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IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

ROBERT BARNHART,

Plaintiff,

vs.

Case No. 4:11cv450-RH-WCS

LAMAR ADVERTISING COMPANY,

Defendant.

_____ /

DEPOSITION OF: CHRIS OAKS

TAKEN ON BEHALF OF: The Plaintiff

DATE: Wednesday, April 4, 2012

TIME: Commenced at 10:40 a.m.
Concluded at 11:45 a.m.

LOCATION: 822 North Monroe Street
Tallahassee, Florida

REPORTED BY: MICHELLE SUBIA, RPR
Notary Public in and for
the State of Florida
at Large

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114 WEST 5TH AVENUE
TALLAHASSEE, FLORIDA
(850) 894-0828

1 APPEARANCES:
 2 FOR THE PLAINTIFF:
 3 STEVEN R. ANDREWS, ESQUIRE
 4 Law Offices of Steven R. Andrews
 5 822 North Monroe Street
 6 Tallahassee, Florida 32303
 7
 8 FOR THE DEFENDANT:
 9 DEBORAH H. OLIVER, ESQUIRE
 10 Adams and Reese, LLP
 11 101 E. Kennedy Blvd., Suite 4000
 12 Tampa, Florida 33602
 13
 14
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1 PROCEEDINGS
 2 The following deposition of CHRIS OAKS was taken
 3 on oral examination, pursuant to notice, for purposes of
 4 discovery, for use as evidence, and for such other uses
 5 and purposes as may be permitted by the applicable and
 6 governing rules. Reading and signing of the deposition
 7 transcript by the witness is NOT waived.
 8 * * *
 9 Thereupon,
 10 CHRIS OAKS
 11 was called as a witness and, having been first duly
 12 sworn, was examined and testified as follows:
 13 EXAMINATION
 14 BY MR. ANDREWS:
 15 Q Good morning, sir. Would you state your name
 16 for the record.
 17 A Chris Oaks.
 18 Q And, Mr. Oaks, what's your home address?
 19 A 65 Shawnee Trail, Crawfordville, Florida
 20 32327.
 21 Q Is that Shawnee with an H?
 22 A Yes, sir.
 23 Q Three two --
 24 A 32327.
 25 Q Okay. And where are you currently employed,

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1 sir?
 2 A Lamar Advertising.
 3 Q And how long have you been there?
 4 A Sixteen years.
 5 Q And how old are you, sir?
 6 A Thirty-five.
 7 Q So I venture to say that was probably one of
 8 the first jobs you had?
 9 A Well, my employment history is I came out of
 10 high school and I worked for a restaurant here in town,
 11 Barnaby's I used to make pizzas over there. And I went
 12 from Barnaby's to a sheet metal place and worked there
 13 for a little while.
 14 And then I went to work at Lamar when I was 18
 15 years old. So I had a couple of summer jobs and, you
 16 know, things like that. Lamar has been my career, yes,
 17 sir.
 18 Q Barnaby's probably closed down because their
 19 pizza got bad. They shut down, didn't they?
 20 A No, they're still open.
 21 Q Are they?
 22 A They used to have two restaurants back in the
 23 old days.
 24 Q Oh, that's right.
 25 A They had the one on Apalachee Parkway.

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1 **Q** **Yeah, that was the one. That's what I was**
2 **thinking of.**
3 **A** **Yeah, they're still good. They're still good.**
4 **They're doing better. They're getting some upgrades and**
5 **stuff in there.**
6 **Q** **Good. But your first real job was with Lamar?**
7 **A** **Yes, sir.**
8 **Q** **Now, tell me about your family that works with**
9 **Lamar.**
10 **A** **I have a father who is in Lakeland, Florida.**
11 **He's been with Lamar for 35 years, give or take. I**
12 **might be wrong on that, but 35 years.**
13 **Q** **And what's your father's name, sir?**
14 **A** **Robert Oaks.**
15 **Q** **Does he go by Bobby?**
16 **A** **Bobby Oaks.**
17 **Q** **Okay. And he, you said, has 35 years with**
18 **Lamar?**
19 **A** **Yes, sir.**
20 **Q** **Okay. Any other relatives?**
21 **A** **Chad Oaks.**
22 **Q** **Okay. And is there anybody else, by marriage**
23 **or blood?**
24 **A** **No, sir.**
25 **Q** **Okay. Let me ask you, if I could -- I'm going**

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1 **to call you Chris, if you don't mind.**
2 **A** **All right.**
3 **Q** **That way to keep it so it's not confusing to**
4 **me.**
5 **A** **Yes, sir.**
6 **Q** **Let me ask you, Chris, who is in your chain of**
7 **command going down, in other words --**
8 **A** **Starting with me?**
9 **Q** **Yes, starting with you, going down.**
10 **A** **It's me and then I have four guys who work for**
11 **me. I don't really have a crew chief right now. I used**
12 **to have a crew chief, which was Mr. Barnhart.**
13 **So it would have been me, Mr. Barnhart, and**
14 **the people under him. But I don't have a crew chief**
15 **right now so it's just me and the four guys who work for**
16 **me.**
17 **Q** **All right. So back before Mr. Barnhart left**
18 **or whatever, he reported directly to you?**
19 **A** **Yes, sir.**
20 **Q** **Okay. And did he do the management of the**
21 **crew or did you guys do that jointly?**
22 **A** **Jointly.**
23 **Q** **Okay. And how long did you work with**
24 **Mr. Barnhart?**
25 **A** **I think about five years.**

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1 **Q** **You worked with him however long he was there,**
2 **would that be --**
3 **A** **Yes, sir.**
4 **Q** **And did you promote him?**
5 **A** **Yes, sir.**
6 **Q** **And did you find his work to be -- based upon**
7 **the fact you promoted him, did you find him to be a good**
8 **worker?**
9 **A** **Yes, sir.**
10 **Q** **Hard worker?**
11 **A** **Yes, sir.**
12 **Q** **Honest?**
13 **A** **Yes, sir.**
14 **Q** **Now, have you been given immunity by the State**
15 **Attorney's Office or anything? Are you an immunized**
16 **witness, do you know?**
17 **A** **No, sir.**
18 **Q** **Have you given a sworn statement to the State**
19 **Attorney's Office or any investigator?**
20 **A** **I believe it's the Department of Environmental**
21 **Protection, whoever came in and did the investigation,**
22 **but I don't recall exactly who it was at this point.**
23 **Q** **Okay. But nobody else?**
24 **A** **No, sir.**
25 **Q** **And was that taped?**

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1 **A** **No, sir.**
2 **Q** **Okay. And you haven't been called by a man**
3 **named Ainsley Newell?**
4 **A** **No, sir.**
5 **Q** **All right. Now, Ms. Oliver is your attorney**
6 **here today and she's a fine lawyer, okay.**
7 **You do not have private counsel, in other**
8 **words, counsel away from Lamar, correct?**
9 **A** **No, sir.**
10 **Q** **All right. You've read the complaint and**
11 **heard the allegations made by Mr. Barnhart, correct?**
12 **A** **Yes, sir.**
13 **Q** **And would you say that by and large what he**
14 **said is true?**
15 **A** **Yes, sir.**
16 **Q** **Okay.**
17 **A** **When it pertains to the trees, yes, sir.**
18 **Q** **Well, he hasn't told any lies about you, has**
19 **he?**
20 **MS. OLIVER: Object to the form.**
21 **BY MR. ANDREWS:**
22 **Q** **I'm trying to short-circuit it. Let me just**
23 **go to it. Did you ever accompany him on any trips where**
24 **trees were poisoned?**
25 **A** **I don't recall.**

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1 Q Okay. Let me make sure I understand. When
 2 you say "I don't recall," does that mean, number one, it
 3 didn't happen or -- that's number one -- it could have
 4 happened but I don't remember or I don't remember
 5 therefore it didn't happen? Do you understand the
 6 distinction?
 7 So my question would be, again, based upon
 8 that sort of guidance in your answer, did you ever
 9 accompany Mr. Barnhart in a Lamar truck with a bottle
 10 of -- I'm going to call it poison -- and a machete, and
 11 either see him hack at the roots of a tree and dump
 12 poison or you two do it together?
 13 A I did see him dump the poison, yes, I have
 14 seen him do that.
 15 Q All right. How many times?
 16 A I don't recall, honestly.
 17 Q Okay. So as his supervisor, you accompanied
 18 him on several times?
 19 A I wouldn't say several, no. Probably when it
 20 first started, maybe to see -- make sure he knew the
 21 directive from our regional, Chip LaBorde. Chip LaBorde
 22 is the one who told me and him together how to do this
 23 and sent us out.
 24 Q Okay.
 25 A But I did not poison any trees with him.

1 Q Okay. So who was Chip LaBorde?
 2 A He was the regional manager.
 3 Q Okay. Who since has passed from colon cancer?
 4 A Yes, sir.
 5 Q As I understand.
 6 A Yes, sir.
 7 Q Okay.
 8 MS. OLIVER: I think it may have been
 9 pancreatic.
 10 THE WITNESS: Pancratic cancer, I'm sorry.
 11 BY MR. ANDREWS:
 12 Q There's no good answer to that question,
 13 right.
 14 A No, sir. It was cancer and it was very bad.
 15 Q And it was quick, hopefully?
 16 A Yes, sir. He got sick in May and I think he
 17 passed shortly thereafter.
 18 Q Well, to be honest with you, that's good,
 19 unfortunately.
 20 So let me get back to Mr. LaBorde. Tell me
 21 about how he met -- well, let me just ask you a few
 22 questions about him. What position did he hold? Was he
 23 regional?
 24 A Regional manager.
 25 Q And what was the region?

1 A State of Florida and Georgia.
 2 Q Okay. Did Mr. LaBorde ever tell you that they
 3 were poisoning trees in Valdosta?
 4 A No, sir.
 5 Q Okay. Did you ever hear from anybody that the
 6 same activity that he instructed you to do in
 7 Tallahassee was ongoing at other places?
 8 A No, sir.
 9 Q Okay. Did anybody ever tell you that it was
 10 ongoing in other places?
 11 A No, sir.
 12 Q All right. Tell me, if you would -- I'm
 13 talking about the meeting with -- I take it you were
 14 there, Mr. LaBorde was there, and Robert Barnhart was
 15 there?
 16 A Yes, sir. He instructed us.
 17 Q Okay. We're going to get to that, I promise.
 18 A Okay.
 19 Q Was that at the plant out here on Highway 20?
 20 A Yes, sir.
 21 Q Okay. And tell me how -- I mean, I'm looking
 22 in my mind's eye, I'm seeing Chip say, Mr. Oaks, get
 23 your best man, come into the office, let me tell you
 24 about what we do here.
 25 Is that sort of the way it happened?

1 A Yes, sir.
 2 Q Was this shortly after you had been promoted
 3 or had you held that position that you had when you met
 4 with Mr. LaBorde?
 5 A It was shortly after I was promoted, yes.
 6 Q Okay. So you weren't asked to do this until
 7 you had been at Lamar for how many years?
 8 A Let's see, I was promoted in '04. I started
 9 in '95. I don't know how many years exactly that would
 10 be.
 11 Q So if I assumed shortly after 2004 when you
 12 were promoted, you had a meeting called by Mr. LaBorde?
 13 A Right, with me. This is before Mr. Barnhart
 14 was there.
 15 Q Right, with you. And what does Mr. LaBorde
 16 tell you as it relates to the poisoning of trees?
 17 A Basically what Josh had laid out, the practice
 18 of, you know, drilling. At that point, it was drilling
 19 a tree and putting it in there. And that was the way he
 20 wanted it done and told me that's the way to do it.
 21 Q All right. And did he make it seem like it
 22 was a pattern and practice that Lamar engaged in this
 23 kind of activity?
 24 MS. OLIVER: Object to the form.
 25

1 BY MR. ANDREWS:
 2 **Q Did you understand it to be a pattern and**
 3 **practice within his region to do this?**
 4 MS. OLIVER: If you know what "pattern and
 5 practice" is.
 6 THE WITNESS: I would be guessing.
 7 BY MR. ANDREWS:
 8 **Q It's okay to guess on this question. But did**
 9 **you believe after talking to Mr. LaBorde that I only**
 10 **want this done in Tallahassee and no place else?**
 11 A I did feel that, really, because it's where he
 12 was at. And he liked his boards and he took pride in
 13 Tallahassee boards being what they were. I did not feel
 14 like he was doing this anywhere else.
 15 **Q All right.**
 16 A But like I said, I would be guessing.
 17 **Q He lived in Tallahassee?**
 18 A Yes.
 19 **Q So when we leave this deposition, it's fair**
 20 **for me to assume that Mr. LaBorde told you about it but**
 21 **he didn't lead you to believe nor did he say to you**
 22 **explicitly that this is going on throughout his region?**
 23 A No, sir.
 24 **Q Is that correct?**
 25 A Yes, sir.

1 **Q Now, your father is a director of --**
 2 A He's the same job I have, operations manager
 3 for Lakeland, Florida.
 4 **Q Operations manager for Lakeland, Florida.**
 5 A I worked for him directly for a lot of years.
 6 **Q Sure. And I've heard nothing but good things**
 7 **about your father from people I've interviewed.**
 8 A Okay.
 9 **Q So LaBorde tells you that he wants the trees**
 10 **drilled. And then does he give you the poison?**
 11 A Yes, sir. I did not purchase it; he had it.
 12 **Q He had it. How did he bring it? I mean, what**
 13 **occasioned him to bring it in? First off, what sort of**
 14 **container was it in?**
 15 A It was about, I would say, 2 or 3-foot tall.
 16 It's hard to give you a dimension. It was about 2 or
 17 3-foot tall and, say, 2-foot by 2-foot, so it was about
 18 like that (indicating.) It looked like about a
 19 25 gallon to me.
 20 **Q Would it look like a mini 55-gallon drum?**
 21 A No, it was nothing like that. It just looked
 22 more like a plastic -- just a plastic -- almost like
 23 what you would see if you go to Wal-Mart and buy a thing
 24 of water but bigger, a lot bigger.
 25 **Q Oh, yeah.**

1 A It looked a lot like that, like, you know,
 2 those big Zephyrhills water things. That's really what
 3 it looked like.
 4 **Q The one that you turn over and put into a**
 5 **water dispenser?**
 6 A No. No. More like the -- do you ever see the
 7 ones that you slide into your fridge and you have the
 8 little thing (indicating) where you --
 9 **Q Yes.**
 10 A Just imagine that bigger without the little
 11 spout on it.
 12 **Q I can visualize that.**
 13 A Okay.
 14 **Q All right. And did he ever give you a**
 15 **material safety data sheet for that?**
 16 A No, sir.
 17 **Q Did it have a name on the front?**
 18 A Not that I recall.
 19 **Q Okay.**
 20 A There was no label that I recall.
 21 **Q No labels, okay. And when I say "MSD,"**
 22 **that's --**
 23 A Material data safety sheets, yes, sir, I
 24 understand.
 25 **Q All right. You've seen that before?**

1 A Yes, sir.
 2 **Q All right. And when you're sitting there and**
 3 **you're talking to Mr. LaBorde, what thoughts are going**
 4 **through your head?**
 5 **First, you know about vegetation permits,**
 6 **correct?**
 7 A Well, not really. I really don't. That's not
 8 really part of what I do. That's not something that I'm
 9 involved in.
 10 **Q Fair enough. But you've heard of them?**
 11 A Yes, sir.
 12 **Q And you heard of them at the time you had this**
 13 **conversation with Mr. LaBorde, right?**
 14 A Yes, sir.
 15 **Q And did Mr. LaBorde tell you not to call an**
 16 **arborist or get an arborist plan done?**
 17 A No, he did not say anything. I brought up a
 18 point that we would need permits to trim, that I thought
 19 we would need permits to trim.
 20 **Q And you were right.**
 21 A And he told me, he said to just jump over the
 22 fence and do what needs to be done and kick a little
 23 dirt over it and if you don't know how to do that, I'll
 24 take out my gun and I'll shoot you in the head and shoot
 25 the big guy in the head, and he laughed.

1 And honest to goodness, I felt then that I
 2 needed to do what the man was telling me for fear -- not
 3 for death, I didn't really think he would kill me, but I
 4 did feel like it was threatening to my job.
 5 **Q Okay. I understand.**
 6 A And I didn't ask anymore questions after that.
 7 **Q You're a wise man.**
 8 MR. ANDREWS: Would you read back that answer.
 9 (Whereupon, requested portion was read
 10 back.)
 11 THE WITNESS: And the big guy at the time was
 12 the old general manager.
 13 BY MR. ANDREWS:
 14 **Q All right. Who was that?**
 15 A Lloyd Childree.
 16 **Q Is he still alive?**
 17 A He's still alive but he's not with the company
 18 anymore.
 19 **Q What's his last name?**
 20 A Childree. I'm not exactly sure how to spell
 21 that.
 22 **Q Where I grew up, they call that a cracker's**
 23 **permit. Do you know what I mean when I say that?**
 24 A Not really, no, sir.
 25 **Q By just jumping over the fence and then**

1 **jumping back over.**
 2 **But you felt your job was in jeopardy if you**
 3 **didn't do it?**
 4 A Yes, sir.
 5 **Q All right. So you started either doing it or**
 6 **seeing that it was done after you had this meeting,**
 7 **correct?**
 8 A Yes, sir.
 9 **Q Who did you call? Did you call Robert into**
 10 **the meeting?**
 11 A No, this was before Robert.
 12 **Q Okay. Who did it before Robert?**
 13 A I did.
 14 **Q Okay.**
 15 A There was a lapse, and it was probably five
 16 years ago the last time I did it. I did do it, it was
 17 probably five years ago.
 18 **Q I appreciate that.**
 19 **So this is before Robert Barnhart was employed**
 20 **at Lamar --**
 21 A Yes, sir.
 22 **Q -- that you had this conversation?**
 23 A Yes, sir.
 24 **Q And did you enlist anybody else into doing**
 25 **this before Mr. Barnhart became --**

1 A Not that I recall. It's been a long time, but
 2 not that I recall.
 3 **Q Okay.**
 4 A And it wouldn't have been me. I didn't do any
 5 of the enlisting. It was Mr. LaBorde who did the
 6 enlisting, not me.
 7 **Q No, I understand.**
 8 A Okay.
 9 **Q That's not what I --**
 10 A I just want to get it clear that none of this
 11 was me. I did not want to do any of this.
 12 **Q I think that's firmly rooted in the record,**
 13 **sir. But by my questions, don't assume that I don't**
 14 **believe you.**
 15 A Yes, sir.
 16 **Q Because I do.**
 17 **So when it happened the first time when**
 18 **LaBorde called you into, I guess, the office up front --**
 19 **right? Did you have the meeting up front in the main**
 20 **office?**
 21 A Yes, sir, in his office.
 22 **Q And what did he tell you about the pesticide**
 23 **or the poisoning? Did he say anything?**
 24 A He did. He said all it is -- and this was his
 25 words -- is industrial strength Roundup is what he told

1 me.
 2 **Q Turbo-charged Roundup or something like that?**
 3 A Yes, sir.
 4 **Q Did he tell you what he meant by "industrial**
 5 **strength"?**
 6 A No, sir.
 7 **Q Okay.**
 8 A You didn't ask Chip a lot of questions, to be
 9 honest with you.
 10 **Q Right. I think that's coming through your**
 11 **testimony.**
 12 **So you would have stopped sometime around 2007**
 13 **or six; is that right, I mean doing it yourself?**
 14 A I assume so, yes, sir.
 15 **Q And I'm assuming these are approximations?**
 16 A Yes, sir.
 17 **Q Okay. So is LaBorde still with the company?**
 18 A He passed away.
 19 **Q Oh, that's right, he died.**
 20 **How many plants were in his region?**
 21 A I don't know. I would be guessing.
 22 **Q Okay. Well, we know there's Tallahassee,**
 23 **Valdosta, and Lakeland?**
 24 A Right. There was several. It was the state
 25 of Georgia and the state of Florida.

1 **Q** Okay.

2 A But I don't know.

3 **Q** Okay. Did he have only one container at the

4 time or did he have other containers that he may have

5 been taking to other shops?

6 A I only ever saw the one.

7 **Q** Okay. Now, tell me about the conversation

8 that you, Mr. LaBorde, and Mr. Barnhart had. Did you

9 have one, all three of you?

10 A Yes, sir.

11 **Q** Tell me about that.

12 A I don't recall exactly what was said, but I do

13 recall that he brought Josh in there, and me, and he

14 told us that there's a few trees -- and I don't even

15 remember which ones exactly -- but there's a few trees

16 that he wanted to target and for us to target. And then

17 he said that he wanted to try a new method.

18 He used to do this drilling stuff, and he

19 wanted us to try to drill one somewhere and hit one with

20 a machete somewhere. And he said, if you hit with the

21 machete, we'll call it a hit and run and laughed about

22 it.

23 And so he had us, or Josh, go and try it on a

24 couple of trees around town. And I don't know which

25 trees Josh tried it on, but he tried that around town.

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1 And I guess they decided that the ones who died, you

2 know, whatever, the fastest or whatever, was the hit and

3 run one, so that was the decided method after that.

4 That's the way he instructed it.

5 **Q** I'll tell you the predicate to my question,

6 that Josh basically said just what you said, that there

7 was a tree that was drilled, there was a tree that was

8 cut with the machete, and the methods that you were

9 going to use going forward would depend on which tree

10 started to show the effects first. Would that be --

11 A Yes, sir.

12 **Q** -- sort of how you understood?

13 A Yes, sir. That's exactly what I understood

14 from Mr. LaBorde.

15 **Q** And LaBorde told you guys to do that?

16 A Yes, sir.

17 **Q** Okay. So how long did that meeting last?

18 A I would say 15 minutes, 20 minutes. And that

19 meeting was in the kitchen.

20 **Q** All right. And by then Robert had been there

21 long enough where you had seen him work and trusted him,

22 correct?

23 A Yes, sir.

24 **Q** All right. And so did you assign to Josh or

25 to Robert the task of going out and --

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1 A No, sir. Mr. LaBorde liked Josh and I guess

2 he liked the way that Josh worked. Josh was a good

3 worker and Mr. LaBorde liked him so he brought Josh into

4 it.

5 **Q** All right. And did he tell you to get out or

6 did Josh just ease his way into it? And when I say

7 "Robert" --

8 A He didn't like tell me to get out. He said

9 have Josh start doing it, because, you know, I was busy

10 with my other things, you know, it was just tough for me

11 to do it.

12 **Q** Sure. And when you say "Josh," you mean

13 Robert Barnhart?

14 A Robert Barnhart, right. We called him Josh.

15 I'm sorry.

16 **Q** That's fine. I got to call him Robert so when

17 we read the record it's clear.

18 A Right.

19 **Q** Okay. So, again, in my mind's eye, what would

20 happen is LaBorde would be driving into work, see a

21 billboard with a tree in front of it, a tree like that

22 hurts Lamar revenues, I would assume?

23 MS. OLIVER: Object to the form.

24 BY MR. ANDREWS:

25 **Q** Well, let me ask you. If a guy is going to

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1 get a contract with Lamar to rotate signs -- I don't

2 know what they call that.

3 A I don't know. I mean, that's really not my

4 part of it.

5 **Q** Sure.

6 A I don't have anything to do with selling them

7 or who goes where or anything like that.

8 **Q** Yeah. And none of the sales --

9 A No revenues or anything.

10 **Q** None of the salespeople knew about this,

11 right?

12 A No, sir, no salespeople did.

13 **Q** But if you owned a business that wanted to put

14 up a Lamar billboard and you drove by it and there was a

15 big old tree in front of it, you would want your money

16 back or something, right? And that was the point, you

17 wanted to be able to see the billboards, correct?

18 MS. OLIVER: Object to the form.

19 THE WITNESS: I would assume so, yes, it makes

20 sense.

21 BY MR. ANDREWS:

22 **Q** All right. So LaBorde would pick the trees to

23 be cut?

24 A Yes, sir.

25 **Q** Did anyone ever instruct Robert to go out on a

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1 recon patrol of billboards to see if there were any
 2 other billboards that were being blocked by vegetation
 3 on his own?
 4 A No, sir.
 5 Q All right. So over the time period that you
 6 are aware of this being done, how would you estimate --
 7 how many trees would you estimate this was done to,
 8 poisoned?
 9 A I don't really recall because I'm not
 10 100 percent sure that Mr. Barnhart -- and Chip didn't
 11 talk with me not involved -- I mean, he would do that,
 12 you know.
 13 Q Sure. Chip denies ever talking to
 14 Mr. Barnhart. Who is Chip?
 15 A Chip is the regional.
 16 Q Okay. You never told your brother about the
 17 signs?
 18 A No, sir, I did not.
 19 Q Okay. Did you ever tell your dad?
 20 A No, I did not. I didn't want to get anybody
 21 else involved.
 22 Q You knew it was wrong but you were job scared?
 23 A Pretty much, yes, sir.
 24 Q Okay. And would it be accurate and truthful
 25 if Robert said on the hit and runs to make sure that

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1 there were no police around? Would it be accurate if he
 2 said you told him that?
 3 A I don't recall that, no.
 4 Q I mean, it would make sense not to do it in
 5 front of the police, right?
 6 A Yes, but I don't recall ever saying that.
 7 Q You don't recall telling him that?
 8 A No.
 9 Q Okay. Now, did you tell Josh or Robert he was
 10 fired?
 11 A No, sir.
 12 Q Did you ever tell him that?
 13 A No, sir.
 14 Q And if Robert says that you told him he was
 15 terminated, that would be untrue?
 16 MS. OLIVER: Object to the form. There's no
 17 foundation for that.
 18 THE WITNESS: I never told Josh Barnhart he
 19 was terminated in any way, shape, or form.
 20 BY MR. ANDREWS:
 21 Q Would you recommend reinstatement of Robert
 22 Barnhart today?
 23 MS. OLIVER: Object to the form.
 24 THE WITNESS: If he could get cleared with
 25 his -- you know, and come back to full duty, I

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1 would love to have him back.
 2 BY MR. ANDREWS:
 3 Q Have you ever had any light-duty jobs at
 4 Lamar?
 5 A We do, but they're not longterm light duty.
 6 Like when Josh first got hurt, I had him come in and I
 7 tried to put him on light duty, go around and set our
 8 time clocks, which is a twice-a-year thing when the time
 9 changes.
 10 Q Uh-huh.
 11 A And I had him come in to do that, and his back
 12 was just hurting too bad. But, you know, Josh was a
 13 great employee.
 14 Q Do you have any light-duty positions now?
 15 MS. OLIVER: Object to the form.
 16 THE WITNESS: Not that I'm aware of, sir, not
 17 in my department.
 18 BY MR. ANDREWS:
 19 Q Did you tell Josh or Robert that you would
 20 hold a light-duty position for him?
 21 A No, sir. We never spoke about it.
 22 Q Okay. Did you hire anybody in a light-duty
 23 position in either the summer or fall of 2011, if you
 24 recall?
 25 MS. OLIVER: Object to the form.

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1 THE WITNESS: I don't hire anybody for light
 2 duty. If I hire them, it's just to work in the
 3 field.
 4 BY MR. ANDREWS:
 5 Q Who would hire for light duty?
 6 MS. OLIVER: Object to the form.
 7 THE WITNESS: That would be -- if there is any
 8 light duty, like an office job, would be hired by
 9 Danny Funderburg. To me that's the only light-duty
 10 job I can think of at Lamar.
 11 MS. OLIVER: And I just want to clarify. The
 12 use of the word "light duty," we've talked about it
 13 really loosely. Unfortunately, it changes with
 14 every single -- it's dictated by a doctor. What is
 15 light duty for one person is not necessarily light
 16 duty for another. It's limitation dependent.
 17 MR. ANDREWS: I'll take that as an objection
 18 to the form.
 19 MS. OLIVER: It is an objection to the form.
 20 But we just keep using the word and I --
 21 MR. ANDREWS: I don't know what other word to
 22 use.
 23 MS. OLIVER: I don't either. I just want to
 24 clarify that we're not sure what it is here.
 25 MR. ANDREWS: Right.

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1 BY MR. ANDREWS:
 2 Q When I say "light duty," you know what I mean,
 3 right?
 4 A Yes, sir.
 5 Q All right. I mean, I saw Danny Funderburg
 6 yesterday, he looks like he's pretty much on light duty
 7 all the time, right?
 8 A Well, I don't know. I don't even pretend to
 9 know what all his job entails.
 10 Q He ain't out there climbing up on
 11 billboards --
 12 A No, sir.
 13 Q -- and shoveling stuff, right?
 14 A No, sir.
 15 Q Did you ever receive an email from Josh
 16 talking about the trees?
 17 A I did receive an email talking about the
 18 trees.
 19 Q And saying he didn't want to do it no more?
 20 A Yes, sir.
 21 Q Okay. And did you and Mr. Funderburg talk
 22 about those emails?
 23 A I forwarded those emails to Mr. Funderburg and
 24 then he took it from there.
 25 Q Did you ever talk to him about it?

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1 A I just said I received two emails from Josh,
 2 two on the same night. I don't recall exactly what they
 3 both said, but it was two on the same night, and I
 4 forwarded them to Mr. Funderburg.
 5 And then I talked to him and said, hey, Josh
 6 sent me these emails, what do you want me to do? He
 7 said, just forward them to me and then from this point
 8 forward don't talk to Josh anymore and I'll take it from
 9 there.
 10 Q Okay.
 11 A And that's all he said to me about it.
 12 Q Well, you do not consider Robert Barnhart to
 13 be an employee of Lamar today, do you?
 14 MS. OLIVER: Object to the form.
 15 THE WITNESS: I mean, I would love for him to
 16 get cleared from light duty and come back to work.
 17 I mean, if he got cleared, I think they would take
 18 him back now. I would love to have him back.
 19 BY MR. ANDREWS:
 20 Q And I appreciate you saying that. But he's
 21 not drawing a paycheck, do you know?
 22 A I don't know.
 23 Q Okay.
 24 A I do know that he received a safety bonus
 25 because it came in my little packet to hand out to my

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1 guys. Or not a safety bonus, it was an incentive or
 2 something for profit sharing or something he received,
 3 so I do know that. So that would lead me to believe
 4 he's still employed.
 5 Q Well, why would they send a guy a \$500 check
 6 if he's not working, if you know?
 7 MS. OLIVER: Object to the form.
 8 THE WITNESS: That's just profit sharing. I
 9 don't know. That's a good question.
 10 BY MR. ANDREWS:
 11 Q Have you ever seen any \$500 check -- strike
 12 that.
 13 Is that a yearly routine bonus?
 14 A Yes, sir. If you've been there a calendar
 15 year, every year after you've been there a calendar
 16 year, you get a profit sharing check, and it varies in
 17 amount.
 18 Q All right. And have you ever seen one given
 19 to an employee who wasn't working?
 20 A No, sir.
 21 Q Okay. But we would agree when Mr. Barnhart
 22 got the \$500 check, he wasn't coming in every day and
 23 working for Lamar?
 24 A Well, he was on short term or disability or
 25 whatever it is. I'm not privy to all that information.

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1 But he's on some sort of disability.
 2 Q He's paid by a disability policy that he paid
 3 for through Lamar, right?
 4 A I don't know what it is.
 5 Q Do you have that coverage?
 6 A Probably you would have to ask my wife.
 7 Q I understand that.
 8 A To me Josh is an employee now. To me he is.
 9 I would love for him to come back and I would just love
 10 for him to get cleared from his disability.
 11 Q So if he came back, it wouldn't be any -- you
 12 wouldn't hold any animosity towards him, right?
 13 A Not at all.
 14 Q Okay. Now, is it your testimony that from the
 15 time that this lawsuit was filed up through today that
 16 you're not aware of any light-duty jobs that have become
 17 available at Lamar?
 18 A Not that I -- no, sir.
 19 Q Has anybody ever told you that if we get a
 20 light-duty position open up, call Robert Barnhart
 21 immediately?
 22 A No, sir. I was told to turn all of that over
 23 to Danny Funderburg. I had no more contact with
 24 Mr. Barnhart after the two emails.
 25 Q Is there a list of people on the wall that if

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1 a light-duty position opens up call him first?

2 A You would have to ask Mr. Funderburg.

3 Q I plan to.

4 A Okay.

5 Q But you're not aware of a list like that?

6 A No, sir.

7 Q Were you aware that Robert Barnhart wanted to

8 make Lamar his career?

9 MS. OLIVER: Object to the form.

10 THE WITNESS: Yes, sir.

11 BY MR. ANDREWS:

12 Q And he had told you that?

13 A Yes, sir.

14 Q Okay. Did Mr. Funderburg know about the

15 poisoning of trees?

16 A No, sir, until all of the information came out

17 with the paper and all that stuff, to my knowledge.

18 Q When did Mr. LaBorde get sick, what year?

19 A It was last year around May-ish. I mean, I

20 didn't write that kind of thing down, but it was around

21 May.

22 Q When did he stop coming into work; around May?

23 A Around May. Probably around the first part of

24 May, the end of April, first of May, something like

25 that. I'm sure you could probably find that out.

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1 Q Yeah.

2 A It's something like that.

3 Q And as far as you know, you don't have any

4 evidence that he went and passed on to Funderburg what

5 was going on?

6 A No, sir. Once Mr. LaBorde left, it was over

7 and it was a sigh of relief. I mean, I liked Chip as a

8 person, but it was a sigh of relief, you know, that I

9 didn't have to deal with this sort of thing anymore.

10 Q And when did he leave?

11 A May-ish, end of April, first of May or

12 something like that. But when he left, it was over.

13 Q Okay. Were you aware that there was a tree

14 poisoned at the CVS Pharmacy on Apalachicola?

15 A Yes, sir. Apalachicola threw me there.

16 Apalachee Parkway?

17 Q Yeah, Parkway.

18 A You threw me with Apalachicola.

19 Q I doubt there is -- there ain't a whole lot of

20 people worrying about the billboards in Apalach.

21 A No.

22 Q But on Apalachee Parkway?

23 A Yes, sir.

24 Q Did you instruct that tree to be poisoned or

25 was that LaBorde?

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1 A That was Mr. LaBorde. I did tell Josh, but

2 Mr. LaBorde told me. I just was relaying the message.

3 Q And do you know a man by the name of Rip

4 Caleen?

5 A I don't know him, no, sir. I know who he is

6 just --

7 Q Have you ever seen the complaint that

8 Mr. Caleen filed about the CVS Pharmacy?

9 A No, sir.

10 Q Have you ever seen a complaint filed by

11 Mr. Caleen?

12 A No, sir, I haven't seen a copy.

13 Q You haven't seen anything he filed about

14 the --

15 MS. OLIVER: Oh, look, there is an executed

16 third. Who knew. Here is a copy.

17 MR. ANDREWS: Let me just find that.

18 MS. OLIVER: I'm betting that's No. 6. It's

19 just a guess, but it's somewhat educated.

20 MR. ANDREWS: It's close.

21 BY MR. ANDREWS:

22 Q I'm going to show you Exhibit No. 9, and

23 attached to this is a complaint filed by Mr. Caleen with

24 Karen Jumonville, who I think the record would reflect

25 works for the City of Tallahassee Growth Management.

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1 A Okay.

2 Q Now, you read that.

3 A Okay.

4 Q After reading that, do you believe that

5 somebody saw Robert poisoning the tree on Apalachee

6 Parkway? I mean, do those facts in Mr. Caleen's email

7 ring true to you?

8 A It sounds like somebody seen Mr. Barnhart

9 doing it.

10 Q Okay.

11 A But there's no way it was done in August. It

12 was done way before August, I can promise you that.

13 Q I think what he says is that it had been done

14 60 days ago, which would put it in a time frame I think

15 you just testified to, that it would have been one of

16 the last ones done.

17 A Right. Yes, sir.

18 Q Would that be correct?

19 A Yes, sir.

20 Q Is that your recollection?

21 A That is my recollection, that one is probably

22 one of the last ones done.

23 Q Okay. Do you have a time clock -- let me see

24 that back, we'll speed this up.

25 Did you guys punch a time clock or did Robert

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1 **Barnhart punch a time clock?**
 2 A He did but, you know, we were kind of loose on
 3 that, that if he came in and he forgot to punch in or
 4 something, we would both initial his time card or he
 5 would sign it and I would initial it or something
 6 because guys forget to punch in and punch out from time
 7 to time. But typically we did have a time clock.
 8 **Q Okay. Did you ever tell him or did he, to**
 9 **your knowledge, on his own initiative -- did he ever get**
 10 **up early in the morning and do this when it was still**
 11 **dark?**
 12 A Yes, sir.
 13 **Q Okay. And like he testified, sometimes he**
 14 **would get up around 4:30, go do it, and then come to**
 15 **work. Would that sound --**
 16 A I would think he would probably get up, come
 17 to work and then go do it and punch in because he got
 18 paid for everything he did. It's not like we weren't
 19 trying to pay him.
 20 **Q I understand that.**
 21 A I'm just saying I think he went to work and,
 22 you know, went and done it and came to work.
 23 **Q Okay. So who checked his time cards? Did you**
 24 **check them?**
 25 A Yeah, I checked them.

1 **Q Did you ever see where he punched in at 4:30**
 2 **or 5:00 in the morning?**
 3 A Oh, yeah. That was a regular thing for Josh.
 4 He would ask to come in early all the time because he
 5 was a good worker. I know issues -- but he would ask to
 6 come in early for anything, can I come in early and get
 7 started before the heat in the summertime, you know. I
 8 went, sure, man, go ahead. As long as it gets done, I
 9 didn't care when he came in as long as it got done and
 10 you got your hours.
 11 **Q He sounds like a guy you would want to have**
 12 **around.**
 13 A Right.
 14 **Q So it would be unusual if he didn't punch in**
 15 **and then go while it's still dark and poison a tree?**
 16 **That would not be an unusual occurrence in your mind?**
 17 A That would have been unusual that he didn't
 18 punch in, yes.
 19 **Q Okay. So it's also fair to say then that he**
 20 **was poisoning these trees while he was being paid by**
 21 **Lamar?**
 22 A Yes, sir.
 23 **Q Okay. Tell me about Matt Moore. Do you know**
 24 **him? I'm sorry, Matthew Major.**
 25 A Matthew Major, that's Josh's brother. I do

1 know who he is, yes.
 2 **Q And do you know whether or not Matthew Major**
 3 **would ever go out with Josh and --**
 4 A I don't recall. I don't know if Josh had
 5 somebody come in with him or not, to be honest with you.
 6 But I never instructed him to go out, no.
 7 **Q Sure. If he went along, he just went along**
 8 **for the ride?**
 9 A Or maybe to help him. Josh might have
 10 enlisted somebody to help him, I don't know.
 11 **Q Or to see if law enforcement doesn't come or**
 12 **something like that?**
 13 A I guess. I don't know.
 14 **Q I know. I understand. But if he took Matt**
 15 **Major, who -- was it his brother or brother-in-law or**
 16 **something?**
 17 A I think it's his brother.
 18 **Q Okay.**
 19 A I mean, we didn't talk about it that much, but
 20 I think it's his brother.
 21 **Q Would Major have punched in too, early?**
 22 A Oh, yeah. But they may have had other things
 23 going on as well, so there's no way I could have known
 24 exactly because they might have been coming in to hang
 25 vinyls and then this too, I don't know. So it wasn't

1 any kind of a red flag to me.
 2 **Q Yeah. But if it had been a red flag, it would**
 3 **have been okay because you were told to do it by your**
 4 **superior?**
 5 A Yeah. I wouldn't have thought nothing of it.
 6 **Q Right. I mean, if LaBorde or Lamar wanted a**
 7 **tree killed, they wanted the tree killed --**
 8 MS. OLIVER: Object to the form.
 9 BY MR. ANDREWS:
 10 **Q -- not injured, right? Would that be a fair**
 11 **statement?**
 12 A Yes.
 13 **Q Okay. Now, there's been testimony in this**
 14 **case that there was cutting done without a permit. Do**
 15 **you know anything about that?**
 16 A I would be guessing if we didn't have a
 17 permit, honestly. I don't know. I didn't do the
 18 permits part of it.
 19 **Q Okay. You would agree that there would**
 20 **require a vegetation permit be pulled if a tree is cut**
 21 **on property within the state's right-of-way?**
 22 MS. OLIVER: Object to the form.
 23 BY MR. ANDREWS:
 24 **Q Do you know that or not?**
 25 A I don't know that. I don't know that.

1 **Q** **Okay.**

2 A All I know is -- I know with the City you

3 could cut 30 percent of a tree on your property or a

4 lease property or something like that. But that wasn't

5 part of my job. I'm even speaking out of turn with

6 that.

7 **Q** **That would be a new billboard, you could clear**

8 **it without a vegetation permit 30 percent?**

9 A Maybe. I don't know.

10 **Q** **But you don't know?**

11 A I don't know that.

12 **Q** **Who was in charge of the permitting in the**

13 **Tallahassee department?**

14 A It would be Mr. Funderburg, I believe. But if

15 he's not, he can tell you who it is.

16 **Q** **Yes, sir. Who is the arborist that you've**

17 **seen around there the most?**

18 MS. OLIVER: Object to the form.

19 BY MR. ANDREWS:

20 **Q** **When I say "arborist," you know what I mean,**

21 **right?**

22 A Well, I mean tree companies that we had hired.

23 **Q** **Right.**

24 A I don't know, arborists are really --

25 **Q** **Fancy name for a tree guy, right?**

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1 A But we used to have Clay Culpepper that did a

2 lot for us back in the day.

3 **Q** **What's the name of his company?**

4 A It used to be Culpepper Tree Service. But

5 he's since, I think, merged or something. I don't know

6 what his name is anymore. But Culpepper is not around

7 anymore.

8 **Q** **I got one question, and maybe you can answer**

9 **it. How do you pronounce Asplundh?**

10 A I don't know that.

11 MS. OLIVER: I've always wondered that too.

12 THE WITNESS: I don't know how you do. We've

13 never used them. I can't say that word and I can't

14 say Dwayne. It's sounds like a J.

15 BY MR. ANDREWS:

16 **Q** **I've always wondered that.**

17 A I have no clue.

18 **Q** **Okay. Who would name their company a word you**

19 **can't pronounce.**

20 A Somebody who gets a lot of state contracts, I

21 guess.

22 **Q** **I guess. Yeah, that's true.**

23 **Now, have you ever heard of a company called**

24 **Salter Advertising?**

25 A I've heard of them, yeah.

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1 **Q** **Have you ever heard about them getting fined**

2 **two and a half million bucks by the state?**

3 A Just what I read in the paper.

4 **Q** **And they got fined because they were doing**

5 **vegetation removal without permits; did you read that?**

6 A I skimmed it, really. I don't really read the

7 paper that much.

8 **Q** **But when you did read it, did it cause you any**

9 **angst or concern or anxiety about what you guys have**

10 **been doing at Lamar?**

11 A No, because it had stopped.

12 **Q** **Yeah, okay. Because that investigation was in**

13 **early 2012.**

14 **Did you know there was a Grand Jury impaneled**

15 **on that?**

16 A No.

17 **Q** **Okay. What part of town did Mr. LaBorde live**

18 **in, do you remember?**

19 A Northeast Hermitage. Do you know where

20 Hermitage is over there by Home Depot?

21 **Q** **Yeah.**

22 A Over there.

23 **Q** **So he didn't live out north of the interstate,**

24 **he lived south of the interstate?**

25 A South of the interstate, yes.

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1 **Q** **Off of Thomasville?**

2 A Between Thomasville and Capital Circle-ish.

3 **Q** **Now, were you with Josh or on the crew with**

4 **Josh when he hurt his back?**

5 A No, sir.

6 **Q** **Okay. Do you recall how much Josh was making**

7 **an hour, or about?**

8 A I want to say it was 15.

9 **Q** **Sixteen?**

10 A Sixteen, something like that, maybe.

11 **Q** **What benefits did he have, if you know, or**

12 **what were available?**

13 A I really don't know. You would have to talk

14 to probably Mr. Funderburg.

15 **Q** **Sure. Have you ever heard of a cafeteria plan**

16 **where you can pick and choose what you want?**

17 A I think for insurance or something maybe we

18 have something like that. I have heard of it, but I

19 couldn't speak to what he had.

20 **Q** **Sure. Now, as we sit here today, have you**

21 **been disciplined or punished at all by Lamar for -- when**

22 **I say "being involved in the tree poisoning," knowing**

23 **about it -- have you been disciplined or punished?**

24 A No, I have not.

25 **Q** **Do you expect to be?**

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1 A I don't know. I hope not.
 2 Q Well, I mean, was this LaBorde guy just an
 3 old-timer in the billboard business that would figure
 4 it's not a big deal if you poison a tree that's blocking
 5 his sign?
 6 A Yes, sir.
 7 MS. OLIVER: Object to the form.
 8 BY MR. ANDREWS:
 9 Q Is that the impression you had of the guy?
 10 A Yes, sir.
 11 Q Did he have to report to Baton Rouge, the main
 12 office?
 13 MS. OLIVER: Object to the form.
 14 THE WITNESS: I couldn't speak to say.
 15 BY MR. ANDREWS:
 16 Q You don't know what his chain of command was?
 17 A I don't know.
 18 Q But he was regional manager of at least two
 19 states?
 20 A Yes, sir.
 21 Q And do you know if he had anymore besides
 22 Georgia and Florida?
 23 A Not to my knowledge, but I would be guessing.
 24 Q Yeah. I don't want you to do that.
 25 And how old a guy was he when he passed?
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1 A I think 60, maybe. He wasn't very old.
 2 Q Yeah.
 3 A I mean, he was old but he wasn't very old.
 4 You know what I mean?
 5 Q I used to think 60 was old.
 6 A The older I get, the younger that seems. When
 7 my dad was 35, he was 100 years old.
 8 Q I think that 60 is the new 40.
 9 A Yes, sir. What is it Alec Baldwin says, rich
 10 50s is the poor 40s.
 11 Q Yes, something like that.
 12 So let me just ask you this. And I appreciate
 13 your forthrightness. Did you notice any changes at
 14 Lamar or did you receive any memos or did anybody come
 15 down and give your location a talk about what was going
 16 on and don't do it anymore?
 17 A No, sir.
 18 Q Has Lamar come down --
 19 A Just our general everyday operations.
 20 Q Okay. So it's fair to say that nobody from
 21 Lamar corporate has taken any action relative to what
 22 happened --
 23 MS. OLIVER: Object to the form.
 24 BY MR. ANDREWS:
 25 Q -- in the way of training at your facility; is
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1 that correct?
 2 A Yes.
 3 Q Okay. Did you tell Robert when he did this to
 4 wear gloves and a mask?
 5 A Mr. LaBorde did.
 6 Q Okay. Where did you guys get the masks?
 7 A I'm guessing -- I didn't buy them,
 8 Mr. Barnhart did -- I'm assuming he got them from Home
 9 Depot because we had an account there, but I couldn't
 10 speak to that for sure.
 11 Q Could he have charged on that and bill it to a
 12 job or something?
 13 A He just could charge. He had a charge card.
 14 He could charge for anything and he didn't have to have
 15 a job.
 16 Q So he had a Lamar charge card?
 17 A Correct.
 18 Q Okay. And his charges were reviewed by you or
 19 someone at corporate?
 20 A Me. But really I never looked for what they
 21 bought because the guys -- really when I got involved is
 22 if the spending got out of hand and we would see what
 23 they were buying. But for the most part, wrenches
 24 and -- and they used dust masks when they swept, they
 25 used dust masks when they painted, you know, a cutout, a
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1 paint mask or whatever they had.
 2 Q Yeah. So nothing that would have attracted
 3 any special attention --
 4 A Correct.
 5 Q -- on the charge account?
 6 It wasn't like he was going to ABC in the
 7 middle of the day, right?
 8 A Right.
 9 Q Okay. So would you consider it after hearing
 10 what LaBorde said to you and what -- were you present
 11 when LaBorde talked to Josh about doing this, or Robert?
 12 A Yes.
 13 Q Would you say that that was within the scope
 14 of Lamar's business as Mr. LaBorde interpreted it to be?
 15 MS. OLIVER: Object to the form.
 16 THE WITNESS: I think just for Tallahassee,
 17 honestly.
 18 BY MR. ANDREWS:
 19 Q Okay. But you would agree that at least
 20 within Tallahassee --
 21 A That's the way he did business in Tallahassee,
 22 yes.
 23 Q That was within the scope of Lamar's
 24 business --
 25 MS. OLIVER: Object to the form.
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1 BY MR. ANDREWS:
 2 Q -- as directed by Mr. LaBorde?
 3 MS. OLIVER: Object to the form.
 4 THE WITNESS: I would say it was in Chip's
 5 business. I don't think that's really a Lamar
 6 policy by any means. I think it's more as just the
 7 way that Chip did it. He was a different guy. I
 8 don't know if you had ever met him.
 9 BY MR. ANDREWS:
 10 Q No.
 11 A But he was a different guy.
 12 Q No, I haven't.
 13 How long had Chip been with Lamar?
 14 A Way before I ever started.
 15 Q I mean, your dad has been there most of his
 16 life?
 17 A Right. I think he was -- I know for sure he
 18 was there before my dad, but I don't know how long,
 19 because I think he hired my dad years and years ago.
 20 Q All right. We have developed evidence that
 21 this practice was going on both in Valdosta and other
 22 Lamar regional sites that were under the supervision of
 23 LaBorde. Do you know anything about that?
 24 A No, sir.
 25 Q Can you think of any reason why Mr. LaBorde

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1 would have only picked one regional office to do this in
 2 as opposed to going to guys he trusted at other
 3 locations and giving them the same material, the poison,
 4 and telling them to do the same thing? I mean, why
 5 would he only use Tallahassee?
 6 A Because this is where he lived. This is where
 7 he lived.
 8 Q All right.
 9 A It was kind of one of those out of sight, out
 10 of mind. He lived here and he wanted things to be a
 11 certain way.
 12 Just a general example of what I mean is say
 13 we put up a billboard in Tallahassee that has a wrinkle
 14 in it, it's ten times more important to him that we get
 15 that wrinkle out in Tallahassee than it is in Valdosta.
 16 Q Sure. Okay. So what did you think when you
 17 got the email from Josh saying I don't want to do
 18 anymore of this tree poisoning?
 19 A I really didn't know what to think.
 20 Q Did he ever tell you that -- do you know his
 21 wife from school or something?
 22 A I've met her a few times. No, I don't know
 23 her from school. I've met her with him a few times.
 24 Q Okay. Would you agree that if you got the
 25 stuff on your clothes, there was a potential health

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1 hazard to it?
 2 MS. OLIVER: Object to the form.
 3 BY MR. ANDREWS:
 4 Q Or do you know?
 5 A I don't know.
 6 Q Well, if LaBorde told you guys to wear gloves
 7 and masks, would you assume that it was a health hazard?
 8 MS. OLIVER: Object to form.
 9 THE WITNESS: I don't know. I was just doing
 10 what I was told.
 11 BY MR. ANDREWS:
 12 Q I understand that. I'm past all of that. I
 13 understand that. And that's firmly in the record, okay?
 14 A But I don't know. I don't know what the
 15 chemical was so how would I know?
 16 Q Okay. But when you got the email from Josh,
 17 did you call him up on the phone and say, hey, man,
 18 what?
 19 A No, I did not.
 20 Q Okay. Did you speak to him at all after you
 21 got the email?
 22 A No, I did not.
 23 Q Okay. How come?
 24 A Because Mr. Funderburg told me to -- you know,
 25 that he would take it from there, to just forward the

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1 emails and do not speak to Josh any longer.
 2 Q And do you know who Mr. Funderburg consulted
 3 at Lamar up his chain of command?
 4 A I do not.
 5 Q Do you know who was up Mr. Funderburg's chain
 6 of command?
 7 A Tom Sirmon, I believe, is his regional -- is
 8 our new regional manager, yes.
 9 Q And where is he located?
 10 A I don't know.
 11 Q In Tallahassee?
 12 A No, he's not in Tallahassee. He's at another
 13 plant, but I really don't know. Typically regional
 14 managers don't talk to operations managers.
 15 Q I understand. And it's S-i-r-m-o-n, right,
 16 Sirmon? Do you know if that's the right spelling?
 17 A That sounds right.
 18 Q Now, also, we've heard testimony from your
 19 brother and also testimony from Mr. Barnhart, no one in
 20 the sales office was aware of this?
 21 A No.
 22 Q Okay.
 23 A Mr. Sirmon is in Mobile, it just hit me.
 24 Q Okay. Other than Mr. LaBorde, did you ever
 25 talk to any other Lamar executive, I'm going to call


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1 **them, about this tree cutting, either before it became**
 2 **public or after?**
 3 A Not by themselves. Mr. LaBorde did call me
 4 and Mr. Childree in to talk to us together and as before
 5 mentioned the whole shooting us thing.
 6 **Q Tell me that again, about that. That was**
 7 **after this broke or before?**
 8 A No, this is when he first asked me to do it.
 9 **Q Oh, okay. He brought Childree in too?**
 10 A Yeah, Childree. He was the general manager
 11 back then.
 12 **Q It was LaBorde and Childree?**
 13 A Yes. And I was the guy on the bottom.
 14 **Q Okay. So when that meeting ended, you knew**
 15 **who the guy was that was going to be out doing the tree**
 16 **cutting or tree poisoning; it was going to be you or**
 17 **somebody you assigned it to, correct?**
 18 A It was me at that time, yes, sir.
 19 **Q Right.**
 20 A Like I said, I never did assigning. I never
 21 picked anybody to do it.
 22 **Q I understand. By me asking that, that doesn't**
 23 **mean that I don't believe that. I just want to make**
 24 **sure what your thoughts were.**
 25 A Right.

1 **Q Childree had what position again?**
 2 A He was the general manager.
 3 **Q Okay. So he would have been under LaBorde?**
 4 A Under LaBorde but above me.
 5 **Q I got you. So your chain of command would**
 6 **have been Oaks to Funderburg or --**
 7 A Funderburg wasn't here in none of this.
 8 **Q Okay. It would have been Childree?**
 9 A Childree.
 10 **Q As then as far as you know, Childree to**
 11 **LaBorde?**
 12 A To LaBorde. But Chip more often than not
 13 would circumvent Mr. Childree and come directly to me.
 14 Why I don't know.
 15 **Q Do you think Childree was opposed to this?**
 16 A I couldn't speak to say. I don't know.
 17 **Q At the meeting that you guys had --**
 18 A He seemed like he was a lot like me, like, you
 19 know, he knew better than to go against Chip.
 20 **Q Right. And this would have been around 2004,**
 21 **to the best of your recollection?**
 22 A Ish.
 23 **Q Okay. I think I'm almost done, sir.**
 24 A Okay.
 25 **Q Just let me take a minute.**

1 (Whereupon, a recess was taken.)
 2 BY MR. ANDREWS:
 3 **Q Mr. Oaks, I'm done with the questioning of**
 4 **you, but is there anything else that you want to say**
 5 **that would clarify any questions or give me a better**
 6 **understanding of what happened?**
 7 A No. I felt like you were pretty thorough.
 8 **Q Okay.**
 9 A No, I answered as good as I could answer.
 10 **Q I appreciate that, sir.**
 11 MR. ANDREWS: I don't have anything else.
 12 MS. OLIVER: We'll read.
 13 (Whereupon, proceedings were concluded at
 14 11:45 p.m.)
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1 CERTIFICATE OF OATH
 2
 3
 4
 5 STATE OF FLORIDA)
 6 COUNTY OF LEON)
 7
 8
 9 I, the undersigned authority, certify that the
 10 above-named witness personally appeared before me and
 11 was duly sworn.
 12
 13
 14
 15 WITNESS my hand and official seal this
 16 6th day of April, 2012.
 17
 18
 19
 20 
 21 MICHELLE SUBIA
 22 NOTARY PUBLIC
 23 COMMISSION #DD987077
 24 EXPIRES JUNE 7, 2014
 25

1 CERTIFICATE OF REPORTER
 2 STATE OF FLORIDA)
 3 COUNTY OF LEON)
 4 I, MICHELLE SUBIA, Registered Professional
 5 Reporter, certify that the foregoing proceedings were
 6 taken before me at the time and place therein
 7 designated; that my shorthand notes were thereafter
 8 translated under my supervision; and the foregoing
 9 pages, numbered 4 through 56, are a true and correct
 10 record of the aforesaid proceedings.
 11
 12 I further certify that I am not a relative,
 13 employee, attorney or counsel of any of the parties, nor
 14 am I a relative or employee of any of the parties'
 15 attorney or counsel connected with the action, nor am I
 16 financially interested in the action.
 17 DATED this 6th day of April, 2012.
 18
 19
 20 
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1 I have read the transcript of my deposition, pages 4
 2 through 56 and hereby subscribe to same, including any
 3 corrections and/or amendments listed below.
 4 DATE: _____
 5 CHRIS OAKS
 6 (ROBERT BARNHART vs. LAMAR ADVERTISING CO.)
 7 PAGE/LINE CORRECTION/AMENDMENT REASON FOR CHANGE
 8 _____
 9 _____
 10 _____
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1 PREMIER REPORTING
 2 114 W. 5th Avenue
 3 Tallahassee, FL 32303
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 5
 6 April 6th, 2012
 7 TO: DEBORAH H. OLIVER, ESQ.
 8
 9 RE: BARNHART vs. LAMAR
 10 Dear Ms. Oliver,
 11 Enclosed please find your copy of the deposition of
 12 CHRIS OAKS taken on April 4th, 2012, in the above-styled
 13 case.
 14 As the witness did not waive reading and signing, I am
 15 also attaching the errata sheet as the last page of the
 16 transcript and request that your office make the
 17 necessary arrangements with your witness to read your
 18 copy of the deposition, noting any corrections on the
 19 errata sheet, then dating and signing the errata sheet,
 20 within 30 days or before commencement of trial,
 21 whichever is first.
 22 PLEASE FORWARD THE ORIGINAL, SIGNED AND DATED errata
 23 sheet to STEVEN R. ANDREWS. If the errata sheet or a
 24 request for an extension is not received within 30 days,
 25 Counsel may assume that the signature has been waived.
 It was a pleasure working with you on this matter.
 Sincerely yours,

 MICHELLE SUBIA
 Registered Professional Reporter
 Enclosures (Errata sheet and transcript.)

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