Exhibit 2. It's an evaluation for
6 someone apparently named James Clyde Parker, DC-527 to
7 DC-529. Is this somebody with a fake name, too?
8 A Yes.
9 Q In this Notification -- I'm looking at page two now,
10 DC-528. It says Notification/Interview of Arresting
11 Officer. You made contact on the corner of Bloomington
12 Avenue and 26th Street. That's not the way you came into
13 contact with him; is that correct?
14 A Correct.
15 Q How did you come into contact with him; do you know?
16 A I don't.
17 Q Was it you that actually picked this person up or was it
18 somebody else?
19 A I would have picked him up.
20 Q So you just picked him up and he admitted to smoking crack
21 five minutes before you made contact with him?
22 A I don't know if that's accurate or not.
23 Q Accurate that he smoked crack five minutes before, or
24 accurate that he said that?
25 A Both.

24

1 Q So in some of these cases, how they were picked up aside,
2 their admissions regarding their use or nonuse of illicit
3 drugs, that may not be accurate in any of these reports as
4 well; is that correct?
5 MS. KIMBLE: Objection, foundation.
6 BY MR. HANSEN:
7 Q You can answer.
8 A Correct.
9 Q So whether or not he -- just to be clear about that, and
10 it's on foundation, whether or not he actually said that,
11 that may not be true, correct?
12 A Yeah, it may or may not be true. I don't know for sure.
13 Q The medical problems and treatment part of it, was that
14 part accurate or did you make -- or was that something that
15 was invented?
16 A That was accurate.
17 Q Okay. Do you remember at all what this guy looked like?
18 A No.
19 Q When you made up a date of birth, were you just trying to
20 make a date of birth to, like, approximate their age or was
21 it you could just put any number down?
22 A They told me their age and I made up a date of birth.
23 Q It says you tested his body temperature. How did you do
24 that?
25 A With a temporal scanner.

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1 Q Did you -- as part of the training, do these people -- do
2 they get put in a dark room?
3 A Yes.
4 Q And what is that about?
5 A Could you be more --
6 Q Tell me how that works, what purpose does it serve and how
7 does it operate.
8 A The purpose of it is to look at the subjects pupils in
9 three different lighting conditions, as well as check their
10 nasal cavity and oral cavity.
11 Q Is that done on the other drug recognition evaluations that
12 you do in the normal course of your employment as a drug
13 recognition evaluator?
14 A Yes.
15 MR. HANSEN: All right. I just want to go
16 to the next one here. We'll mark this as an exhibit.
17 (Exhibit 3 marked.)
18 BY MR. HANSEN:
19 Q This is Exhibit 3, and I've provided Counsel a copy there,
20 and this is an evaluation of somebody allegedly named Terry
21 Johnson, DC-530 to DC-532.
22 It says this one was taking Truvada for STDs, this
23 Terry Johnson. Could that have an effect on somebody's
24 ability to operate a motor vehicle?
25 A I'm not familiar with that drug.

1 Q So you wouldn't know one way or the other if that might
2 affect his ability to drive a car?
3 A No.
4 Q And the same as always, this is not this person's real name
5 or birth date; is that correct?
6 A That's correct.
7 Q I want to direct your attention to the second page, DC-531.
8 It says that this was recorded by Mike Hadland of the
9 Fillmore Sheriff's Office. Who is Mike Hadland?
10 A Mike Hadland is a deputy with Fillmore County.
11 Q And how do you know him?
12 A He was in my DRE class.
13 Q Did you know him before that?
14 A No.
15 Q How did you get paired up with him?
16 A I was assigned to him as a partner by Sergeant Munoz.
17 Q Any idea how Munoz assigned the partners?
18 A No. Actually, he assigned each group having someone from a
19 metro department to an outstate department.
20 Q So you guys could work together to get some test subjects
21 so one would have familiarity with the Cities?
22 A That's correct.
23 Q And by "the Cities," our outstate counsel didn't know what
24 it means, we mean the Twin Cities where we're at here right
25 now, right?

1 A The seven county metro area, yes.
2 Q Correct. So this one -- you said before you got someone on
3 Lake Street. Do you think that this one, you actually got
4 this guy on Lake Street or did he come to you some other
5 way?
6 A It could be possible.
7 Q But you couldn't -- you don't recall?
8 A Not for sure, no.
9 Q And did you -- if you were the one that picked him up here,
10 or any of these, were you the ones that would drive them
11 back or would some other people drive them back sometimes?
12 A Sometimes other people would drive them back, depending on
13 whether or not those individuals consented to be evaluated
14 more than one time.
15 Q The date on these, 4/20, is that the real date?
16 A Yes.
17 Q So were you and Deputy Hadland, you guys together
18 presumably picked this person up?
19 A I don't know for sure.
20 Q But you guys -- was it always when you were with Mike
21 Hadland that you picked people up or did you work with some
22 other people?
23 A We didn't work together the entire time.
24 Q Who else did you work with?
25 A I don't remember the exact people. There was at least one

1 evaluation, that I know of, that was considered a legal
2 evaluation.
3 Q Where somebody from another department brought him in and
4 then they were -- they said, hey, we have somebody if you
5 guys want to run the test on him?
6 A An officer from the City of Rosemount had arrested a
7 subject and I met him to do an evaluation.
8 Q And did that evaluation that you did, did that end up being
9 used as part of the probable cause to arrest the person, or
10 did they let him go, or do you not know?
11 A The officer had probable cause to arrest that person for
12 suspicion of driving under the influence and then I
13 conducted an evaluation.
14 Q Was that -- do you have any idea as to whether or not that
15 evaluation was used as part of the regular court case?
16 A The person was not charged with anything at the end result.
17 Q Why not?
18 A I would have to look at the report to remember.
19 Q Would it say on the DRE report?
20 A Yes.
21 Q All right. So let me get this straight. That officer from
22 Rosemount, he had probable cause to arrest, but didn't end
23 up arresting the person?
24 A He had probable cause to arrest. He did arrest the person,
25 and then I responded to conduct an evaluation on the

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1 individual.
2 Q And you exonerated them?
3 A It was determined after the evaluation that the officer
4 from Rosemount decided not to pursue charges against that
5 person. It wasn't my decision.
6 Q Well, no, I'm not saying it was your decision. I'm just
7 saying, did you say they were not under the influence or
8 did you say they were under the influence, do you know?
9 A I said they were under the influence.
10 Q What did you think they were under the influence of?
11 A I would have to look at the report. I don't recall.
12 Q Was it a male or a female?
13 A Female.
14 Q Did he tell you at the time that he was going to cut her
15 loose?
16 A No.
17 Q You found out later?
18 A He made that decision after I was done with my evaluation.
19 Q How did you find out later?
20 A Because he told me before I even left.
21 Q Oh, okay.
22 A He explained it to the person that was arrested that they
23 weren't going to be charged and that he would give them a
24 ride back to their residence.
25 Q What did you think they were under the influence of? Or

30

1 did I already ask that? I'm sorry.
2 A You already asked that.
3 MR. HANSEN: Okay. Forget that. I didn't
4 mean to ask that twice. All right. I've got another one
5 here.
6 (Exhibit 4 marked.)
7 BY MR. HANSEN:
8 Q This one has been marked as Exhibit 4. This is an
9 evaluation of somebody named -- allegedly named Zachary
10 John Smith. He's apparently 18 years old. It's marked
11 DC-536 to 538. We've marked it as Exhibit 4 for this
12 deposition.
13 Is it possible in some of these cases that these
14 people gave you the correct first name?
15 A It's possible.
16 Q You don't know? But you didn't check their ID or anything?
17 A I didn't check anyone's ID.
18 Q This guy says he was born in '94. How do you know that he
19 was 18?
20 A I could only tell by my estimation by looking at him that
21 he was age 18 or older.
22 Q Do you have training in that?
23 A Well, I encounter a lot of people daily, so I would say
24 it's from my experience, not necessarily training.
25 Q And this was on 4/20/2012 as well, correct?

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1 A Correct.
2 Q This one -- I want to direct your attention to the second
3 page, DC-537. It says Notification/Interview of Arresting
4 Officer. You were on patrol with Mike Hadland and you
5 observed a suspicious vehicle parked in a parking lot of
6 the Richfield Public Works building.
7 Is this how -- and I'm not trying to belabor this on
8 every one, but I've got to make it clear on each one. It's
9 important to me. Is this an accurate way that these people
10 came to you?
11 A No.
12 Q Do you know how this person came to you?
13 A No.
14 Q Do you recall if this person was part of a group of maybe a
15 few other people that came in together, like it says in
16 here?
17 A No.
18 Q Do you have any recollection as to what this person looked
19 like?
20 A No.
21 Q Was there any recordings of these evaluations?
22 A No.
23 Q In the course of your evaluations, when you're doing them
24 out on the streets or when you're doing them on the job,
25 real evaluations, are those recorded?

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1 A A minimum of audio, yes.
2 Q Were these audio recorded?
3 A No.
4 Q Any reason why not?
5 A We weren't instructed to have them recorded.
6 Q Were you instructed to have your evaluations subsequent to
7 this recorded?
8 A Yes.
9 Q So this person -- it says on the first page here, DC-536,
10 that he had an odor of marijuana on him. Would that be
11 correct or would that be something that you might make up?
12 I'm sorry, Officer. I'm looking at the -- I switched
13 back to the other page. The middle part where it says
14 "breath" and you put "odor of marijuana." Would they
15 really have an odor of marijuana or would you put that in?
16 A That would be accurate.
17 Q Okay. Where it says -- the second page here, DC-537, it
18 says that he stated, "I'm really baked." Is that something
19 he really said or would that be something that you might
20 have just put in there to season it up a bit?
21 A I don't know, to be honest.
22 Q Was there any rhyme or reason as to when you would put the
23 admissions regarding use that the people said to you in
24 accurately or not in accurately?
25 A Their admissions did not have any consideration of what I

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1 considered them to be under the influence of, so it didn't
2 matter what they admitted to me.
3 Q Okay. So you might sometimes make up an admission and then
4 sometimes maybe they would make some sort of an admission
5 and you would write it down, but it would be kind of
6 random?
7 A Correct.
8 MR. HANSEN: All right. We'll move on to
9 the next one here. Mark this as Exhibit 5.
10 (Exhibit 5 marked.)
11 BY MR. HANSEN:
12 Q All right. This one is DC-539 to DC-541. Again, this
13 Jordan Allen Carness is not an accurate name; is that
14 correct?
15 A I don't believe so.
16 Q And the age, not an accurate age?
17 A The age I would ask them and I would make up their date of
18 birth based on the age they gave me.
19 Q All right. I want to direct your attention to the second
20 page, which is DC-540. It says there were witnesses there
21 and the witnesses were Mark Hanneman of the Hutchinson
22 Police Department and Pete Zajac of the Farmington Police
23 Department. Were those witnesses really there for this
24 evaluation?
25 A Yes.

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1 Q And when it says it was recorded by Mark Hanneman, does
2 that mean that he was writing down the stuff during the
3 evaluation?
4 A Yes.
5 Q And then that -- if one of the people wrote down the
6 evaluation, that would also count as credit for them toward
7 their evaluations as well; is that correct?
8 A Correct, yep.
9 Q I'm going to ask you about this Notification/Interview of
10 Arresting Officer. It says, "I was driving northbound
11 Cedar Avenue approaching Lake Street East in the city of
12 Minneapolis. I observed a male walking eastbound on Lake
13 Street. He was stumbling and appeared to be jittery. He
14 was swaying while walking and appeared to be under the
15 influence of an unknown substance. I radioed Officer Zajac
16 to stop the male and talk to him. I arrived with Officer
17 Zajac and Officer Hanneman who had the male stopped on
18 Cedar Avenue."
19 Is this accurate as to how this encounter happened?
20 A Yes.
21 Q So it was you and Zajac and Hanneman?
22 A We were not in the same car.
23 Q But you were all there on the scene together?
24 A Yep.
25 Q And then you -- this guy was brought back to the

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1 transportation building, the MnDOT transportation building
2 by the airport?
3 A Yes.
4 Q And who drove him out there? Who drove him back there?
5 A I don't remember that.
6 Q Did you ever ride in the car with Officer Zajac?
7 A No.
8 Q So there were two cars there and presumably one of the cars
9 brought -- said, hey, we'll bring you back out by the
10 airport.
11 A Yes.
12 Q Did you pick up anybody else with Officer Zajac and Officer
13 Hanneman?
14 A No.
15 Q Do you have any recollection as to what this individual
16 looked like?
17 A No.
18 Q Any recollection as to his race?
19 A The race is accurate. He was -- as marked on the face
20 sheet, he was white.
21 MR. HANSEN: All right. We'll move on to
22 the next one. Mark that as Exhibit 6.
23 (Exhibit 6 marked.)
24 BY MR. HANSEN:
25 Q I have in front of you what's been marked as Exhibit 6,

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1 which is DC-542 to DC-544. I'm going to ask you on this
2 one, the name, Michael Doran, not a name where you checked
3 an ID or not an accurate name, as far as you know?
4 A Correct.
5 Q And did you tell -- the people were told to make up fake
6 names?
7 A Yes.
8 Q Did you tell this person to make up a fake name?
9 A I told each individual I encountered to make up a fake
10 name.
11 Q And you told each of them to make up a fake date of birth?
12 A No. They told me their age and I made the date of birth
13 up.
14 Q Okay. I want to direct your attention to the second page
15 of this, which is DC-543. It says that this evaluation was
16 conducted at the MnDOT transportation facility; is that
17 correct?
18 A Yes.
19 Q And the evaluation was recorded by Deputy Michelle Ness of
20 the Olmsted County Sheriff's Office and witnessed by
21 Trooper Bryan Bearce of the Minnesota State Patrol. Bearce
22 is B-e-a-r-c-e. Is that correct?
23 A Yes.
24 Q And how do you know Deputy Michelle Ness?
25 A She was in the DRE class that I was in.

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1 Q And do you know -- it says -- there's a narrative here
2 under Notification/Interview Arresting Officer, that it was
3 Officer Zajac who picked this person up. As far as you
4 know, is this accurate as to how this person was picked up?
5 A I don't know.
6 Q It says at the end of it that he agreed to contact officers
7 the following day to do a voluntary evaluation when he was
8 under the influence. Is that correct?
9 A I don't know if that's correct either.
10 Q The date on this is 4/26/2012. Is that correct?
11 A Yes.
12 Q It says that he's got a prosthetic foot. Is that correct?
13 A I'm not sure if that's -- one second, please.
14 Q Yeah. Take your time.
15 A That would have been accurate. It was in the medical
16 problem section as well and each one of those sections were
17 accurate information.
18 MR. HANSEN: All right. We'll move on to
19 the next one. Mark this as Exhibit 7.
20 (Exhibit 7 marked.)
21 BY MR. HANSEN:
22 Q All right. I have in front of you here -- and take your
23 time. I'm just describing it. It's an evaluation marked
24 DC -- Bates stamped DC-545 to DC-547. This is an
25 individual named John Wayne. Too young to be the real John

1 Wayne, and the real John Wayne is deceased, as far as I
2 know. That's not a real name either, right?
3 A No.
4 Q It says on here his breath, on the first page, that he has
5 a strong odor of marijuana. Would that have been accurate?
6 A Yes.
7 Q Do you have any recollection as to what this person looks
8 like?
9 A No.
10 Q And it says that the witnesses were, I'm looking on
11 the second page here, were Mark Hadland and Troy Kemp
12 from the Coon Rapids Police Department. Would that be
13 accurate?
14 A Yes.
15 Q The way in which this person was picked up, it says in
16 the middle part here, the Notification/Interview Arresting
17 Officer, that you were -- it says you were driving
18 northbound on Nicollet Avenue approaching 12th Street
19 South in the city of Minneapolis. Would that be accurate?
20 A It's possible.
21 Q Is it possible it's not accurate?
22 A Yes.
23 MR. HANSEN: All right. We'll move on to
24 the next one. This will be Exhibit 8.
25 (Exhibit 8 marked.)

1 BY MR. HANSEN:
2 Q So I have in front of you, and take your time to review it,
3 DC-551 to DC-553. This appears to be -- the name is Karen
4 Marie Baird, B-a-i-r-d. And this one says the arresting
5 officer is Officer Jason Waage, W-a-a-g-e. As far as you
6 know, is that correct?
7 A Yes.
8 Q We talked earlier about one that -- where they were let go
9 or somebody was arrested and she ended up not being
10 charged, or he let you know right at the time. Is this one
11 that one?
12 A Yes.
13 Q Because it says here that the person -- they were examined
14 down at the Dakota County transportation facility. Would
15 that be correct?
16 A Yes.
17 Q Would this be the real name of that person?
18 A Yes.
19 Q So this would be the only one of all of the evaluations
20 that has a real name?
21 A Correct.
22 Q At least that you took.
23 A Yes.
24 Q And with you was Pete Zajac and Riccardo Munoz, it says.
25 I'm looking on the second page, DC-552. So did you go out

1 there with Pete Zajac?
2 A He met me there.
3 Q Did you ever get the urine sample back on this one?
4 A I don't remember.
5 MR. HANSEN: All right. We'll move on to
6 the next one. This is the last one, and I saved the best
7 for last.
8 (Exhibit 9 marked.)
9 BY MR. HANSEN:
10 Q So I saved the best for last here, Exhibit 9. It's Ted
11 Nugent, who has claimed, I think, throughout his career
12 that he does not use illicit drugs.
13 If you want to take a look at this. It's DC-554 to
14 DC-556. Take your time.
15 Did you have enough time to look at it?
16 A Yes.
17 Q Okay. So Ted Nugent on this one, that's not a real name,
18 right?
19 A No.
20 Q Not a real birth date either, right?
21 A Correct.
22 Q It says here on the face sheet that he told you he was
23 taking Depakote. What's Depakote?
24 A I don't remember offhand what drug category that belongs
25 to.

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1 Q What's Anafranil?
2 A I don't know that one either.
3 Q How about Klonopin?
4 A Klonopin is a CNS depressant.
5 Q By CNS you mean central nervous system?
6 A Correct.
7 Q What other -- strike that.
8 So I want to direct your attention to the second page,
9 which is DC-555. It says that -- there's a narrative about
10 how he was picked up here, that he was walking on Nicollet
11 Avenue, and it was you there that got him. Is that
12 accurate?
13 A That one is accurate, yes.
14 Q And how do you remember that that one is accurate?
15 A I remember it because he -- it was very easy to tell that
16 he was under the influence and I picked him up near a bus
17 stop on the Nicollet Mall.
18 Q And it says here that this was recorded by Mike Hadland and
19 Dustin Roemeling of the Nobles County Sheriff's Office.
20 Would that be correct?
21 A Correct.
22 Q Did you ever get the lab results back from this person?
23 A Like I had stated earlier, I had a spreadsheet and that
24 information was entered into my rolling log.
25 Q But Ted Nugent is not his real name, right?

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1 A No.
2 Q Did he offer up that name or did you make it up?
3 A I believe Deputy Hadland did.
4 Q Do you have any canine officers in the Prior Lake Police
5 Department?
6 A No.
7 Q Did you have any in the Dakota County Sheriff's Department?
8 A Yes.
9 Q How many did you have?
10 A Two.
11 Q And what is a canine officer?
12 A Can you be more specific?
13 Q Well, is a canine officer somebody who has a dog assigned
14 to them?
15 A Yes.
16 Q And they use that dog to assist them with police duties?
17 A Yes.
18 Q What protocols would you institute if you had learned that
19 a canine officer, the dog, had ingested illicit drugs?
20 A There are no protocols.
21 Q What would you do, based upon your experience?
22 A I wouldn't do anything because it's not my responsibility.
23 Q What if you saw the canine officer there and it looked
24 liked it was under the influence of drugs and his handler,
25 the officer handler, was unavailable?

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1 A I don't know what a canine looks like under the influence
2 of drugs.
3 Q What if somebody had told you, hey, I punched out the
4 canine officer's handler, and I gave the -- I gave the dog
5 drugs. What would you do?
6 A I would probably arrest him.
7 Q Would you seek some treatment for the canine officer?
8 A No.
9 Q You wouldn't bring him to the vet?
10 A No.
11 Q Why not?
12 A Because it's not my responsibility to bring him to the vet.
13 Q Would somebody from your department bring him to the vet?
14 A I don't know.
15 Q Should they?
16 A I don't know.
17 Q What would you arrest the person for?
18 A Assaulting the officer. Fourth degree assault, to be
19 specific.
20 Q Assaulting the canine officer?
21 A Well, there's a statute on harm to a dog, so it would
22 depend on the situation.
23 Q Would the marijuana harm the dog?
24 A I don't know.
25 Q Would you tab charge him?

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1 A I don't know.
2 Q Which four of the seven drug types did you test for in the
3 evaluations that you conducted?
4 A I don't understand the question.
5 Q So there's four -- it's my understanding there's four of
6 seven drug types that you've got to test for to get your
7 certification, right?
8 A There's not a specific four.
9 Q I know, but which ones in the ones that you did did you
10 test for?
11 A I found CNS depressants, CNS stimulants, narcotic
12 analgesics, and cannabis.
13 Q Isn't cannabis also a CNS depressant?
14 A No.
15 Q It's its own separate category?
16 A Yes.
17 Q Cannabis is an entirely separate category?
18 A Yes.
19 Q And what are the other categories?
20 A CNS depressants, CNS stimulants, hallucinogens, narcotic
21 analgesics, inhalants, cannabis, and dissociative
22 anesthetics.
23 MR. HANSEN: All right. I don't have
24 anything further.
25 MS. BROSNAHAN: I have a few questions.

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1 I'll only be a couple of minutes.
2 MS. ANGOLKAR: Are we off the record?
3 MS. BROSNAHAN: We can go off the record.
4 (Discussion held off the record.)
5 (Exhibit 10 marked.)
6
7 EXAMINATION
8 BY MS. BROSNAHAN:
9 Q Deputy Schuenke, Exhibit 10 has been marked for an
10 exhibit. Exhibit 10 is a picture of an individual. Have
11 you ever seen or do you recognize that individual in the
12 picture?
13 A No.
14 MS. BROSNAHAN: Just for the record,
15 Exhibit 10 is a Department of Corrections mugshot of
16 Zachary Lorenz.
17 (Exhibit 11 marked.)
18 BY MS. BROSNAHAN:
19 Q Showing you Exhibit 11. It's a picture of an individual.
20 Do you recognize the individual depicted in that picture?
21 A No.
22 MS. BROSNAHAN: For the record, Exhibit 11
23 is a DVS driver's license photograph of Daniel Sam Bell.
24 (Exhibit 12 marked.)
25 MS. BROSNAHAN: Exhibit 12 contains a DVD

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1 entitled 0033.AVI (sic), which was previously disclosed by
2 the plaintiffs. I'm going to fast-forward to 22 seconds.
3 MR. HANSEN: Can I just walk around to your
4 side, Counsel?
5 MS. BROSNAHAN: Yeah, that would be great.
6 MR. HANSEN: That's fine.
7 BY MR. BROSNAHAN:
8 Q Are you able to see that, Deputy Schuenke?
9 A Yes.
10 Q Do you recognize -- I'm going to start playing it. Have
11 you ever seen this individual before?
12 A No.
13 Q Now I'm going to fast-forward to 1:04, one minute and four
14 seconds. The taller gentleman, have you seen him before?
15 A Yes.
16 Q And where have you seen him?
17 A I saw him on the sidewalk near Peavey Plaza and also at the
18 MnDOT facility.
19 Q And do you know what that individual's name is?
20 A No.
21 Q Did you conduct any evaluations on that individual?
22 A No.
23 Q Other than your contact with that individual on the
24 sidewalk on -- Nicollet Avenue or Nicollet Mall?
25 A It wasn't on Nicollet Avenue. It was a side street of

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1 Nicollet. I don't remember exactly which street though.
2 Q But downtown Minneapolis?
3 A Correct.
4 Q And did that individual get in your squad car with you?
5 A No.
6 Q So you didn't transport him anywhere?
7 A No.
8 Q And when you saw him at the DRE facility, did you have any
9 conversations with him at that facility?
10 A What do you mean by the DRE facility?
11 Q Well, where you were doing -- I should say the MnDOT
12 facility where the DRE evaluations were being conducted
13 during the classes.
14 A I saw him come into the building.
15 Q But did you have any conversations with him at that
16 building?
17 A No.
18 Q And did you conduct any evaluations on him at that
19 building?
20 A No.
21 MS. BROSNAHAN: Could I have Exhibit 13
22 marked? While it's booting up, Exhibit 13 is the file
23 identified as 1070.AVI, which was previously disclosed by
24 plaintiffs.
25 (Exhibit 13 marked.)

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1 BY MS. BROSNAHAN:
2 Q Have you ever seen this individual depicted in this video?
3 A No.
4 MS. ANGOLKAR: Can you say what times
5 you're --
6 MS. BROSNAHAN: Right at the beginning, as
7 it plays it's a picture of an individual. I'm stopping it
8 at 8 seconds, so from the beginning through 8 seconds.
9 BY MS. BROSNAHAN:
10 Q With the individual that was in Exhibit 11, who you
11 indicated you did not recognize, if you would have
12 conducted an evaluation on this individual during the DRE
13 class in 2012, do you believe you would have recognized
14 him?
15 A Yes.
16 Q And so because of that, do you know whether or not you ever
17 conducted an evaluation on this individual?
18 A I did not conduct an evaluation on him.
19 Q So you didn't transport this individual to or from the
20 MnDOT facility in Richfield?
21 A No.
22 Q Or to the Fifth Precinct facility?
23 A No.
24 Q With respect to the individual depicted in Exhibit 10, do
25 you believe you would have recognized this individual

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1 depicted if you had conducted an evaluation on him during
2 your DRE classes in April of 2012?
3 A Yes.
4 Q And you do not recognize him?
5 A No.
6 Q Did you transport this individual?
7 A No.
8 Q So you've never seen either individual depicted in
9 Exhibit 10 or 11?
10 A No.
11 Q Now going back to the first individual who was depicted in
12 Exhibit 12, who was the female in Exhibit 12, do you recall
13 that individual that was depicted in that picture, the one
14 that you indicated you didn't recognize?
15 A No.
16 Q You don't remember seeing the video just now?
17 A Yes, I do remember seeing the video.
18 Q So the female of the two individuals we talked about
19 earlier with respect to Exhibit 12, do you believe if you
20 would have conducted an evaluation on her during the DRE
21 certification course in 2012, that you would remember
22 having had contact with that person?
23 A Can you play that one again? Because I don't --
24 Q Yeah, absolutely.
25 A -- remember a female.

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1 MS. BROSNAHAN: I have no additional
2 questions.
3 MR. HANSEN: I have one quick follow-up
4 question.
5
6 FURTHER EXAMINATION
7 BY MR. HANSEN:
8 Q When you saw the -- some officers call him Fro. He's also
9 known as Forest Olivier, the guy with the Afro. You said
10 you saw him walk into the MnDOT building. Who did you see
11 him walking in there with?
12 A I don't remember which officers they were.
13 Q So you remember him, but you don't remember the officers?
14 A Correct.
15 MR. HANSEN: All right. Thanks.
16 MS. BROSNAHAN: Anybody else?
17 THE REPORTER: Would you like to read and
18 sign?
19 MS. BROSNAHAN: Yes.
20 (WHEREUPON, the deposition of BRYCE SCHUENKE
21 concluded at approximately 3:00 p.m.)
22 - - -
23
24
25

50
1 Q Okay. We're going to fast-forward to 022, where we were --
2 to 22 seconds, where we were. This individual.
3 A And what was your question again?
4 Q If you would have conducted a DRE evaluation on the
5 individual back during your classes in 2012, do you believe
6 that you would recall having contact with that
7 individual --
8 A Yes.
9 Q -- from two years ago? And do you recall having any
10 contacts with this individual?
11 A No.
12 Q So you didn't do an evaluation on her?
13 A No.
14 Q Now with respect to the individual depicted in Exhibit 13,
15 which is on file 1070.AVI, you previously testified you did
16 not recognize this individual?
17 A That's correct.
18 Q And do you believe if you would have conducted an
19 evaluation during your certification classes in 2012, you
20 would remember having had contact with that individual
21 today?
22 A Yes.
23 Q And so you didn't conduct any evaluations on this
24 individual?
25 A No.

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1 STATE OF MINNESOTA)
2) ss.
3 COUNTY OF ANOKA)
4
5 Be it known that I took the deposition of BRYCE
6 SCHUENKE on the 10th day of December, 2014, at Minneapolis,
7 Minnesota;
8 That I was then and there a Notary Public in and for
9 the County of Anoka, State of Minnesota, and that by virtue
10 thereof, I was duly authorized to administer an oath;
11 That the witness before testifying was by me first
12 duly sworn to testify the truth and nothing but the truth
13 relative to said cause;
14 That the testimony of said witness was recorded in
15 stenotype by myself and transcribed into typewriting by myself
16 and that the deposition is a true record of the testimony given
17 by the witness to the best of my ability;
18 That I am not related to any of the parties hereto nor
19 interested in the outcome of the action;
20 That the reading and signing of the deposition by the
21 witness was not waived.
22 WITNESS MY HAND AND SEAL THIS 15TH DAY OF DECEMBER, 2014.
23 (SEAL)
24
25 Debra J. Mokszycke, Notary Public

Deposition of Bryce Schuenke taken 12/10/14

1 Forest Olivier et al. vs. Karl Willers et al.

2

3 ADDITIONS, OMISSIONS AND CORRECTIONS

4 Page Line Addition, Omission or Correction Reason

5 _____

6 _____

7 _____

8 _____

9 _____

10 _____

11 _____

12 _____

13 _____

14 _____

15 _____

16 _____

BRYCE SCHUENKE

18

19 The above-named individual, before me, read said
20 deposition and made the additions, omissions and corrections as
21 indicated.

22 _____

Notary Public

23

24

25 My Commission Expires _____ (DJM)