

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

B.N.T.,

Plaintiff,

CAUSE NO.

1:09-cv-0771-WTL-DML

vs.

BRIAN HINDSON, et al.,

Defendants.

The videotaped deposition upon oral examination of CHARLES WIELGUS, a witness produced and sworn before me, Paula A. Morgan, Notary Public in and for the County of Hamilton, State of Indiana, taken on the 12th day of May, 2010, in the offices of Katz & Korin, 334 North Senate Avenue, Indianapolis, Marion County, Indiana, pursuant to the Federal Rules of Civil Procedure. This deposition was taken on behalf of the Plaintiff in the above-captioned matter.

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30

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32

33 Pete Zinkan - Indiana Deposition Services, LLC

34

35

36

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1 THE VIDEOGRAPHER: We are on the record. It is
2 8:35 a.m. Here begins the videotape deposition of
3 Charles Wielgus, being taken by the plaintiff.
4 Today's dated is May the 12th of 2010. This
5 deposition is being held at the law office of Katz &
6 Korin, at 334 North Senate in Indianapolis, Indiana.

7 This case is filed in the United States District
8 Court, Southern District of Indiana, Indianapolis
9 division, Cause No. 1:07-cv-1384-WTL-DML (sic). This
10 is matter of Taflinger versus Hindson, et al.

11 My name is Pete Zinkan. I'm a legal video
12 specialist with Indiana Deposition Services. The
13 court reporter is Paula Morgan with Associated
14 Reporting. The attorneys may state their appearance
15 for the record, and the court reporter will give the
16 oath.

17 MR. CURRAN: Yes. My name is James Curran. I
18 represent Brooke Taflinger, the plaintiff.

19 MR. PYLITT: My name is Bernard Pylitt, and we
20 represent USA Swimming. Also present with me is
21 Chris Kazmierczak, common spelling.

22 MR. WHEELER: Tom Wheeler, representing the
23 Westfield Community Schools.

24

25

1 C H A R L E S W I E L G U S, the witness
2 herein, having been first duly sworn to tell the
3 truth, the whole truth, and nothing but the truth,
4 was examined and testified as follows:

5 EXAMINATION,

6 QUESTIONS BY MR. CURRAN:

7 Q Good morning, Mr. Wielgus. How are you?

8 A Good morning.

9 Q My name is Jim Curran. I represent Brooke Taflinger
10 in a lawsuit that's been instituted against USA
11 Swimming and others. And we're here today to take
12 your deposition. I assume you've been deposed
13 before?

14 A One time before.

15 Q Okay. I'm going to briefly go over some quick rules
16 that hopefully will make this day go smoother and
17 easier.

18 Number one, I'm going to be asking you questions.
19 I want you to think about my questions and then think
20 about your answer, and then I want you to give you --
21 give me your answer verbally, not just shaking your
22 head or saying huh-uh or uh-huh, but verbal
23 responses.

24 If your attorney, Mr. Pylitt or Mr. Kazmierczak,
25 object to any questions that I ask, you should remain

1 silent. I think we'll probably go off the record if
2 there's an objection. Is that how you want to do it,
3 Buddy?

4 MR. PYLITT: Either/or.

5 Q Okay. But if your attorneys object, remain silent
6 until we work out our differences, whatever they are.
7 If I do a pretty decent job, then they're not going
8 to have to object too much. And they know the rules,
9 and I know the rules, and hopefully that's the way it
10 will go.

11 If you don't understand a question, tell me.
12 I'll rephrase it for you. If you don't hear it, I'll
13 ask it again louder. If you need to take a break for
14 any reason, feel free to do so. I would just ask
15 that if you take a break, you don't really do a lot
16 of coaching between you and your attorneys because we
17 want to kind of go -- we want to move through this
18 thing without a lot of breaks, if possible.

19 Do you understand? And I always ask this
20 question, too. Are you feeling okay, meaning you're
21 not under the influence of any drugs or prescription
22 medications that would affect your ability to
23 understand my questions and to answer truthfully
24 today, correct?

25 A I feel fine, yes.

1 Q Okay. With that, let's begin. Did you review any
2 documents in preparation for today?

3 A The only documents that I've reviewed in preparation
4 for today have been I read the initial complaints and
5 looked at some of the discovery material. But,
6 again, it was just a quick read of those things.

7 Q What discovery materials do you remember looking at?

8 A All I really recall is seeing that there was a
9 request for a variety of information and that my
10 assistant and other members of our staff provided
11 that to -- to the attorneys, to help fulfill the
12 response. But I can't -- I honestly can't identify
13 any specific items.

14 Q I also neglected to tell you, and I'll go through it
15 now, if you had conversations between you and your
16 attorney, Mr. Pylitt or Mr. Kazmierczak -- did I say
17 that right?

18 MR. KAZMIERCZAK: Kazmierczak, but that's okay.

19 MR. CURRAN: Kazmierczak. I'm sorry.

20 MR. KAZMIERCZAK: That's no problem.

21 MR. PYLITT: Call him Kazmierczak, Kaz.

22 Q I'm not entitled to ask you information that you
23 discussed between your attorneys, and I will not do
24 that.

25 A Okay.

1 Q But I assume that, you know, you prepped -- you
2 understand the nature of this proceeding, you
3 understand you're under oath, and you understand that
4 I can ask you questions --

5 A I do.

6 Q -- about this case? I won't ask you things that you
7 talked about between you and your attorneys for USA
8 Swimming.

9 Did you -- did you talk to any other attorneys,
10 that were not your attorneys, about this matter?

11 A No, I have not.

12 Q Okay. Did you meet with Mr. Wheeler yesterday?

13 A I did not.

14 Q Okay. I thought I heard that this morning, but you
15 did not meet with --

16 MR. WHEELER: I was in Cleveland, so --

17 MR. CURRAN: Okay.

18 MR. WHEELER: -- unless you were in Cleveland --

19 MR. CURRAN: I thought somebody just said it, as
20 they walked in.

21 MR. PYLITT: We introduced him this morning, when
22 he came in.

23 MR. CURRAN: Oh, I got you. That's what I heard.

24 MR. PYLITT: Yeah.

25 Q Okay. Okay. Did you have any discussions with any

1 of your members of your Boards of Directors about
2 this deposition?

3 A Only with the president of USA Swimming, who is aware
4 that this is taking place today, but nothing beyond
5 that.

6 Q And the president of USA Swimming today is --

7 A Jim Wood, W-O-O-D.

8 Q Okay. And your discussions between you and Mr. Wood
9 were just that you were going to Indianapolis to be
10 deposed?

11 A Correct.

12 Q General kind of stuff like that?

13 A Yes.

14 Q Has there been communication between you and your
15 Boards of Directors about this case?

16 A No.

17 Q Okay.

18 A Other than there is general knowledge that it exists.
19 But there has been no communication, that I can
20 recall, or be -- or that I'm aware of regarding any
21 specifics involving this case.

22 Q How many people are on the USA Swimming Board of
23 Directors?

24 A There are, I believe, twenty-five voting members and
25 about another eight ex officio members.

- 1 Q Do they communicate amongst each other via e-mail or
2 telephone or other communications?
- 3 A I'm sure they do, but I haven't seen any
4 communication related to this matter at all between
5 them. And I'm usually copied on things that they
6 might share in any sort of a communication capacity.
- 7 Q But certainly, as board members, they're free to
8 communicate to each other about any issues that they
9 want to communicate about with regard to USA
10 Swimming, correct?
- 11 A Unless they're asked to maintain confidentiality on a
12 particular topic, yes.
- 13 Q Right. They could be using their home computers or
14 their BlackBerrys or their PDAs to communicate with
15 each other about -- about lawsuits or any other issue
16 that might be applicable to USA Swimming?
- 17 A That's certainly possible, yes.
- 18 Q And, to the best of your knowledge, does that occur?
- 19 A I think that occurs. I don't -- I'd be surprised if
20 it occurred on this particular topic, given that
21 there isn't -- I haven't heard any significant
22 discussion or most people aren't even aware of any of
23 the details of this.
- 24 Q Okay. I want to -- I want to -- Chuck, I want to get
25 to know you a little bit, and I want to learn some

1 stuff about you, so I want to talk about some
2 background information.

3 Like, for example, you know, I want to just start
4 with education. Give me the extent of your
5 educational background. Where did you grow up?
6 Where did you go to school? Where did you go to
7 college? Then I'm going to ask you how you got to
8 USA Swimming.

9 MR. PYLITT: Jim, I don't mean to object -- or I
10 don't mean to interrupt your flow here. Before we
11 began, I'd asked you whether we have an understanding
12 and a stipulation between counsel that -- previously
13 we've submitted some agreed protective orders to
14 ensure the protection of any photos or anything else
15 that the Court still hasn't ruled on or hasn't ruled
16 on the latest version.

17 But it's my understanding we have an agreement,
18 at my request, that we will have up to thirty days,
19 following the preparation of the audio or the
20 transcript of this, to designate any matters as
21 confidential. And then either side would have a
22 right to go to the Court to question whether that's
23 proper or not. Clearly, you have a right to share
24 whatever occurs with your client. We're not trying
25 to in any way limit that.

1 But it's my understanding you've agreed to that
2 and that the lawyers basically will wait up to thirty
3 days to allow us to designate anything that's
4 confidential.

5 MR. CURRAN: And, number one, I do agree that we
6 did discuss that. And, number two, we did originally
7 sign a protective order that I think was rejected by
8 the Court for some reason. And a new protective
9 order was distributed that we did not sign because it
10 was my recollection that the reason we originally
11 talked about a protective order in this case was
12 about naked pictures of my client and/or others.

13 MR. PYLITT: Yes.

14 MR. CURRAN: The protective order that we signed
15 and that was rejected by the Court and the new one
16 seems to go beyond that. It talks about
17 interrogatories, deposition transcripts, and the
18 like.

19 And, again, number one, you have my word that we
20 will not release this transcript until thirty days
21 after the receipt of this transcript, to give you the
22 opportunity to tell me whether or not -- to tell us
23 whether or not you object to it. So we will abide by
24 that.

25 But -- and, as I said earlier, you know, my basic

1 position in this case is that the only thing that's
2 really going to be confidential is naked pictures of
3 young ladies. And everything else is just, you know,
4 stuff about policies, procedures or other things
5 about how USA Swimming works.

6 That's kind of my position going forward. And --
7 but you have my word that I will not, we will not,
8 release this until you have an opportunity to tell
9 me --

10 MR. PYLITT: Great.

11 MR. CURRAN: -- if you think it's confidential.

12 MR. PYLITT: Thank you very much. And I
13 apologize --

14 MR. WHEELER: Let me -- let me append that.
15 There is information that were or could have been
16 released by the school that's covered by federal
17 confidentiality laws. And I'm certainly not waiving
18 any discussion that if that material is presented in
19 deposition, for example, a deposition with the school
20 individuals, or documents that have been produced, if
21 those are filed, we reserve the right to object to
22 those under the Family Educational Rights and Privacy
23 Act.

24 Q Okay. Okay. Anyway, Chuck, I was asking you, you
25 know, just a little bit of background, you know,

1 where did you grow up, where did you go school, all
2 that kind of stuff.

3 A I grew up in New York, attended college at the
4 Virginia Military Institute for two years,
5 transferred to Providence College, graduated in 1972,
6 attended graduate school at Springfield College,
7 received a master's of education degree there. That
8 would be my educational background.

9 Q Okay. When did you get your master's at Springfield?

10 A 1974.

11 Q Okay. And then what did you do after you got your
12 master's. Now I'm moving into employment history.
13 Where did you work?

14 A Sure. I worked in Woodstock, Vermont from 19 --
15 excuse me -- from 1974 to 1983. I was a high school
16 basketball coach and town recreation director.

17 From 1983 to 1989 I worked in Hilton Head, South
18 Carolina, and I was the Executive Director of a
19 non-profit organization that was responsible for
20 developing the island's master plan for parks,
21 recreation, and athletic programs.

22 From 1989 to 1996 I was the Executive Director --
23 excuse me -- of an organization that is now called
24 USA Canoe/Kayak, the national governing body for the
25 Olympic sport of canoe/kayak racing.

1 From 1996 to '97 I was the Executive Director for
2 the Senior PGA Tour Tournament Directors Association.

3 And in 1997 I came to USA Swimming to begin
4 serving as its Executive Director.

5 Q So you've been the Executive Director of USA Swimming
6 since 1997?

7 A Correct.

8 Q And your first job with USA Swimming was Executive
9 Director?

10 A Correct.

11 Q What are your job duties and responsibilities as
12 Executive Director of USA Swimming?

13 A My primary role is to oversee the business operations
14 of the national governing body and to manage the
15 staff that is employed by the governing body and the
16 fulfillment of the various business operations that
17 we're responsible for.

18 Q How big is the staff?

19 A We have about eighty people on our full-time staff.

20 Q And where is it headquartered?

21 A Colorado Springs, Colorado.

22 Q I'm going to ask you a little bit about USA Swimming,
23 to the best of your knowledge. Was -- how long has
24 USA Swimming been USA Swimming?

25 A Well, USA Swimming is actually the -- the name under

1 which we do business. The formal name of the
2 organization is United States Swimming, Inc. But we
3 do business as USA Swimming.

4 It came into existence in 1978 as a result of the
5 Ted Stevens Olympic and Amateur Sports Act, which
6 created the modern U.S. Olympic Committee and the
7 national governing bodies that oversee Olympic sports
8 in the United States.

9 Q So USA Swimming is a corporation headquartered where?

10 A In --

11 Q In Colorado Springs?

12 A In Colorado, yes.

13 Q Where is it incorporated, though?

14 A It was originally incorporated in the state of Ohio,
15 but a transfer took place a couple of years ago from
16 Ohio to Colorado.

17 Q So now it's no longer incorporated in Ohio. It's
18 only incorporated in Colorado?

19 A I believe so, yes.

20 Q Okay. And the corporation is USA Swimming, but it
21 does business as USA Swimming? Maybe I'm being
22 inaccurate. I'm sorry.

23 A The formal name is United States Swimming, Inc. And
24 we do business as USA Swimming.

25 Q Why is that?

1 A The reason for that is that internationally the
2 United States is referred to by the initials USA.
3 And so over the past five to ten years most all
4 national governing bodies have used the USA initials
5 in identifying their organization.

6 Q And when it was originally incorporated in Ohio, was
7 it called United States Swimming, Inc.?

8 A Yes.

9 Q Okay. Does -- was AAU any part of the predecessor
10 corporation or not?

11 A AAU was the predecessor corporation to the United
12 States Olympic Committee.

13 Q And what is -- what's the corporate structure of
14 United States Swimming, Inc.?

15 A The structure of USA Swimming is the same as with
16 every -- each of the other national governing bodies,
17 and that is that we are separately incorporated as a
18 non-profit 501(c)(3) organization, governed by a
19 volunteer Board of Directors, who, in our case, are
20 elected by various constituent groups that make up
21 the membership of the group.

22 Q And so you're the Executive Director, but above you
23 is the President -- well, I don't know if above you.
24 I haven't seen a corporate tree. But there's a
25 President, Jim Wood, and then there's a Board of

1 Directors. You said about twenty-five?

2 A Well, the President is a member of the Board of
3 Directors, elected by the membership. I report
4 directly to the Board of Directors.

5 Q Okay. I want to talk about national governing body a
6 little bit and the structure of USA Swimming in
7 relation to the United States Olympic Committee and
8 the International Olympic Committee.

9 First of all, what's -- and if you can explain it
10 in your own words, you know, you're free to do so.

11 A Sure.

12 Q I basically want -- just want you to explain what
13 national governing body is and then above you --
14 above the national governing body is, I understand,
15 the USOC, and then above them is the IFC.

16 A Actually, maybe I'll take it the other way and
17 work --

18 Q That's fine.

19 A -- and work from the top down.

20 Q That's fine.

21 A But the International Olympic Committee, known as the
22 IOC, is the worldwide leader of the Olympic Sports
23 Movement. And making up the IOC are what are called
24 international federations for each of the Olympic
25 sports within the competition program of the Olympic

1 games.

2 In each country throughout the world there is
3 something called a National Olympic Committee. And
4 these National Olympic Committees, or NOCs, are
5 members of the IOC. And within each NOC, just as the
6 IOC has member international federations representing
7 each sport, within the USOC there are member entities
8 representing each Olympic sport. And in the United
9 States we call those national governing bodies or
10 NGBs.

11 So the U.S. Olympic Committee has a membership,
12 group membership, of -- I believe the number is
13 forty-four national governing bodies. So there is a
14 governing body for swimming, for track and field, for
15 basketball, et cetera.

16 Q Is there a code of conduct for the International
17 Olympic Committee?

18 A Not that I know of, but there may very well be.

19 Q Is there a code of conduct for the United States
20 Olympic Committee?

21 A I'm pausing because I'm trying to think what -- I
22 don't believe there's a code of conduct that we are
23 obligated under. There may very well be a code of
24 conduct for their own staff and volunteers and their
25 conduct. I'd be surprised if there wasn't. But they

1 don't -- the U.S. Olympic Committee does not have a
2 code of conduct that's mandated to us.

3 Q Okay. But USA Swimming does have its own code of
4 conduct, correct?

5 A Yes. We were one of the first national governing
6 bodies to adopt a code of conduct.

7 Q Is any NGB -- in this instance we're talking about
8 USA Swimming. Does the NGB have to be in compliance
9 with the United States Olympic Committee's rules and
10 regulations?

11 A Yes. The Olympic -- U.S. Olympic Committee has the
12 authority to grant a national governing body status
13 to an organization. And it might -- the same
14 extension or same authority can take that away. So
15 there are certain obligations that we have to fulfill
16 to the U.S. Olympic Committee to maintain our
17 standing.

18 Q Meaning that if you were not in compliance with their
19 rules, regulations, requirements, et cetera,
20 essentially they could pull the plug on USA Swimming,
21 or another NGB, if they didn't comply with their
22 rules and regulations?

23 A That's correct, yes.

24 Q With regard to your Board of Directors, are there
25 rules about who -- percentage splits of males and

1 females and athletes and non-athletes that have to be
2 on the Board of Directors?

3 A There are no rules regarding gender quotas or
4 percentages, but there -- we do have an obligation
5 under the Amateur Sports Act to have at least twenty
6 percent athlete representation on our Board of
7 Directors and on all committees that have a direct
8 role in determining how financial resources might be
9 allocated.

10 Q To the best of your knowledge, is USA Swimming in
11 compliance with that rule?

12 A We're not only compliant with that rule, we are
13 probably a model NGB in terms of the -- both the
14 quantity and the quality of the engagement of our
15 athlete representatives.

16 Q I talked earlier about the USOC. Does the USOC have
17 its own coaches' code of conduct, to the best of your
18 knowledge?

19 A I believe that the USOC, although I can't -- I
20 don't -- if they have it, it is in relation to teams
21 that they would send to the Olympic Games or the Pan
22 American Games. And I am fairly sure that there is a
23 code of conduct that both coaches, staff, and
24 athletes are obligated to sign before they accept a
25 position on -- as an athlete or as a team member

- 1 going to the Pan American or the Olympic Games.
- 2 Q But, just so I understand you, you're saying that
3 that code of conduct does not run downhill to USA
4 Swimming?
- 5 A That -- yes, that's correct.
- 6 Q And there's another organization called -- I think
7 it's called the American Swim Coaches Association?
- 8 A Yes.
- 9 Q Is there any relationship between USA Swimming and
10 that organization, or are they completely separate?
- 11 A It's a completely separate organization from us.
- 12 Q Do you have any interaction with them?
- 13 A We do. The American Swimming Coaches Association,
14 which is know as ASCA, A-S-C-A, is a very active
15 coaches' association. And we have, over time, looked
16 to ASCA to provide much of the coaching education to
17 members of the coaching community within this
18 country.
- 19 Q Do they come -- do they send representatives to your,
20 like, Board of Directors or your Executive Directors
21 meetings?
- 22 A No.
- 23 Q Okay.
- 24 A No.
- 25 Q Do they give reports, or are they a part of the

1 minutes of your meetings?

2 A No, they're not. The -- ASCA has its own -- it's
3 separately incorporated, has its own Board of
4 Directors. Certainly as a related professional
5 organization, we have relationships with them. But
6 they are absolutely distinct, have no representation
7 on our Board, nor do we on theirs.

8 Q You touched on this Ted Stevens Amateur Sports Act in
9 1978, and I want to talk to you a little bit about
10 that.

11 First of all, what is your understanding about
12 what it is?

13 A Well, the Ted Stevens Olympic and Amateur Sports Act
14 that came into being in 1978 was, in part, a response
15 to what was viewed as some confusion and conflicts
16 within the governance of Olympic sports prior to
17 that, under the administration of the Amateur
18 Athletic Union.

19 And the basic premise behind the Act was that
20 Olympic sports ought to be governed by people who are
21 directly invested in that and involved in that sport.
22 And so it was that Act that created the Olympic
23 Committee and simultaneously established the national
24 governing bodies for each of the Olympic sports.

25 Q And so does USA Swimming have a duty to comply with

1 all the provisions of the Act?

2 A We do.

3 Q And does the Act provide legal protections for
4 individual athletes?

5 A Yes, it does.

6 Q Does it establish a right for athletes to be
7 reasonably safe?

8 A It's a long act. I haven't committed it to memory,
9 so I don't know the answer to that question.

10 Q Okay.

11 A But -- I'm sorry.

12 Q That's okay. Do you know whether or not it
13 establishes a duty to protect amateur athletes from
14 harm?

15 MR. PYLITT: Just for the record, I want to
16 object. It calls for the legal conclusion of the
17 legal duty. The Act speaks for itself. And if you
18 know, certainly you're free to answer.

19 MR. CURRAN: And I certainly am not asking
20 Mr. Wielgus to be an attorney, and I'm not asking him
21 to -- for a legal conclusion. I'm asking him, as the
22 Executive Director of USA Swimming, what his
23 understanding is. And if he doesn't know, he doesn't
24 know. That's fine.

25 Q But, anyway, my question was, to the best of your

1 knowledge, does it establish a duty to protect
2 amateur athletes from harm?

3 A To the best of my understanding, the Amateur Sports
4 Act does not obligate an NGB to, in this particular
5 area of child abuse, sexual misconduct, athlete
6 protection, does not obligate us to do anything.
7 What we do we do because we choose to do it and
8 because we think it's important in service to our
9 membership.

10 Q To the best of your understanding, does the Act
11 entitle -- entitle athletes to be free from sexual
12 discrimination and harassment?

13 A I don't know precisely, but I would -- I don't know
14 precisely, but I wouldn't be surprised if it included
15 language to that -- to that effect.

16 Q As the Executive Director of USA Swimming, do you
17 believe that USA Swimming has a duty to provide a
18 safe environment for child and young adult members?

19 MR. PYLITT: Same objection to the legal
20 conclusion or the legal opinion about the duty.

21 Q You can answer the question.

22 A I do not believe we have a duty, but I believe we
23 have -- we aspire to do that.

24 Q So I just want to make sure I understand what you're
25 saying. You're saying you believe that USA Swimming

1 does not have a duty to provide a safe environment
2 for children or young adult members?

3 A That -- that is my understanding, yes, that we do --
4 there is not a requirement upon us to do that.
5 But -- but we do feel, because we care deeply about
6 our -- providing the best programs and services
7 possible to our membership, we do it because we think
8 it's important to do, not because we're obligated to
9 do it.

10 Q Does a USA Swimming coach have a duty not to make
11 sexual advances towards their swimmers?

12 MR. PYLITT: Same objection as to a legal duty.

13 Q You can answer the question.

14 A I think a coach has a -- has a responsibility to act
15 responsibly.

16 Q Okay.

17 A And that would certainly not condone inappropriate
18 conduct with athletes or with anyone else.

19 Q Subject to Mr. Pylitt's objection -- so my question
20 was does a USA Swimming coach have a duty not to make
21 sexual advances towards their swimmers?

22 MR. PYLITT: Same objection.

23 Q You can answer the question.

24 A Well, USA Swimming, aside from our National Team head
25 coach and our National Youth Team head coach, we

1 don't employ coaches. Coaches are employees of
2 clubs. And just in a general response, I would say
3 that they -- that coaches, whether it's in swimming
4 or in any other sport, have a responsibility to act
5 responsibly.

6 Q So if a coach did make sexual advances toward youth
7 swimmers, it would not be a breach of the Code of
8 Conduct of USA Swimming?

9 A It would be a breach of the Code of Conduct of USA
10 Swimming, and we would -- if a complaint came
11 forward, we would certainly act upon that with --

12 Q Does the Code of Conduct prohibit a male coach from
13 being alone with female swimmers?

14 MR. PYLITT: Jim, let me -- let me object for
15 just a moment. Are you talking about the Code of
16 Conduct today or the code of conduct in 2000, when
17 Hindson allegedly taped your client?

18 MR. CURRAN: I'll split the question --

19 MR. PYLITT: Yeah.

20 MR. CURRAN: -- either way. And, by the way,
21 if -- if -- yeah, that's a fair question.

22 Q I'll ask it today, first. Does the -- does the USA
23 Swimming Code of Conduct prohibit a male coach from
24 being alone with female swimmers?

25 A I do not believe it does.

1 Q Okay. Did it back in 1999?

2 A If my -- if my assumption is correct that it doesn't
3 today, it probably didn't back then either.

4 Q Okay. Does the Code of -- USA Swimming Code of
5 Conduct include a duty to report a violation by
6 another coach?

7 MR. PYLITT: Again, today or 2000? I don't --

8 Q Let's go today.

9 A I do not believe that the Code of Conduct today
10 requires that a coach report.

11 Q So you're saying that it's your understanding that
12 today there is no mandatory requirement for a coach
13 to report knowledge that another coach is breaching
14 the Code of Conduct; is that what you're saying?

15 A I believe -- yes, that is what I'm saying.

16 Q Okay. And was that true back in 1999, too?

17 A I don't recall, but I would assume -- assume so.

18 Q Do you know, today, if it is strongly urged that a
19 coach report another swim coach if -- if the one
20 coach knows that the other swim coach is acting
21 inappropriately towards a swimmer?

22 A Absolutely. We would, and not only strongly urge a
23 coach, but anyone, including non-members, to report
24 what they would see as inappropriate conduct by a
25 coach or any other member of USA Swimming to us

1 immediately.

2 Q So --

3 A Or to -- or to police authorities.

4 Q Right. So, just so I'm clear, it's not -- the Code
5 of Conduct, as you understand it to be, as Executive
6 Director of USA Swimming, it's not a mandatory
7 requirement to report it, but it's strongly urged to
8 report it?

9 A That is my understanding, yes.

10 Q So if a swim coach had knowledge -- and I'm talking
11 today -- that there was a coach acting
12 inappropriately and did not report it, that would not
13 be a breach of the Code of Conduct of USA Swimming?

14 A I think technically that would be correct. That
15 would not be something we would certainly condone.

16 Q And there's certainly, therefore, today, not a
17 requirement that a coach report it to police
18 authorities either, correct? That's the best of your
19 understanding?

20 A That is correct.

21 Q Okay. Has that something -- is that something that's
22 been discussed among USA Swimming?

23 A Yes, it is.

24 Q But --

25 A Yes, it has. I'm sorry.

1 Q But it has not been acted upon, correct?

2 A No. The -- the development of USA Swimming's self --
3 self-directed volunteer efforts to create safeguards
4 have evolved over time and will continue to evolve
5 over time. And this particular topic that you're
6 bringing up now is something that we are -- that is
7 currently on the table to be talked about in what we
8 do going forward.

9 Q But certainly you'll agree with me that -- and,
10 again, the case that I'm here about happened sometime
11 around 1999, 2000. From 1999 to today, you'll agree
12 with me that there's been no mandatory duty to report
13 imposed by USA Swimming on its coaches, correct?

14 MR. PYLITT: And, again, I'm going to object to
15 the phrase duty, which calls for a legal conclusion.

16 MR. CURRAN: And I'm not asking him, again, to
17 formulate a legal conclusion. I'm just using duty as
18 whether or not it was -- we're talking about whether
19 it's mandatory, whether it's strongly urged. So when
20 I'm using duty, I'm using it in the context that
21 Chuck, I think, knows what I'm asking about.

22 A We have, since 1999, we have consistently strongly
23 urged the reporting of any inappropriate conduct by
24 any of our members.

25 Q But USA Swimming has not acted in such a way as to

1 make it mandatory to report, correct?

2 A Not yet.

3 Q Right. And USA Swimming, you'll agree with me, has
4 known about instances of inappropriate sexual contact
5 or sexual abuse or sexual advances well in advance of
6 1999, correct?

7 MR. PYLITT: Let -- let me object. As you
8 stated, there are five counts that you have in this
9 case against Indiana -- or USA Swimming, invasion of
10 privacy, negligent supervision, special relationship,
11 and breach of contract. The evidence so far is, is
12 that the filming of Brooke, if there was, occurred in
13 the summer of 2000. So I'm going to object to any
14 questions about policies or practices either before
15 or after as being irrelevant.

16 MR. CURRAN: Well, I think I understand your
17 objection, but I'll go with, you know, the summer of
18 2000. But I'm trying to -- I'm trying to -- first of
19 all, it's a discovery deposition. I'm trying to
20 understand USA Swimming's development of its policies
21 over time. Some of those policies were before Brooke
22 Taflinger being filmed, and certainly some of the
23 policies are changing over time. But I think they're
24 clearly relevant and can lead to admissible evidence
25 as to what's been going on in USA Swimming over time.

1 I think it's -- I understand your objection, but, you
2 know --

3 MR. PYLITT: And just to tidy the record, your
4 allegations, the complaint against USA Swimming,
5 talks about negligent supervision, invasion of
6 privacy, and a breach of contract. So I think that
7 discussions about policies and practices and
8 evolution, while those are fine, have absolutely
9 nothing to do with whether or not USA Swimming
10 violated any of those allegations.

11 MR. CURRAN: Well, I think it's all relevant to
12 failure to supervise and invasion of privacy and how
13 that all came about or comes about. And, you know,
14 it's a discovery deposition, Buddy. I think that
15 it's --

16 MR. PYLITT: Oh, I understand. I just --

17 MR. CURRAN: You're not telling him not to
18 answer. You're just making an objection on the
19 record?

20 MR. PYLITT: I'm not sure what your question is
21 that --

22 MR. CURRAN: I don't even remember what my
23 question is --

24 MR. PYLITT: Yeah, I apologize.

25 MR. CURRAN: -- to be honest with you. Can you

1 read it back, what my question was.

2 (The reporter read back as requested.)

3 A Answer? I came on the job in '97, so my
4 institutional knowledge and history really only goes
5 back so far.

6 What I can say is that because within our --
7 since we've had a Code of Conduct in 1999,
8 complaints -- any complaints that have to do with
9 felonies, inappropriate -- sexual misconduct or abuse
10 or the use, possession or distribution of illegal
11 drugs immediately come to the attention of the
12 Executive Director. And any and every time anything
13 has been brought to my attention, we have immediately
14 acted on it.

15 So there are -- I think I would just leave it
16 right there. I can't speak to what happened before
17 my time as Executive Director. But we have acted on
18 every complaint that we have ever received since I
19 have been Executive Director.

20 Q Since you've been Executive Director, has -- have you
21 or any member of USA Swimming, to the best of your
22 knowledge, reported anybody to law enforcement
23 authorities?

24 A We have always urged those filing a complaint to, if
25 it involves a criminal activity, to, first and

1 foremost, report that to police authorities. In most
2 cases, by the time we receive a complaint, that has
3 already taken place.

4 Q So my question is, to the best of your knowledge,
5 have you or anybody else associated with or employed
6 by USA Swimming ever reported somebody to a police or
7 law enforcement authority?

8 A Yes, we have.

9 Q Okay. When did that occur?

10 MR. PYLITT: I'm going to object to that question
11 as being totally irrelevant.

12 Q I'll withdraw the question. Has that happened on
13 numerous occasions?

14 A I'm not sure what numerous would be, but if it -- but
15 it has -- it is, I would say -- it has not happened
16 on numerous occasions, primarily because of what I
17 said earlier, which is in most cases it's been
18 reported to the police before the complaint comes to
19 us.

20 Q Okay. But you, as you sit here today -- and I'm not
21 asking you for names -- you recall one or more
22 instances when somebody from USA Swimming has
23 reported instances of inappropriate sexual either
24 conduct, abuse to law enforcement authorities?

25 A Yes, I do.

1 Q And you have records of that?

2 A I believe we do, yes.

3 Q Okay. But you don't know how many times it was done?

4 A No, I don't.

5 Q With regard to the USA Swimming Code of -- coach's
6 Code of Conduct -- and I know obviously the document
7 speaks for itself, but you'll agree with me that it
8 does not define sexual harassment, correct?

9 MR. PYLITT: Jim, can I just make one
10 clarifying -- it's not really an objection. You said
11 a coach's Code of Conduct. Are you drawing a
12 distinction between the Code of Conduct and a coach's
13 Code of Conduct?

14 MR. CURRAN: No.

15 MR. PYLITT: Because I'm not sure there is one.

16 MR. CURRAN: I meant Code of Conduct.

17 MR. PYLITT: Okay. That's fine. Thank you.

18 Q Does not define sexual harassment, correct?

19 MR. PYLITT: And, again, today or --

20 Q Let's go with today.

21 A Again, I haven't committed the Code to memory. I
22 think there is some descriptive language in there.
23 But I don't -- in terms of a hard definition, I think
24 the answer would be no.

25 Q And it did not do so back in 2000 either, correct?

- 1 A Probably -- if it doesn't -- if it doesn't today, it
2 wouldn't -- probably wouldn't have then.
- 3 Q All right. And it also does not define indiscrete or
4 destructive behavior, correct, today or back in 2000?
- 5 A I don't think it provides a definition, no.
- 6 Q And it does not define, either today or back in 2000,
7 appropriate boundaries for a coach/athlete
8 relationship, correct?
- 9 A I think -- I think that is correct. It does not
10 provide that sort of --
- 11 Q And it does not -- does it include disciplinary
12 procedures, including suspensions, during
13 investigations?
- 14 A No, it does not. Although, I believe there is a
15 process under which that can -- that can take place.
16 Because I know that in our Board of Review process,
17 there is a provision to initiate emergency hearings.
- 18 Q And that would be true today and back in 2000,
19 correct?
- 20 A I believe so. Certainly true today, yes.
- 21 Q Okay. The Code of Conduct, does it have levels of
22 infractions delineated?
- 23 A Yes, it does.
- 24 Q Does it have any procedures for anonymous complaints
25 to be lodged, either today or in 2000?

1 A I can't say for sure that it does.

2 Q Do you -- do you agree with me that if an
3 organization like USA Swimming, in this case, knew
4 that a coach had a history of having sexual
5 relationships with his athletes, particularly his
6 adolescent or younger athletes, that this particular
7 individual would not be fit to continue coaching?

8 MR. PYLITT: And, again, just for the record, are
9 you talking about in 2000 or today? It's an
10 evolving --

11 MR. CURRAN: I think --

12 MR. PYLITT: -- world.

13 MR. CURRAN: Yes.

14 Q And, again, I'll break it down. Today and then --
15 and then we'll go back to 2000.

16 A I'm sorry. Can you ask the question one more time?

17 Q Do you agree that an organization like USA Swimming,
18 if the organization like USA Swimming knew that a
19 coach had a history of having sexual relationships
20 with his athletes, particularly his adolescent or
21 younger athletes, that this particular individual
22 would not be fit to continue coaching?

23 MR. PYLITT: And I guess I would object to the
24 form of that question about what a history is.
25 Police history or --

1 MR. CURRAN: If Chuck --

2 MR. PYLITT: Actual knowledge?

3 MR. CURRAN: Knowledge of the organization.

4 MR. PYLITT: But I guess my objection is to the
5 form of the question. You're asking if USA Swimming
6 had knowledge of a history. Are you talking about
7 actual reported information of sexual -- or are you
8 talking about rumors? What --

9 MR. CURRAN: We can break it down in all those
10 different ways. I mean, I think it's a pretty -- I
11 think it's a question that Chuck can answer. And if
12 he can't answer it, he can -- he can tell me that he
13 can't answer it. You know, I think it's a very
14 answerable question in its present form.

15 MR. PYLITT: Do you understand the question?

16 A I think so, but I'll -- I may try to bring a little
17 more precision in my answer.

18 If we had knowledge that was factual about an
19 individual who had inappropriate relations with an
20 underage athlete, absolutely we would take action
21 to -- and that person was not in jail, we would take
22 action to ban them from life -- for life, from our
23 organization.

24 Q And that would be true today and back in 2000?

25 A I think the answer to that question would be yes.

1 Yes. Actually, I would say not I think. Yes. From
2 the time I've come on board in '97, that has
3 consistently been my view in interpreting what our --
4 what our goal would be, would be to have -- we are
5 not interested in having members of our organization
6 who have acted inappropriately in regards to sexual
7 misconduct.

8 Q And I know you only became the Executive Director in
9 1997.

10 A Right.

11 Q But certainly when you become the Executive Director
12 of an organization of the size of USA Swimming,
13 you -- you try and learn as much history about that
14 organization as you can, correct?

15 A Yes.

16 Q You have people that have been there as employees or
17 boards of directors, and you talk to them about where
18 the organization has come from and where the
19 organization is going, correct?

20 A Yes.

21 Q And you certainly learn about problems they've had in
22 the past and problems that they have going forward
23 into the future, correct?

24 A Yes.

25 Q So based upon, you know, your experience as a USA

1 Swimming Executive Director since 1997 and the things
2 you've learned and the reports you've read and the
3 people you've talked to, do you know when USA
4 Swimming was first aware of coaching misconduct or
5 sexual misconduct? I mean, how far back does it go,
6 to the best of your knowledge, based upon your
7 experience since 1997 as the Executive Director of
8 USA Swimming?

9 MR. PYLITT: Let me object to the form. Are you
10 talking about actual reported misconduct versus
11 rumors? What -- I'm not -- I'm not sure I understand
12 your question.

13 MR. CURRAN: Any type of sexual misconduct or
14 coaching misconduct.

15 MR. PYLITT: Do you understand the question?

16 THE WITNESS: I'm happy to take a stab at
17 answering it.

18 A This is a societal issue. So as a -- I recognize
19 that this issue goes back almost as far as Adam and
20 Eve in society. So it's certainly something that --
21 it is a topic that anyone in any particularly
22 youth-serving organization, be it an educational
23 environment a youth sports environment, a club
24 environment, anywhere where adults and children are
25 interacting, there is the potential for this -- for

1 sexual inappropriate conduct to take place. It also
2 happens in homes. So, as a societal issue,
3 absolutely I'm aware of that.

4 But, as I understand your question, which was
5 focusing on swimming, no, I have very little
6 recognition or awareness, outside of that societal
7 context, of any specific accentuated problem within
8 our sport. And when information has come forward,
9 we've acted on it. So I'm not -- I think I would
10 just leave it right there. I think it's --

11 Q So, to your point, Chuck, that -- you know, you went
12 back to Adam and Eve and a societal problem. So
13 certainly, you know, I think what you're saying is
14 that you understand that it's a problem in society.
15 It's a general problem.

16 But I think you're saying to me, or I think you
17 said to me, that you, as the Executive Director of
18 USA Swimming, do not recall specific USA Swim coaches
19 being involved in sexual misconduct or coaching
20 misconduct from the time that you became the
21 Executive Director or the history that you've learned
22 as the Executive Director. Is that what you're
23 telling me?

24 A I think what I'm -- what I'm telling you is that --
25 and I subsequently understand, in doing some reading,

1 understand that, according to the Centers for Disease
2 Control, by the age of eighteen one in four girls
3 have been sexually molested in one form or another.
4 So that's a huge number.

5 And within USA Swimming I am not aware of
6 anything other than specific complaints that have
7 come forward and an occasional -- you occasionally
8 hear a rumor about things. And I give little
9 credence to gossip and rumors. And any time that
10 anyone has even intimated something, my response has
11 always been, well, if you really think there's
12 something there, you need to file a complaint because
13 we'll then initiate an investigation to look into
14 that.

15 Q So as -- as the Executive Director of USA Swimming
16 since 1997 -- I understand that, Chuck. But I also
17 know that, you know, as the Executive Director of USA
18 Swimming, you, through talking to people and reading,
19 you know, things that you have in your office, do you
20 know whether or not persons involved in USA Swimming,
21 whether they be coaches or on the Board of Directors
22 or on other committees, brought up the issues of
23 child protection and protection from sexual abuse and
24 protection of minors from coaches for inappropriate
25 conduct? Were these issues being discussed by USA

1 Swimming back in the '80s and the '90s, before you
2 got there?

3 A I believe they were. USA Swimming has a long
4 history, well before my time, of addressing what --
5 at a given point in time, based on information that
6 was available then, addressing issues relating to
7 safety and protection. And there has been, over the
8 past twenty-plus years, a continuum of policies that
9 have been adopted to address issues related to safety
10 and protection.

11 Q So then you'll agree with me that, to the best of
12 your knowledge, based upon what you've learned in
13 your many years as the Executive Director of USA
14 Swimming, that the issue of child protection and
15 protection from sexual abuse has been discussed by
16 USA Swimming since back in the '80s and the '90s,
17 correct?

18 A Yes.

19 Q Okay. And --

20 MR. PYLITT: Can we take a quick break? I've got
21 a 10:00 hearing someone's covering, and they're
22 asking me a question.

23 MR. CURRAN: Yeah, go ahead.

24 MR. PYLITT: I apologize.

25 MR. CURRAN: Go ahead.

1 THE VIDEOGRAPHER: Off the record.

2 (A recess was taken.)

3 THE VIDEOGRAPHER: We are back on the record.

4 Q Chuck, I think where we left off is we were talking
5 about sexual abuse or sexual misconduct as a societal
6 problem back towards the beginning of time.

7 A Uh-huh.

8 Q And then -- then I moved on to ask you about whether
9 or not it was being talked about by USA Swimming in
10 the '80s and the '90s. And I think you agreed that
11 it was, correct?

12 A Yes.

13 Q And was -- do you recall, and I know you only started
14 in 1997, if there were certainly individuals that
15 were proponents of doing more? Is that reflected
16 anywhere?

17 A No. No, I don't -- I don't recall that there were
18 any specific individuals that, you know, kind of
19 crusaded on this particular issue. But I very
20 clearly have recollections of consistent, continual
21 discussions within the boardroom and at our annual
22 convention about issues related to this area that the
23 organization wanted to address.

24 Q And if I -- and you tell me if I'm wrong. In 2006,
25 that was the first time that USA Swimming adopted

1 a -- I'll call it a background screening check
2 process; is that correct?

3 A Yes.

4 Q And that background screening process basically is
5 run by an outside company, and it -- is that correct?

6 A That is correct, yes.

7 Q And it sees whether or not a person has -- and
8 obviously we're talking about, you know, the sexual
9 stuff. I know there's drugs and I know there's other
10 things, but we're talking about the sexual stuff.

11 If a person was convicted, whether they pled
12 guilty or in a diversionary program, of a sexual
13 offense, correct, that's what it measures? Or that's
14 what would come up as a positive hit?

15 A I think what would come up as a positive hit, related
16 to sexual misconduct, would be a conviction. Or a
17 pending charge would also come up, is my
18 understanding.

19 Q Okay. But it -- and, again, I'm trying to understand
20 the history of USA Swimming, Chuck --

21 A Sure.

22 Q -- because I wasn't there. Is that even though it
23 was being talked about as a problem, societal problem
24 and a problem within USA Swimming in the '80s and the
25 '90s, it was not until 2006 until USA Swimming

1 adopted this background screening process, correct?

2 A Correct. We were one of the first governing bodies
3 to do so.

4 Q Okay. And the background screening process, you say,
5 you believe, picks up pending charges as well as
6 convictions, correct?

7 A That's my understanding, yes.

8 Q The company that you use, what's the name of that
9 company?

10 A TCLogic.

11 Q TCLogic. How did they get to be the company? How
12 did that come about?

13 A Let me -- I think it might be appropriate to just
14 take one step back from that. There was a -- this --
15 to get to the point of adopting a background
16 screening program in 2006, the work on that actually
17 began in the spring of 2003.

18 And the Board of Directors of USA Swimming, under
19 the president at that time, appointed a task force.
20 And that task force recommended that USA Swimming
21 ought to create a program of criminal background
22 checks for -- and there was debate over who should be
23 covered in that. But the ultimate decision was made
24 that it ought to certainly include coaches.

25 That task force was then -- once it came up with

1 its recommendation that this is something we should
2 do, another task force was created. It was called
3 the Background Check Implementation Task Force. And
4 that task force was put in place to determine what
5 would be the best or most appropriate criteria that
6 should be looked at in the background screening
7 process.

8 And that group or that task force determined that
9 all coaches that are USA Swimming members needed to
10 go through that process, and it needed to be renewed
11 every two years.

12 That task force also looked at the -- at not only
13 who should be screened but by what criteria they
14 should be screened and then who should do the
15 screening. And they went through a process of
16 interviewing a number of companies, narrowed it down
17 to three, narrowed it down to two, and then
18 eventually selected TCLogic.

19 And I believe that when we went through this
20 process and ultimately it was approved by not only
21 our Board of Directors but our House of Delegates
22 that this is something we were going to do, I think
23 we were one of the first four or five of the
24 forty-four national governing bodies to do so.

25 And I mention that only to kind of put it in the

1 context of the -- of time, that USA Swimming was -- I
2 don't want to say ahead of the curve but was
3 certainly in the role of being among the first
4 national governing bodies to address this issue.

5 Q And just to be clear, I think you answered already,
6 but prior to 2006 there was no background screening
7 process of any type for coaches at USA Swimming,
8 correct?

9 A Correct. But I think it's also important to
10 understand that, you know, that USA Swimming -- we're
11 not the boss of clubs. We don't hire coaches. And
12 the discussion, as I recall it, at the time, was that
13 the role that USA Swimming was looking to take in
14 seeking to create as -- in seeking to continually
15 improve itself, was kind of like that of a State
16 Board of Education. They wanted to establish some
17 minimum standards, educational standards, safety
18 certification standards, and some criminal background
19 screening standards that had to be cleared before an
20 individual could be considered to be a coach member
21 of the organization.

22 But in no way, and it's very clear in the
23 materials related to background screening, was that
24 to be viewed as a substitute for preemployment
25 screening or reference checking or the continual

1 monitoring or supervision of individual coaches by
2 the independent clubs.

3 So the -- in much the same way that a State Board
4 of Education kind of licenses teachers, when a
5 teacher -- the State Board of Education doesn't hire
6 teachers. Individual schools do. And so they go
7 through a preemployment reference checking process.
8 And I think we viewed our situation very similar to
9 that relationship.

10 Q You brought up reference checks. That was actually
11 my next question. Before 2006, when this background
12 screening procedure came into being, there were no
13 reference checks required by USA Swimming, correct?

14 A To --

15 Q For any reason.

16 A Are you referring to our staff at USA Swimming?

17 Q No. About swim coaches of -- you know, approved
18 member USA Swim coaches. There were no reference
19 check requirements, correct?

20 A USA Swimming has never had any reference check
21 requirements for coaches that are hired by clubs.
22 Again, we're not the boss of clubs. We don't hire
23 coaches.

24 We certainly recommend. It's certainly a best
25 practice. I think it's certainly a standard that

1 anyone hiring -- any entity hiring anyone would put
2 in place. But we certainly -- it's something we
3 recommend, but it's not something we've required,
4 reference checking.

5 Q And I totally understand what you're saying. And I
6 understand your analogy to State Boards of Ed versus
7 Local Boards of Ed. But my question is a simple one.

8 There was no mandate from USA Swimming that its
9 local swim clubs, before hiring a coach, had to do
10 any reference checks, correct?

11 A We don't mandate that a club have a balanced budget.
12 We don't mandate that, you know, they have a certain
13 dress code. I think there is a -- I think there's a
14 recognition that these clubs are independent
15 businesses. And we have not become micromanagers or
16 tried to position ourselves as micromanagers of
17 something that we don't control.

18 Q I understand. So your answer to my question is --
19 the answer is, no, there was no requirement by USA
20 Swimming down to its local club-level clubs to do
21 reference checks of its coaches, correct?

22 A Certainly encouraged but not a mandate.

23 Q Okay. And today, after 2006, with this background
24 check that looks for either pending criminal charges,
25 as you say, or felony convictions for sexual mis --

1 sexual crimes, under that standard for 2006 going
2 forward, it still does not require reference checks,
3 correct?

4 A That's correct.

5 Q And today, after the 2006 background screening
6 process was implemented, there's still no system in
7 place for local swim clubs to share information about
8 coaches, correct?

9 A Well, I think there -- there is a -- there are things
10 in place for clubs to share information.

11 Q What are they?

12 A Well, part of it would be just the -- the reference
13 checking process that a club would go through if
14 they're looking to hire someone, looking at that
15 coach's -- where that coach has been before. And, I
16 mean, that gives them a road map, at least for a
17 starting of a reference checking process.

18 Q But there's no clearinghouse run by USA Swimming for
19 local swim clubs to go to USA Swimming and say do you
20 have anything on this guy, by way of reference
21 checks, correct?

22 MR. PYLITT: Mr. Curran, let me object for the
23 record. I'm not sure there's any relevancy to the
24 allegations against USA Swimming of a filming of
25 Brooke, your client, in 2000 about club background

1 checks and all of those things today.

2 MR. CURRAN: And, again, I'll do it in a
3 multi-part time sequence to see what back in 2000
4 held -- you know, I'll keep doing it that way. I
5 have no problem. But, again, I'm interested in the
6 history of USA Swimming and what its role has been
7 both in the past and moving forward.

8 So I think it's all relevant information. I'll
9 do it in both time frames, if need be. But I'm
10 trying to get an understanding from Mr. Wielgus as
11 to, you know, what USA Swimming was dealing with both
12 when he became the Executive Director in 1997 and
13 before and on a going-forward basis.

14 So, you know, there are multiple time frames
15 here. There's pre-Chuck Wielgus in 1997. There's
16 the Brooke Taflinger incident in around 2000. And
17 then it's the implementation of things thereafter.
18 So there are multiple time frames here, Buddy, and
19 I'll try and break them down here. But I think it's
20 all pretty relevant in terms of, you know, the
21 allegations of what happened here to Brooke
22 Taflinger, so --

23 MR. PYLITT: Well, I would also object that it's
24 been asked and answered. He's told you that we
25 don't -- or USA Swimming does not control, hire

1 coaches. We don't do background checks. We've never
2 had a mandate, was your question. And --

3 MR. CURRAN: Okay.

4 MR. PYLITT: -- I think he's answered that.

5 MR. CURRAN: And I'm trying not to be
6 duplicative.

7 MR. PYLITT: No, no.

8 MR. CURRAN: I'm trying to -- you know, I have a
9 number of questions. I just want to get through
10 them. And --

11 MR. PYLITT: Sure.

12 MR. CURRAN: And if I do -- you know, if I do go
13 over this same territory a couple of times, you know,
14 I apologize. But I'm not trying to be difficult.
15 I'm just trying to come at it from a different angle
16 and understand Mr. Wielgus' testimony. Okay? Are we
17 okay?

18 MR. PYLITT: I think --

19 MR. CURRAN: I'll try and move on.

20 MR. PYLITT: Sure.

21 Q To Mr. Pylitt's point, there has not been, nor is
22 there, a mandated reference check program in place by
23 USA Swimming, mandated to its local clubs, correct?

24 A The answer to that question is yes.

25 Q Right.

1 A But as I -- I think it's important, though, for me to
2 kind of append to that that the -- this whole issue
3 is an evolution. And there's a line of kind of what
4 we do today and what we might consider doing in the
5 future, just as there was a line a year ago, two
6 years ago, ten years ago.

7 So as we continue -- as we grow as an
8 organization and as we continue to try to address and
9 anticipate issues that ought to be of importance to
10 us, these -- everything becomes on the table going
11 forward. So just because we didn't do something
12 before doesn't mean we'll do it in the future. But I
13 would just close by saying, on the issue of reference
14 checking, we've always recommended that, always. But
15 we have not mandated it.

16 Q And when you say that you've always recommended
17 reference checking, is that in writing to your co --
18 to your local swim clubs? No, to your -- yeah, your
19 local swim clubs? I mean, is that in writing to
20 them?

21 A It is in writing to them in the sense that in the
22 background screening materials provided to all clubs,
23 it clearly states that the back -- the criminal
24 background screening is not to be considered a
25 substitute for preemployment screening and reference

- 1 checking.
- 2 Q The -- and I understand what you're saying, Chuck,
- 3 that, you know, the local clubs are running their own
- 4 show, and they should do things right. I understand
- 5 what you're saying.
- 6 A Right.
- 7 Q But, for example, a coach-owned club -- because
- 8 there's coach-owned clubs, correct?
- 9 A Right.
- 10 Q And a coach-owned club is a little different than a
- 11 parent-governed club, correct?
- 12 A Uh-huh.
- 13 Q Is --
- 14 A Yes.
- 15 Q -- that correct? And a coach-owned club is a club
- 16 that's obviously owned by the coach, correct?
- 17 A Yes.
- 18 Q Okay. And the coach of a coach-owned club would have
- 19 to be approved by USA Swimming before you become a
- 20 coach-owned club, correct?
- 21 A Yes.
- 22 Q Okay. And back before 2000 there was no requirement
- 23 that any references be taken of a coach-owned -- a
- 24 coach of a coach-owned club, correct?
- 25 A Yes.

1 Q And there was no background screening process in
2 place back in 2000 or before for a coach-owned club,
3 correct?

4 A Correct.

5 Q And there was no -- there was no clearinghouse at USA
6 Swimming for anybody to check on a particular coach,
7 correct?

8 A Correct.

9 Q And there was no way for LSCs, Local Swim Committees,
10 to check back with USA Swimming, before 2000, about a
11 coach or references, correct?

12 A I think that is correct, yes.

13 Q And you'll agree with me that a coach-owned club is
14 more autonomous, meaning that if it's owned by a
15 coach, there may not be hiring committees and parents
16 governing the board, like a parent-governed club,
17 correct?

18 THE VIDEOGRAPHER: Excuse me. Can we go off
19 record for a second.

20 (A discussion was held off the record.)

21 THE VIDEOGRAPHER: We're back on the record.

22 Thank you.

23 Q I think the last question that I asked you, Chuck,
24 was, with regard to a coach-owned club, you may not
25 have -- a coach-owned club would be perhaps more

- 1 autonomous than a parent-governed club in that there
2 may not be hiring committees, reference checks, and
3 all those thing. You'll agree with that, correct?
- 4 A I would agree that a coach-owned club could be more
5 autonomous, yes.
- 6 Q Right. And that back before 2000, say with regard to
7 a coach-owned club, there was no requirement for
8 reference checks of the coach of a coach-owned club,
9 correct?
- 10 A No requirement, no.
- 11 Q And there was no methodology to, or I think I used
12 clearinghouse in USA Swimming, to get information
13 about a coach of a coach-owned club, correct?
- 14 A That would be correct.
- 15 Q And there was no reference check requirement done by
16 USA Swimming before approving a coach of a
17 coach-owned club, correct?
- 18 A We would not do reference checking for an independent
19 club hiring --
- 20 Q Meaning that a coach --
- 21 A -- individuals.
- 22 Q -- could become -- I'm sorry. A coach could become a
23 coach/owner of a coach-owned club back in 2000 or
24 pre-2000 with no background screening done and
25 reference checking done, correct?

- 1 A That would certainly be possible, yes.
- 2 Q And then he would be a coach member of USA Swimming
3 and owner of a coach-owned club with both no
4 reference checking and no background checking,
5 correct?
- 6 A Correct. But certainly subject to the organization's
7 Code of Conduct and complaint-filing procedures.
- 8 Q This TCLogic company that you talked about, is there
9 any employee or member of the Board of Directors of
10 USA Swimming that has anything to do with that
11 company, in terms of ownership interest or anything
12 like that?
- 13 A Absolutely not.
- 14 Q Okay.
- 15 A At least to the best of my knowledge. If there --
16 we'd have a conflict of interest, if there was.
- 17 Q That's what my question was. Is there -- who pays
18 the cost of these -- this background screening?
- 19 A The person who is being screened pays the cost of
20 that.
- 21 Q And what is the cost?
- 22 A I think it's \$21.
- 23 Q Okay. Does USA Swimming benefit financially at all
24 from their relationship with TCLogic?
- 25 A I don't -- I don't believe we benefit at all. It's

1 certainly not a line item in our budget. There may
2 be a small surcharge fee there to cover
3 administrative costs. But beyond that general --
4 general information, I'm not aware of -- no. I mean,
5 it is not a -- not a revenue source for USA Swimming.

6 Q Okay. And if it comes back positive, this background
7 screening that you talked about, what happens?

8 A Well, if it comes back positive, the individual is
9 not eligible to become a member.

10 Q Okay. And have -- have -- have background screening
11 checks come back positive?

12 A They have. I don't know how many, but I know some
13 have. And I also suspect that because we are now
14 doing background screening, that that, in and of
15 itself, has been something of a deterrent to
16 individuals who might have an issue in their
17 background, where they would decide to go coach
18 another youth sport, if they were so inclined.

19 Q Okay. Was -- was the impact on coaches discussed at
20 all before implementing this background screening
21 process?

22 A You know, as with -- as with any -- anything that's
23 new that involves change, that involves policies,
24 there is often vigorous discussion and debate about
25 the development of new programs or policies.

1 So, yes, this was talked about at our annual
2 convention and within a House of Delegates meeting
3 and at various times -- excuse me -- throughout the
4 period from the spring of 2003 through the actual
5 adoption of the proposal to initiate background
6 screens.

7 Q Did -- did every coach who -- did every coach have to
8 go through the background screening process?

9 A Yes.

10 Q Even if they were existing coaches?

11 A That is correct.

12 Q Did you lose coaches as a result of it?

13 A I don't think so. I think our -- we have had -- no,
14 there -- I can't -- I don't know for sure. But if we
15 had seen a significant drop in coaches, someone would
16 have -- I would have been, I think, alerted to that
17 or have knowledge of that. I think our coaching
18 population has been pretty steady, in terms of
19 numbers, over the last ten or fifteen years.

20 Q To the best of your knowledge, have any high-level
21 National Team coaches ever been suspended by USA
22 Swimming for having sexual conduct -- contact with
23 minors?

24 A Can you ask that question one more time? I want to
25 make sure I got it right.

1 Q To the best of your knowledge, have any high-level,
2 for instance, National Team coaches, ever been
3 suspended for having sexual contact with minors?

4 MR. PYLITT: Again, I'm going to object to the
5 relevancy of the question and object to the form of
6 the question about what a high-level coach is. And
7 because the allegations in this case involve a secret
8 filming, I believe the relevant question is whether
9 or not any coach has been suspended for filming a
10 swimmer.

11 MR. CURRAN: Well --

12 MR. PYLITT: So I would object to the form of the
13 question and the relevancy of the question.

14 MR. CURRAN: Well, I appreciate your objection,
15 but I assume you're not telling Mr. Wielgus not to
16 answer the question?

17 MR. PYLITT: No.

18 Q You can answer the question.

19 A I guess what I'm -- kind of where I'm stuck on this
20 is, you know, high-level National Team coach, whether
21 we're talking about staff or volunteers. And any
22 athlete that makes a National Team, whoever their
23 personal coach is, is considered to be a National
24 Team coach. So there's -- there's kind of segments.

25 Q Take it in its broadest possible way.

1 A In its broadest possible way, as I've just
2 articulated the breadth of that, the answer would be
3 yes.

4 Q Who -- who was that?

5 MR. PYLITT: I'm going to object to the relevancy
6 of that question.

7 Q You can answer it.

8 MR. PYLITT: I'm going to instruct him not to
9 answer.

10 MR. CURRAN: You're going to instruct him not to
11 answer that question?

12 MR. PYLITT: Uh-huh.

13 MR. CURRAN: On what basis?

14 MR. PYLITT: Relevancy to the allegations in your
15 five counts in 2000 of filming by Hindson at
16 Westfield High School of your client.

17 MR. CURRAN: But -- well, look, I don't want to
18 stop the deposition. I want to keep moving.

19 MR. PYLITT: That's fine.

20 MR. CURRAN: But, you know, we've got to come
21 back to that, Buddy.

22 MR. PYLITT: That's fine.

23 MR. CURRAN: No, just a minute.

24 MR. PYLITT: We can call the magistrate.

25 MR. CURRAN: Well --

1 MR. PYLITT: We can do it at the end of the
2 deposition. We can --

3 MR. CURRAN: It's going to take time.

4 MR. PYLITT: That's fine.

5 MR. CURRAN: And I'd rather keep moving.

6 MR. PYLITT: Okay.

7 MR. CURRAN: We'll do that later.

8 Q I had the opportunity to watch your interviews on
9 20/20 and ESPN. And I think -- and tell me if I'm
10 paraphrasing or if I'm wrong -- that you had said on
11 the ESPN interview that certainly victims should
12 report allegations of sexual abuse to the police,
13 correct?

14 A To be honest, I haven't seen -- I haven't seen it.
15 But I recall certainly in the unedited interview
16 session that I said that, yes.

17 Q Right. And then you -- my -- when I watched it --
18 and I watched it on the computer -- said that, that
19 if things were reported to you or to USA Swimming,
20 that you would report them to law enforcement.
21 That's what I saw when I saw your interview.

22 MR. PYLITT: Can I get some clarification about
23 whether it was the 20/20 or the ESPN interview.

24 MR. CURRAN: ESPN.

25 MR. PYLITT: Okay.

- 1 A Could you repeat that one more time, please.
- 2 Q When I watched your interview --
- 3 A Right.
- 4 Q -- you said that certainly you, or USA Swimming,
5 would report instances to law enforcement if you
6 learned of them. Do you recollect that?
- 7 A To be honest, I don't recollect precisely what I said
8 related to that.
- 9 Q All right.
- 10 A I mean --
- 11 Q And I think we touched on it earlier. And I asked
12 you, if you remembered, has USA Swimming ever
13 reported instances --
- 14 A Right.
- 15 Q -- of sexual misconduct or sexual abuse to the
16 police.
- 17 A Right.
- 18 Q And I think you said you did.
- 19 A We did, yes.
- 20 Q And I think I asked you how many times you did.
- 21 A Right.
- 22 Q And you don't know; is that correct?
- 23 A I said we -- well, I didn't say this. I know of at
24 least one instance when we did.
- 25 Q Okay. Was that person ultimately convicted or pled

1 guilty?

2 A That's an ongoing matter. It's an ongoing
3 investigation.

4 Q Okay. Is -- so is that person behind bars?

5 MR. PYLITT: Mr. Curran, I would object to the
6 relevancy of those questions. They have absolutely
7 nothing to do with the allegations in this complaint
8 involving Brian Hindson filming your client in 2000.

9 Further, any ongoing investigation would involve
10 the privacy of the victim, the alleged victim.

11 And, further, under the Amateur Sports Act that
12 Mr. Wielgus testified about, until there has been a
13 final administrative determination, whether the coach
14 is still coaching or not coaching, as I understand,
15 he has due process rights. So there are
16 confidentiality issues involving the allegations
17 against the coach. There are confidentiality issues
18 and privacy issues involving the alleged victim.

19 And, finally, none of anything that's happening
20 today has anything to do with whether USA Swimming
21 was liable in 1999, 2000 for what they're accused of
22 doing to Brooke Taflinger.

23 And I will instruct him not to answer any
24 questions about any ongoing allegations,
25 investigations, Boards of Reviews that are pending

1 today.

2 Q Fine. Let's move on. Did -- to the best of your
3 knowledge, has USA Swimming, you or USA Swimming,
4 ever reported instances of sexual misconduct or
5 sexual abuse to police that have resulted in guilty
6 pleas or guilty verdicts?

7 MR. PYLITT: And, again, the same objection, that
8 that has nothing to do with the allegations of what
9 occurred to Brooke Taflinger in 1999.

10 Q Well, let's talk about before -- before 1999 or 2000,
11 to the best of your knowledge.

12 MR. PYLITT: Just -- the objection would be to
13 the form about -- are you talking about any sexual
14 allegation, or are you talking about secret filmings,
15 since the issues in this case involve only secret
16 filming?

17 MR. CURRAN: Well, secret film -- Buddy, secret
18 filming is a form of sexual misconduct by a coach.
19 And I'm asking about instances of sexual misconduct
20 by a coach. And I'm now having my question -- I've
21 now directed him to answer my question before 1999 or
22 2000, which would be absolutely relevant as to USA
23 Swimming's role and conduct, if and when they learned
24 about that type of activity and what they did about
25 it.

1 I mean, filming is filming. I agree with you.
2 But it's a form of sexual misconduct by a USA
3 Swimming-approved swim coach and a coach-owned club.
4 And I think it's highly relevant. Are you directing
5 him not to answer that question?

6 MR. PYLITT: I'm not sure I know what your last
7 question was. I apologize.

8 MR. CURRAN: My question is, before 1999 or 2000,
9 does he have any recollection or instances of when
10 USA Swimming reported a coach for sexual abuse or
11 sexual molestation or sexual misconduct that resulted
12 in a guilty plea or guilty verdict.

13 MR. PYLITT: You may answer.

14 A I have no knowledge that that happened. And, as I
15 mentioned previously, we have always, always urged
16 anyone who's filing a complaint, if that complaint
17 involves criminal activity, to go to the appropriate
18 police authorities.

19 Q And not talking about ongoing investigations or
20 ongoing matters or anything like that, but from 1999
21 or 2000 forward, excluding any ongoing investigations
22 for any persons, for the reasons Mr. Pylitt said, do
23 you know of any instances where USA Swimming has
24 reported to police authorities instances of child sex
25 abuse or molestation or inappropriate conduct to

1 police that have resulted in either guilty pleas or
2 guilty verdicts?

3 MR. PYLITT: Same series of objections about the
4 relevancy. I'd instruct him not to answer.

5 MR. CURRAN: You're instructing him not to answer
6 that question?

7 MR. PYLITT: Yes.

8 THE VIDEOGRAPHER: Excuse me. About five minutes
9 left of tape.

10 Q So, just so I'm clear -- and I understand
11 Mr. Pylitt's instruction not to answer my last
12 question, so I'm trying to make it different.

13 So you're telling me that you have a recollection
14 of USA Swimming reporting instances of sexual
15 misconduct, correct, but you just don't know how
16 many?

17 A I -- to be precise, I have an understanding that we
18 have reported at least one situation to the police.
19 I think I have to qualify or provide some qualifying
20 statement to that, which is when I receive a
21 complaint, the process is that I immediately turn
22 that complaint over to our legal counsel to initiate
23 an investigation. And it may very well be that in
24 that process, that I am not part of, information is
25 shared with law enforcement authorities. I'm just

1 not aware of it.

2 Q Okay. That actually leads me to another line of
3 questioning. I want -- I want to find out about what
4 happened -- and you've touched on it, and we're going
5 to talk about it in some greater detail.

6 When you, you or USA Swimming, gets a complaint
7 that -- that a coach is engaged in some type of
8 sexual misconduct -- it may not be criminal yet. It
9 may not be reported to the police yet. It may not
10 have resulted in a guilty plea yet. It's just a
11 complaint by someone. It could be a coach, another
12 coach. It could be a swimmer. It could be a parent.
13 What is the process? What happens?

14 A Well, in most cases, and I would almost go so far as
15 to say in the vast majority of cases, when we get a
16 complaint related to sexual misconduct, it comes
17 after the situation has been reported to the police.

18 Q But not in every instance, correct?

19 A But not in every instance. And in those instances
20 where it's not, what usually happens, if not always,
21 is that there is an expedited or emergency hearing,
22 National Board of Review hearing, held to address the
23 matter.

24 And, in fact, I can think of at least one
25 instance in which a coach was arrested, charged, went

1 to trial, was acquitted, and we still instituted a
2 National Board of Review and banned that coach for
3 life.

4 MR. LITTLE: We have to change tapes real quick.

5 THE VIDEOGRAPHER: This marks the end of tape one
6 in the deposition of Charles Wielgus. We are off the
7 record at 10:18.

8 (A recess was taken.)

9 THE VIDEOGRAPHER: We are back on the record.
10 This is the start of tape number two in the
11 deposition of Charles Wielgus. It is 10:19.

12 Q Mr. Wielgus, I think you told me that if a complaint
13 comes in, you immediately hand it over to your legal
14 department, correct?

15 A Yes.

16 Q And -- and the legal department then does the
17 investigation; is that correct?

18 A Well, first clarification, we don't have a legal
19 department at USA Swimming. It goes to our outside
20 legal counsel.

21 Q Okay.

22 A And --

23 Q Does the outside legal counsel do the investigation?

24 A No. They employ --

25 Q Investigators?

- 1 A -- a professional investigator.
- 2 Q Professional private investigators?
- 3 A Correct.
- 4 Q Okay. Why -- why don't you guys do your own internal
5 investigation? Why do you hand it over to a law --
6 outside law firm, who hires investigators? Why don't
7 you just do your own internal investigation?
- 8 A The -- maybe two reasons I can think of. The first
9 would be we're not equipped, trained or have the
10 expertise to do that.
- 11 And second is that it also creates some level of
12 independence. So we've got those people who are
13 experts and knowledgeable in that area doing that
14 work.
- 15 Q And then is the results of that investigation given
16 back to you or to other people at USA Swimming?
- 17 A The results of that investigation are shared with the
18 President of USA Swimming and the Chairman of the
19 National Board of Review Committee.
- 20 Q To the best of your knowledge, how many of those
21 investigations were performed before 1999?
- 22 A I don't know specifically. My kind of observational
23 knowledge of this is that, during 1997 and my first
24 three or four years in the position, there were very
25 few of these complaints that came forward.

1 As we moved into the mid-'90s, there were a few
2 more. And over time there have been more complaints
3 coming forward, which -- well, I won't speculate on
4 what the reason for that is. But I think, again,
5 that has evolved over time, that we've gotten more
6 complaints. And I think our efforts to try to
7 address those issues has subsequently evolved over
8 time.

9 Q So my question is before 1999 do you know how many of
10 these investigations were performed?

11 A I do not, no.

12 Q Between 1999 and 2006, when the background screening
13 process was implemented, do you know how many of
14 these investigations were performed?

15 A Not precisely, but --

16 Q Approximately?

17 A It may have been in the neighborhood of ten to
18 twenty. And I'm -- I'm not completely comfortable
19 with that answer, but it's --

20 Q Did any of those investigations result in law
21 enforcement authorities being contacted by USA
22 Swimming?

23 A I don't -- I don't know.

24 Q Did any of those investigations result in a lifetime
25 ban on any coaches?

1 A I believe so, yes.

2 Q How many?

3 A I don't know off the top of my head. Excuse me.

4 Between what time frame again?

5 Q Well, I was just talking about between 1999 and 2000

6 and the implementation in 2006 of the background

7 screening process.

8 A There were certainly coaches banned during that time.

9 I don't know the precise number.

10 Q You had said in, I think, both of your interviews

11 that USA Swimming has banned -- I think the number

12 was thirty-three or -- swim coaches; is that correct,

13 or persons?

14 A For sexual misconduct, it's in the mid-thirties.

15 Q Were some of those persons -- and there's a list, and

16 I think you've posted the list; is that correct?

17 A We're getting ready to post the list.

18 Q You haven't posted the list yet?

19 A This is something that we have not done in the past.

20 And as we have -- as we are working to analyze,

21 review, assess where we are and engage outside

22 experts to help us determine perhaps where we should

23 consider going in the future, one of the iterative

24 steps we have taken -- and this was approved by the

25 swimming Board of Directors on May 1, two weeks

1 ago -- was to publish a list of those coaches, and
2 others, who have been banned for life from USA
3 Swimming.

4 And we're in the process now of double, triple
5 checking that list to make sure that when we do
6 publish it, we have got it exactly right. And I
7 anticipate that happening fairly soon.

8 Q The -- the mid-thirties number that you told me that
9 you plan on publishing soon, are there names on that
10 list whose sexual -- by the way, that list is just
11 for persons who have been banned for life for sexual
12 misconduct, correct?

13 A No. The list will include also individuals, coaches
14 and otherwise, who have been banned for life for
15 other reasons.

16 Q Okay. I understand that. And -- and how -- what I'm
17 interested in is how many persons on the list have --
18 would have been, will have been, banned for life for
19 sexual misconduct?

20 A It's, like, mid-thirties.

21 Q Right. So the list of persons banned for life for
22 sexual misconduct would be mid-thirties, but the list
23 itself could be a hundred; is that correct? I don't
24 know the numbers.

25 A The final list will be more in the mid-forties.

1 Q Okay. So I will exclude the people that were, you
2 know, changing swim times or doing other bad things.
3 I just want to talk about persons banned for sexual
4 misconduct.

5 Are some of the persons on that list that have
6 been banned for life for sexual misconduct, did
7 that -- did some of those persons, or those coaches,
8 whatever, were their -- was their sexual misconduct
9 before 1999 or 2000?

10 A I honestly don't know.

11 Q Have you reviewed the list?

12 A I have -- I have perused an early version of the list
13 that's now being put together by our staff, in
14 cooperation with our outside legal counsel.

15 Q And, again, I know -- I know you haven't released the
16 list yet, and you haven't posted it on your Web site,
17 and you're trying to check to make sure it's right
18 because you wouldn't want somebody's name appearing
19 in it --

20 A Correct.

21 Q By the way, is that list going to be demarcated two
22 ways? Is it going to be this is the group of people
23 that have been banned for life for sexual misconduct
24 and these are people banned for other reasons, or is
25 it just going to be all lumped in together?

1 A No, it'll -- it will be demarcated, really, by three
2 things. One, the individual's name. Two, the state
3 they resided in at the time they were given a
4 lifetime ban. And three will be a specific
5 identification of those sections of the Code of
6 Conduct under which they were banned.

7 Q To the best of your knowledge, any of the people that
8 appeared on the banned-for-life list for sexual
9 misconduct -- because that's really all I'm concerned
10 about --

11 A Right.

12 Q -- with you, Chuck. Do you know if any of those
13 people had been reported to law enforcement
14 authorities by USA Swimming?

15 A I don't know the answer to that. They were not
16 reported by me. They could have been reported by our
17 legal counsel and I'm just not aware of that.

18 Q Or reported by somebody before you were there,
19 correct?

20 A Or reported by someone before I was there, yes.

21 Q Okay. So until we see that list, I think -- I would
22 like to go through that list with you right now, but
23 I can't because I don't have the list. And I know
24 you've seen -- you might have perused the list
25 quickly, but we're not going to talk about names --

1 A Right.

2 Q -- now because that probably wouldn't be right. But
3 I know -- I know some of the names that are probably
4 on that list, and so do you.

5 Is it safe to say that you're aware that some of
6 the names on that list were on that list for conduct
7 pre-1990 or 2000?

8 A 1990?

9 Q 1999. I'm sorry.

10 A Okay.

11 Q Thank you.

12 A I think it's safe to say that, but I don't think the
13 number is probably too many.

14 Q Okay. And do you know if any of the names on that
15 list have pending criminal investigations against
16 them or criminal cases against them? Or would they
17 not be on that list yet?

18 A They would probably -- they would -- to the best of
19 my knowledge, they would not be on that list yet
20 because when there is a pending criminal allegation,
21 we usually let our process follow that.

22 Q For example, in this case, Brian Hindson, I assume
23 his name is on the list, correct?

24 A His name is on the list.

25 Q Right.

1 A Yes.

2 Q And other persons that would, say, for example, be in
3 jail presently, after having pled guilty to a sexual
4 offense, their name would be on the list, too?

5 A Yes.

6 Q And persons that -- well, let me ask you this. Are
7 there persons on the list who were not -- who did not
8 plead guilty to a sexual crime with law enforcement?

9 A Yes.

10 Q Okay. So it's not a strict requirement that a person
11 be found guilty or plead guilty to a sexual criminal
12 offense to be on that list, correct?

13 A That's correct.

14 Q So that -- that there -- there could have been
15 persons whose names appear on that list that were
16 never prosecuted by criminal law enforcement
17 authorities, correct?

18 A That's correct.

19 Q And they're on that list because there was -- there's
20 ample evidence, through any investigations done by
21 USA Swimming and/or its lawyers and/or investigators,
22 that USA Swimming was -- felt strong enough to expel
23 that person for life, even though there was no
24 criminal conviction or criminal guilty plea, correct?

25 A That's correct.

- 1 Q Meaning that the evidence was overwhelming that they
2 had engaged in inappropriate sexual contact or abuse
3 or molestation or advances such to satisfy the USA
4 Swimming organization that that person should be
5 banned for life, correct?
- 6 A I'm -- I'm not so sure. Again, I'm trying to listen
7 very carefully to your words. And I hate to ask you
8 to repeat that question again, but I think in the way
9 you asked it, the best answer I could give you is
10 possibly not.
- 11 Q Meaning possibly not -- I'll -- it was a complicated
12 question. That's fair.
- 13 A But I think I followed it.
- 14 Q I know you did. You're a smart guy. And I think --
15 I think I understand your answer. But let's try and
16 break it down a little bit.
- 17 A Okay.
- 18 Q And I know the list is not finalized yet, but --
- 19 A Right.
- 20 Q -- you're right with me. You know what we're talking
21 about, is that there may be persons whose names will
22 appear on that list that, A, were not -- did not
23 plead guilty or found guilty of any sexual criminal
24 offense, correct?
- 25 A Right.

1 Q But USA Swimming banned them for life, has banned
2 them for life, because USA Swimming's investigation
3 revealed that they either breached the Code of
4 Conduct or were engaged in inappropriate sexual
5 conduct, enough that USA Swimming wanted to ban them
6 for life, correct, and chose to ban them for life,
7 correct?

8 A There -- it is -- I think it is possible, I don't
9 know this for a fact, but that in the same way that
10 some victims may be hesitant to want to put
11 themselves through what might be a very difficult,
12 uncomfortable process, which is why, up to this
13 point, our general operating principle has always
14 been to encourage the victims to report it to the
15 police, there may be some individuals who just don't
16 want to put themselves through the process of going
17 through a National Board of Review and might simply
18 might want to walk away and allow themselves to be
19 put on the list.

20 I'm not saying that's happened, but I don't think
21 that's not an unrealistic scenario.

22 Q Okay. So that -- I understand what you're saying.
23 There's some people that kind of just give up and
24 walk away and say ban me for life because I don't
25 want to go through the whole investigation?

1 A Right.

2 Q Maybe they're caught red-handed and they don't want
3 to go through it, or maybe they -- maybe they're not
4 caught red-handed, but they just don't want to go
5 through it.

6 A Right.

7 Q Is that correct?

8 A I think that's -- that's correct. That's what I was
9 trying to say.

10 Q And some of those people's names will appear on the
11 list, correct?

12 A I think that's possible, yes.

13 Q Okay. But certainly, even those people, the people
14 that maybe chose to walk away, they were somehow
15 confronted by USA Swimming that, hey, we have this
16 complaint, we want to see if there's merit to the
17 allegations, there was some investigation done by
18 your investigative people, and you felt that it was
19 appropriate to start the processes to ban the person
20 for life, correct?

21 A Correct.

22 Q So in order to start the processes to ban a person
23 for life, USA Swimming would have to have done some
24 type of investigation to feel comfortable that that's
25 what USA Swimming wanted to do, correct?

1 A Not in every instance. And I say that because I can
2 think of at least one instance where we did not go
3 through that process because information was shared
4 with me. I confront the individual. The individual
5 says I don't want to go through this whole thing.
6 Don't conduct an investigation. I will accept the
7 ban for life.

8 Q So I know there's every shade of gray that you deal
9 with here.

10 A Right.

11 Q You deal with the people that are behind bars, like
12 Brian Hindson. You deal with allegations where --
13 where your investigation -- investigators do an
14 investigation. Some people fight hard not to be
15 banned, and other people just give up, correct?

16 A I think that's fair to say.

17 Q And everything in between, correct?

18 A I think that's fair to say, yes.

19 Q So when I ultimately see this list, I'm going to
20 see -- when I ultimately see this list and I look at
21 each person and do our own investigation as to why
22 that person's name appeared on the list, I'll
23 probably see all those things there, correct? People
24 have just walked away, people have fought hard, and
25 people were behind bars or are behind bars?

1 A Yes.

2 Q Okay. And when I look at that list, I'm going to see
3 some people whose sexual misconduct is in 1999 or
4 2000 and to present, and I'm going to see some people
5 whose sexual misconduct allegations were before 1999
6 and 2000, correct?

7 A I think that's correct, yes.

8 Q And certainly each case stands on its own. But I'm
9 sure you'll agree with me that when I see that list
10 of the people that have been banned for life, in
11 every instance it involved some type of sexual
12 misconduct between a coach and a swimmer. Would you
13 agree with that?

14 A No.

15 Q Okay.

16 A I would not.

17 Q Because there's other -- there's others besides
18 coach/swimmer?

19 A Yes.

20 Q Okay. But would you agree with me that the majority
21 are coach/swimmer?

22 A Yes.

23 Q So there's -- you know, "the problem," the problem
24 that we're talking about here, the reason you and I
25 are talking today about this coach/swimmer problem,

1 whether it's filming or whether it's inappropriate
2 sexual advances or inappropriate sexual contact or
3 molestation, is mostly a coach/swimmer scenario?

4 A Well, we're talking about, at the macro level, a
5 societal problem. And we're talking, at a micro
6 level, about how USA Swimming is seeking to address
7 this issue in the best way it can at a micro level.

8 Q Right. It's mostly coach/swimmer, correct?

9 A Yes.

10 Q And it's mostly male coach/female swimmer, correct?

11 A That -- that -- that would be fair to say, yes.

12 Q In fact, I'm not aware of any situations that
13 involves other than female swimmers. Are you?

14 A I am.

15 Q Okay. Okay.

16 A Yeah.

17 Q That's another whole deposition maybe for another
18 day.

19 A Please, no.

20 Q I want switch gears a little bit. USA Swimming has
21 the power and authority to expel coaches, correct?

22 A That is -- the ultimate power we have is to expel or
23 deny membership to an individual.

24 Q And when I say expel -- because there's also ban
25 coaches, correct?

1 A Correct.

2 Q And you'll agree with me that USA Swimming has the
3 power and authority to exert certain controls over
4 its members, correct?

5 MR. PYLITT: I'd object to the form of the
6 question, what the word control means.

7 Q Well, for example, things like drug testing or
8 background checks, things like that.

9 A I certainly don't interpret that as control. I think
10 there are -- when you talk about drug testing, as an
11 agreement on the part of USA Swimming to maintain its
12 good standing with the U.S. Olympic Committee, we
13 have certain obligations. And among those
14 obligations are that an elite pool of athletes have
15 to agree to make themselves available to both in- and
16 out-of-competition drug testing. And that is
17 something that we pass on down from the U.S. Olympic
18 Committee to our elite-level athlete population.

19 But I've never viewed that as control. I view
20 that as part of something they have to make
21 themselves available to if it is their desire to, at
22 some point, represent the United States in
23 international competition.

24 Q Okay. So it's an edict or a mandate or an ultimatum.
25 You either have to go through the background

1 screening process or you can't coach for USA
2 Swimming, correct?

3 A That is -- to become eligible for USA Swimming
4 membership, you need to -- a coach, in this case,
5 needs to have certain safety certifications, complete
6 certain educational requirement, and successfully
7 complete the criminal background screening process.

8 Q Right. And USA Swimming controls those requirements,
9 correct?

10 A USA Swimming administers those requirements.

11 Q And they administer them because they require them?

12 A We require those as eligibility -- as a minimum --
13 minimum standard for qualification for eligibility of
14 membership.

15 Q Obviously you don't like the word control. But it's
16 a mandate. You either go through the criminal
17 background screening or you don't coach for us,
18 correct?

19 A Yes.

20 Q And you either go through drug testing or you don't
21 swim for us, correct?

22 A Yes.

23 Q The guy in this case, Brian Hindson, my understanding
24 is that he was a zone coach for USA Swimming. And I
25 think I know what it means, but, you know, you're the

1 guy. A zone coach -- well, first of all, what's a
2 zone coach? Maybe you can help me with that.

3 A I'm not really sure. My -- U.S. swimming -- the
4 country is divided up into four zones, and we have
5 sectional competitions. And Brian Hindson may have
6 been a member of a zone-coaching select team at some
7 point in time.

8 Q I'm not making that up. That's what Arlene McDonald
9 and Lynn Kinstler told me in their depositions.

10 A And they would certainly know much more about that --

11 Q Right.

12 A -- than I would. I mean, my -- my -- my involvement
13 with our -- my involvement is really at the elite
14 level with our athletes and coaches. And we're
15 talking about something that's happening that --
16 other -- other individuals on our staff in our
17 organization really deal with that.

18 Q Right. So -- and I know that the way swimming works
19 is, you know, you have -- you have, you know, the
20 little-kid swimmers that become the teenage swimmers,
21 and then ultimately you find the Michael Phelps of
22 the world. I guess that's the idea. That's --
23 that's -- as a casual observer of swimming on TV,
24 that's what it seems to me. And I know you have
25 these competitions to find out who the better

1 swimmers are.

2 A Right.

3 Q You know, state meets and then zone meets and then
4 national meets. That's how you find out who the
5 fastest swimmers are.

6 A Yes.

7 Q But when Arlene McDonald told me, and Lynn Kinstler
8 told me, that Brian Hindson was a zone coach for USA
9 Swimming, at USA Swimming-sanctioned swim meets, my
10 question -- and, again, I'm trying to get to the end
11 because I don't know. Maybe you don't know either.
12 Would he be considered on staff for USA Swimming when
13 he's a zone coach?

14 A No, not at all. That -- the selection process for
15 that is something that we would -- we don't do at the
16 national level. That would be something that would
17 happen at the Local Swim Committee level or within
18 that zone. But that's -- to the best of my
19 knowledge, we have never selected zone coaches or LSC
20 coaches to represent select teams.

21 Q The reason I'm bringing this up, Chuck, is that they
22 told me he was paid to do that. And I'm trying to
23 figure out, in my head -- because it wasn't totally
24 clear to me when I talked to them.

25 A Right.

1 Q -- who paid them? Did USA Swimming pay them --

2 A We certainly did not.

3 Q -- or did the LSC pay him? Did Indiana -- I

4 don't know who's pay-- so that's what I'm trying to

5 find out, Chuck.

6 A Right.

7 Q When you move up to a zone coach, are you now under

8 this new umbrella of USA Swimming, as opposed to

9 Indiana Swimming or zone -- I'm not clear on that.

10 A We don't -- the only coaches that we pay are our

11 National Team head coach and National Youth Team head

12 coach, which are on our full-time staff. No other

13 coaches are paid or have been paid by USA Swimming to

14 represent a team. We've never done that.

15 Q Okay. Chuck, when I -- in preparation for meeting

16 you today, you know, I did some research. And there

17 was a speech that you gave at the national convention

18 for the Coaches' Association in September of '09. Do

19 you remember making that speech?

20 A I do.

21 Q And I -- I had an opportunity to read that speech.

22 And I'm going to ask you some questions about that.

23 A Okay.

24 Q In that speech you said you get calls weekly about

25 this problem. Did you say that?

- 1 A I did say that. And I subsequently tried to clarify
2 that, I think in the exuberance of the moment in
3 giving an hour presentation, I overstated it.
- 4 Q Okay. So you're saying you do not get calls weekly?
- 5 A Well, I get calls weekly --
- 6 Q Well, about this --
- 7 A -- but not about this particular topic. No, I think
8 that was a clear overstatement on my part.
- 9 Q Okay.
- 10 A I was trying to make a point, and I -- I overdid it.
- 11 Q All right. When -- when you do get these calls,
12 whether they're not weekly or bi-weekly or once
13 monthly, whenever they are, do you record -- when you
14 record -- I mean, not that you record them -- well, I
15 guess I'll ask you, do you record them?
- 16 A I don't --
- 17 Q Okay.
- 18 A I do not record them, no.
- 19 Q Do you write down or type whatever the call -- in
20 your speech that I read -- and, Chuck, I wasn't
21 there, so understand I'm just reading your
22 transcript. And I know that when you talk a lot, the
23 words come out differently --
- 24 A Right.
- 25 Q -- than you intended. But when you get these calls,

1 whenever they are, do you record them, write them
2 down somewhere?

3 A No, I don't.

4 Q Do you pass them on to -- like, if somebody calls
5 about an instance of a sexual complaint or sexual
6 molestation, anything, are they written down in the,
7 you know, sexual molestation or sexual abuse log by
8 you and immediately handed over to Legal?

9 A No. I mean, there is -- again, we're not talking
10 about a volume that's overwhelming. So when I do
11 have a conversation, I might make a note of who I
12 talked to, but usually there is an e-mail follow-up
13 that occurs. Because when I am -- when I'm talking
14 to someone, I'm saying you really need to put this in
15 writing for me. And so I then send them an e-mail
16 with my contact information. They might respond back
17 with their complaint, which I then immediately turn
18 over and put into the administrative process that
19 sends that to the legal counsel for investigation.

20 Q So if I -- if I had your computer and I had, you
21 know, a computer expert to search your computer --

22 A Right.

23 Q -- or if I asked you to do it, yourself --

24 A Right.

25 Q -- and we gave you twenty-five buzz words, key

1 words --

2 A Right.

3 Q -- for, like, sex or sex abuse or molestation or
4 advances or whatever, there would be a number of
5 them -- I don't know what the number is, and you
6 probably don't know what the number is either --
7 about these different instances of these phone calls
8 that you request an e-mail backup, or e-mail -- put
9 something in writing about, correct?

10 A Correct.

11 MR. PYLITT: Mr. Curran, let me just state for
12 the record that I will object to any further
13 questions about any complaints, any phone calls after
14 1999, 2000 as being irrelevant to the five counts
15 that are pending in this action, involving the secret
16 taping by Brian Hindson of your client. These are
17 totally irrelevant.

18 MR. CURRAN: Are you telling him not to answer
19 that question?

20 MR. PYLITT: Yes.

21 MR. CURRAN: Well, again, Buddy, again, I want to
22 keep moving here, but --

23 MR. PYLITT: I understand.

24 MR. CURRAN: But, you know, I've --

25 MR. PYLITT: Tell me what the relevancy is.

1 MR. CURRAN: Well, we've now established, I
2 think, through a conversation with Mr. Wielgus, that
3 certainly there had been knowledge and discussions
4 and complaints about sexual abuse, Child Protective
5 Services, in USA Swimming back in the '80s and the
6 '90s. So -- and we know that, you know, this
7 background screening process was enacted in 2006. We
8 know that our instance happened, we believe, in 2000,
9 1999 or 2000.

10 So I'm discussing with Mr. Wielgus -- and I think
11 we're having a nice discussion here -- about, you
12 know, the culture of USA Swimming and the things that
13 were going on in USA Swimming and what USA Swimming
14 was doing about it and is doing about it, on an
15 ongoing basis, understanding that it's a
16 developmental problem for a societal problem.

17 And so I'm not trying to be unfair to
18 Mr. Wielgus. I'm trying to get a historical
19 perspective of pre-1999 and 2000 and the problem as
20 it existed and on a going-forward basis. Because,
21 you know, our experts are going to say that some of
22 the things that have been done should have been done
23 way earlier. And some of the things that haven't
24 been done, that are being contemplated today, should
25 have been done way earlier, back as early as 1999.

1 So I think that, you know, the inquiry into what
2 are things like today and what are things like then
3 is -- it's all fair. It's all fair as to what USA
4 Swimming had been doing back in 1999 or 2000 and
5 whether or not it had the ability to implement some
6 of the things that it has implemented from 2006
7 forward and is contemplating -- contemplating
8 implementing today, you know.

9 So, you know, I understand your objection, but I
10 think that it's all part of this whole societal macro
11 problem and this USA Swimming micro problem. And I'm
12 not trying to be unfair to Mr. Wielgus. I'm trying
13 to get a handle on it.

14 MR. PYLITT: And I'm not saying you're being
15 unfair to him. I understand your position. I've
16 given you a lot of latitude to ask about procedures.
17 He's talked about task force ongoing things and works
18 in process.

19 The problem is your questions have nothing to do
20 with whether or not USA Swimming has any liability in
21 the five counts that are pending here.

22 MR. CURRAN: Well --

23 MR. PYLITT: We believe that post-2000 efforts or
24 action are totally irrelevant and have nothing to do
25 with it. I understand your position. You disagree

1 with my position. I disagree with yours. And I've
2 instructed him not to answer, so I --

3 MR. CURRAN: Well, I mean, we're going to have to
4 call the magistrate.

5 MR. LITTLE: Let's certify these.

6 MR. PYLITT: Let's have one lawyer talking. I
7 think the local practice is you can only have one
8 lawyer.

9 MR. CURRAN: But --

10 MR. PYLITT: I don't want to have to deal with
11 two people.

12 MR. CURRAN: No, I understand, Buddy.

13 MR. LITTLE: Sorry, Buddy.

14 MR. CURRAN: Buddy, what -- I think we're going
15 to have to call the magistrate --

16 MR. PYLITT: That's fine.

17 MR. CURRAN: -- at some point in time. But I'm
18 trying to get through --

19 MR. PYLITT: I understand.

20 MR. CURRAN: -- most of this because my
21 experience in calling magistrates is we're going to
22 sit here for a half-hour or an hour, if we're lucky.

23 MR. PYLITT: I agree with you. I agree with you.
24 And the more we can get done, the better. And --

25 MR. CURRAN: Right.

1 MR. PYLITT: -- it's your deposition, and I
2 certainly don't want to suggest how we should or
3 shouldn't do it, so --

4 MR. CURRAN: Right. Okay. So the last question
5 that Buddy -- that Mr. Pylitt said not to answer was
6 what? I'm sorry to put that on you. Was it about
7 the e-mail?

8 (The reporter read back as requested.)

9 Q Okay. Let's move on. In that -- I was talking about
10 that speech that I read that you gave.

11 A Yes.

12 Q You said that one of your biggest fears was that a
13 60-minute investigation would occur, linking this
14 stuff together. Do you remember saying that?

15 A I remember saying that.

16 Q Okay. Why was that one of your biggest fears?

17 A I'll just put it in the context -- I think it's
18 important to put this in the context of that moment
19 in time. This was a meeting of -- or an audience of
20 about a thousand swim coaches. And I had read in
21 that -- in the morning paper about a youth coach
22 somewhere in the Kissimmee, Florida area -- this
23 meeting took place in Fort Lauderdale -- who had just
24 been arrested on issues related to this sexual
25 inappropriate activity. So that was fresh in my

1 mind.

2 And in my comments I was asked to kind of talk
3 about some of the things that both excited me about
4 the future for the sport and concerned me about the
5 future of the sport.

6 And with that -- with the reading of that article
7 that morning -- and this was something I was actually
8 planning to comment on anyway, in response to things
9 that concerned me about the future of the sport. And
10 given that I had, I thought, what was a very
11 appropriate audience to talk to about, I shared
12 openly and honestly and without any prepared remarks
13 something that concerned me, that I have become
14 increasingly aware of over a period of time.

15 So while back in '97, '99, 2001 I might not have
16 been all that concerned about this issue because it
17 wasn't on my doorstep on a regular basis, and as time
18 went on and as a few more of these situations started
19 to surface, I became increasingly concerned. And I
20 think that mirrored the organization's evolutionary
21 development of policies and safeguards.

22 And so when it came to that September morning in
23 2009, it seemed a very relevant topic and a very
24 relevant audience with whom to share those concerns.

25 Q And when I read your speech, it talked about -- you

1 mentioned, like, Locked Up or Locked Up Raw, some TV
2 show about, you know, pedophiles being in jail.

3 A Okay. I'm not saying I didn't say it. I just
4 don't -- again, it was -- it was -- it was not a
5 prepared speech. I haven't listened to it since
6 then. I have no copies of my -- maybe I have a
7 handwritten outline of notes. So I'm not saying I
8 didn't say it, but I don't know what the specific
9 comment is.

10 Q Well, it just seemed to me, when I read it, that your
11 concern seemed to be what's going to happen to the
12 coaches rather than the victims. Do you remember
13 that being a focus of your comments?

14 A Well, I -- I guess I would -- the -- I was speaking
15 to an audience of coaches. And to -- if you're in
16 any way implying that there isn't an enormous amount
17 of concern and sympathy for victims -- I mean, I
18 trust that's not what you're implying here. I've got
19 two daughters and certainly am touched by this issue
20 in a very intimate way.

21 But I was speaking to an audience of coaches.
22 And my interest at that time was solely trying to
23 focus them on something that I thought they needed to
24 pay attention to.

25 Q Switching gears a little bit, as the Executive

1 Director of USA Swimming, you have the ult -- you're
2 ultimately responsible for the organization, correct?

3 A No, no. I'm -- I'm an Executive Director. I'm not a
4 Chief Executive Officer. And there's a very clear
5 distinction there in what the responsibilities and
6 duties are.

7 Q So it's your testimony that you're not ultimately
8 responsible for the organization and the performance
9 of USA Swimming, its coaches and its swimmers?

10 A No. Actually, I answered that question the wrong
11 way. I should answer it as a double negative. No,
12 I'm not. I don't assume those responsibilities.

13 Q Did you ever certify to that in any legal documents?

14 A Perhaps I should ask you to ask the question again.

15 Q You want me to ask you the question again?

16 A Well, I just want to make sure if I'm -- I want to
17 make sure we've got the question and answer right.

18 Q My question is, as Executive Director, are you the
19 person ultimately responsible for the organization
20 and the performance of USA Swimming, its coaches and
21 swimmers?

22 A My answer is, no, I'm not.

23 Q And then my question is did you ever certify to that
24 in any legal documents that, as the Executive
25 Director, I am the person ultimately responsible for

1 the organization and performance of USA Swimming, its
2 coaches and swimmers?

3 A I don't recall certifying to that. But if I -- if I
4 did, I would question it now, given the context of
5 this conversation that we're having.

6 Q So your testimony today, here today, is that you are
7 not the person ultimately responsible for the
8 organization and the performance of USA Swimming, its
9 coaches and swimmers; is that correct?

10 A I mean, this is a membership organization governed by
11 a Board of Directors, multiple committees. There
12 are, I think, all kinds of roles and
13 responsibilities. And as Executive Director, I don't
14 think that I am ultimately responsible for all of
15 those things. My role is much more of a manager and
16 an administrator than it is as a developer of policy
17 and -- my authorities are somewhat limited.

18 Q And you don't remember ever certifying to that
19 legally, under perjury of law?

20 A I -- I honestly don't, no.

21 Q Would you agree with me that -- well, you've already
22 told me that USA Swimming is the national governing
23 body for swimming in the U.S., correct?

24 A Yes.

25 Q And a primary objective is to win medals at the

- 1 Olympic Games every four years, correct?
- 2 A The U.S. Olympic Committee certainly feels that way.
- 3 Q Well, do you agree? Do you agree --
- 4 A I'm sorry.
- 5 Q -- that USA Swimming's primary objective is to win
6 medals at the Olympic Games every four years?
- 7 A We do not have a primary objective.
- 8 Q Did you ever certify that the primary objective of
9 USA Swimming is to win medals at the Olympic Games
10 every four years?
- 11 A Well, you're -- you're looking at a document that
12 would seem to indicate to me that I should answer
13 that question yes. But USA Swimming, in reality, has
14 three core objectives, not one. But in the context
15 of the U.S. Olympic Committee, that is the most
16 important objective, in their view.
- 17 Q The primary objective?
- 18 A I think -- I think they would make a case for that, I
19 would think, yes.
- 20 Q Do you disagree with that?
- 21 A Do I dis -- well, no, I -- USA Swimming has three
22 core business objectives, to build a base --
- 23 Q Core business objectives?
- 24 A Yes.
- 25 Q Okay.

1 A To build the base of our sport, to promote our sport,
2 and to achieve success at the international level, in
3 competition. So when I think of, you know, what is
4 my job, my job really is constructed around those
5 three core objectives.

6 Q Is one of the duties imposed on USA Swimming by the
7 USOC to generate revenue?

8 MR. PYLITT: I'm going to object to the use of
9 the word duty, calling for a legal conclusion. He
10 doesn't work for the U.S. Olympic Committee and is
11 not capable of speaking to what duties they impose
12 upon anyone.

13 Q Did you ever certify that one of the duties imposed
14 on USA Swimming by the USOC is to generate revenue?

15 MR. PYLITT: Let me also object, Mr. Curran, to
16 the relevancy of these questions. You're obviously
17 reading from a document. You believe that he has
18 certified to those. He said he doesn't remember. I
19 don't believe any of that has any relevancy to the
20 five counts that are pending in this action.

21 I'm certainly not trying to prevent you from
22 asking him about Swimming and the operation of
23 Swimming, but certainly that has nothing to do with
24 the relevancy of the issues before the Court.

25 MR. CURRAN: Are you telling him not to answer

1 the question?

2 MR. PYLITT: Yeah. Can we take a break, too?
3 It's about 11:00. We've been going about an hour and
4 a half.

5 MR. CURRAN: Yeah. Like, five minutes, ten
6 minutes?

7 MR. PYLITT: Sure. It's up to you.

8 THE VIDEOGRAPHER: Off the record.

9 (A recess was taken.)

10 THE VIDEOGRAPHER: We are back on the record. It
11 is 11:16.

12 Q I want to switch gears a little bit here. We got
13 some -- when we file a lawsuit, the other side gives
14 us some information about insurances and stuff like
15 that. And I just wanted to ask you some insurance
16 questions. This USSIC --

17 A Yes.

18 Q What does that stand for United States Swimming
19 Insurance Company or something?

20 A No, United States Sports Insurance Company.

21 Q Is there -- where are they headquartered?

22 A It's domiciled in Barbados.

23 Q And what is -- what that insurance company?

24 A United States Sports Insurance Company is a captive
25 insurance company. It's USA Swimming's captive

1 insurance company.

2 Q What does that mean?

3 A Back in 1988 many of the, if not all, of the Olympic
4 sports organizations were going through some
5 difficult times in trying to secure their own
6 insurance. And USA Swimming, at the time, made a
7 decision to create its own insurance company to
8 insure itself. And it only provides insurance to USA
9 Swimming. It doesn't provide insurance to any other
10 sports or any other entities outside of USA Swimming.

11 Q So it's called United States Sports Insurance
12 Company?

13 A Right.

14 Q Not United States Swimming?

15 A Right. And I don't know this for a fact, but I
16 suspect that when it was first conceived, it was
17 conceived with the notion that it might ultimately
18 get into business other than swimming.

19 Q Why is it in Barbados?

20 A It was set up as an offshore for legal and insurance
21 reasons that are well beyond my ability to understand
22 and comprehend.

23 Q It's a for-profit corporation, to the best of your
24 knowledge, correct?

25 A No, it's a not -- it's a not-for-profit corporation.

1 Q It has a Board of Directors?

2 A It has a Board of Directors, yes.

3 Q Are there Board of -- are there members of the Board
4 of Directors on USA Swimming and United States Sports
5 Insurance Company, on both boards?

6 A There -- we have ex officio members of the USA
7 Swimming Board of Directors who sit as voting members
8 on the Board of Directors of the -- of USSIC.

9 Q So, just so I get this straight in my head, USSIC is
10 a captive insurance company for USA Swimming?

11 A Correct.

12 Q And it's a not-for-profit insurance company, correct?

13 A Correct.

14 Q Is it a revenue stream for USA Swimming?

15 A It's a little bit of a tricky question to answer
16 because what -- the way it works is that USA Swimming
17 pays a premium to USSIC, which is what we refer to it
18 as, USSIC. And beginning six or seven years ago,
19 when USSIC had reached a point where it had what was
20 viewed to be substantial -- enough capital to offset
21 its -- what its potential liabilities might be, the
22 USSIC began paying rebate -- safety rebates back to
23 USA Swimming.

24 And most recently a decision -- a policy decision
25 was made by USSIC that instead of having the

1 situation where USA Swimming would pay the premium
2 and then they might pay back a safety rebate, that
3 they would simply focus on the premium and that, over
4 time, that premium payment might be reduced. So
5 technically it has been, for a period of six or seven
6 years, something of a revenue stream, but it's
7 also -- it's been a greater expense than a revenue
8 stream.

9 Q So -- and if I'm asking you obvious questions, you
10 know, I apologize, but I just didn't understand the
11 relationship.

12 So every member of USA Swimming has to be insured
13 by USSIC, correct, like every swimmer?

14 A Um --

15 Q It's part of the membership requirement?

16 A Right. We -- the insurance we provide to our clubs
17 is -- it's a liability insurance that covers their
18 activities, training, on the way to and from
19 competitions and so forth. And everyone -- each of
20 the athletes participating in those activities must
21 be members of USA Swimming in order to be -- for the
22 club to be covered by that insurance.

23 Q Right. I'm just trying to understand the revenue
24 streams. Are revenue streams coming in for the
25 premiums paid by the clubs and premiums paid by LSCs?

- 1 A No. Actually, our clubs do not pay us premiums.
- 2 Q They don't pay US -- USSIC premiums?
- 3 A No. Our revenue comes from membership dues.
- 4 Q When we say ours, you're talking about --
- 5 A USA Swimming. I'm sorry.
- 6 Q Okay. That's where maybe I'm getting confused.
- 7 A So USA Swimming members pay USA Swimming a membership
- 8 dues fee to become a member. Individuals pay --
- 9 Q Got it.
- 10 A -- USA Swimming -- okay.
- 11 Q Card-carrying member of USA Swimming, a little kid --
- 12 A Right.
- 13 Q -- swimming in a meet?
- 14 A And USA Swimming turns around and pays the insurance
- 15 company a premium to provide liability coverage for
- 16 its clubs.
- 17 Q So when --
- 18 A And the club is required to have all its -- to have
- 19 its activities covered by the insurance, they have to
- 20 require all their individuals to be -- they require
- 21 membership in USA Swimming.
- 22 Q Right. So USA Swimming gets membership dues from all
- 23 of its members, whether it's individual swimmers or
- 24 clubs, correct?
- 25 A Correct.

1 Q And then USA Swimming pays premiums to USSIC,
2 correct?

3 A Correct.

4 Q To provide coverage?

5 A To provide coverage, right.

6 Q And if things go well, they get -- USA Swimming gets
7 a safety rebate back?

8 A That has happened for a short period of time, in
9 recent years, yes.

10 Q Are you on the Board of Directors of USSIC?

11 A No, I'm not.

12 Q Do you go to their meeting, their Board of Director
13 meetings?

14 A I attend some of their meetings but not all of their
15 meetings.

16 Q And USSIC -- the safety rebates that I've read in
17 some of the minutes --

18 A Right.

19 Q -- of USA Swimming Board of Directors --

20 A Right.

21 Q I mean, that's where I'm getting this from, Chuck.
22 I'm reading the minutes, and I'm going what's USSIC,
23 and what's the relationship. That's why I'm asking
24 these questions. And I see sometimes sizeable
25 numbers. I think there was one that was \$750,000 or

- 1 something --
- 2 A Correct.
- 3 Q -- was a safety rebate back to USA Swimming from
4 USSIC, correct?
- 5 A Correct.
- 6 Q And that's just because it was -- there was their --
7 the money that they had was more than the claims
8 against it, so they gave a rebate back to USA
9 Swimming?
- 10 A That's essentially it. I mean, when USSIC was formed
11 in '88 and for eighteen or -- well, actually, for
12 twenty or twenty-plus years it was building up its
13 capital reserves. And somewhere probably around --
14 oh, I can't even remember, but it was probably seven
15 or eight years ago the actuarial studies for USSIC
16 indicated that the capital reserves were sufficient
17 that the captive could start paying -- releasing some
18 of its funds to the parent.
- 19 Q Right. And when we say -- you know, when you say
20 captive -- I mean, I get it. I understand what
21 you're saying. Like, they don't insure USA
22 Volleyball or USA --
- 23 A No.
- 24 Q -- Judo or USA --
- 25 A Not at all.

1 Q -- Diving. It's just USA Swimming?

2 A Correct.

3 Q And it was set up, I assume, partially because the

4 premiums on the outside market were exorbitant.

5 A That's --

6 Q Correct?

7 A -- that's exactly right.

8 Q So you figured -- not you, but USA Swimming figured

9 we can do this ourselves and essentially become, you

10 know, self-insured through forming our own captive

11 insurance company?

12 A That's exactly right. As I roughly understand the

13 history, the U.S. Olympic Committee used to provide

14 insurance for all the governing bodies. So swimming

15 was lumped in there with cycling and luge and bobsled

16 and other high-accident potential sports. And when

17 insurance premiums started going crazy, the swimming

18 leadership said, you know, maybe we can -- we're a

19 sport that really looks after itself and tries to

20 deal with issues of safety. Maybe we can do this

21 ourselves.

22 Q So -- but then the safety rebate that you get back, I

23 mean, obviously the premiums that are paid by USA

24 Swimming, those premium dollars come through the

25 memberships of all the different members.

- 1 A Correct.
- 2 Q Correct?
- 3 A Correct.
- 4 Q And then the safety rebate comes back to USA Swimming
5 as a, I guess, a shot in the arm, a revenue shot in
6 the arm?
- 7 A Well, not really because it gets budgeted. And then
8 as a non-profit organization, you know, our goal
9 isn't to generate a profit. It's to have -- just to
10 reinvest money back in our programs and services.
- 11 Q But certainly to generate revenues, if not profits?
- 12 A Yes, yes.
- 13 Q And -- and in order to generate revenues, you do it
14 through memberships, sponsorships, and you get money
15 from the USOC, correct?
- 16 A Correct.
- 17 Q And the number-one revenue generator is memberships?
- 18 A Correct.
- 19 Q Number two is sponsorships?
- 20 A Correct.
- 21 Q And number three is USOC money?
- 22 A Correct.
- 23 Q And US -- and sponsorship money, which is number two
24 on the list, is about \$4.5 million a year; is that
25 correct?

1 A It sounds about right, yeah.

2 Q Okay. And memberships is more than that?

3 A Yes.

4 Q Significantly more than that?

5 A Roughly somewhere, I think, between about 56 and 60
6 percent of our budget comes from membership dues,
7 maybe 20 percent, roughly, from corporate
8 sponsorships, about 15 percent from the U.S. Olympic
9 Committee. And then there are, you know,
10 miscellaneous sources, whether it's -- could be
11 merchandise or donations.

12 Q In terms of, you know, winning gold medals and
13 generating revenue -- and we talked about this
14 earlier, about what is the primary objective of USA
15 Swimming. And we had some colloquy about this
16 earlier, about you said what you thought the USOC's
17 thoughts were, that your primary objective was to win
18 Olympic gold medals every four years.

19 Where does swimmer safety, swimmer member safety,
20 come in that hierarchy of objectives?

21 A I don't -- I don't think you can kind of place it
22 somewhere on the totem pole and say, well, this is
23 item number three, and this is item number seven.

24 I think the notion of safety really started to
25 take serious root within USA Swimming with the

1 forming of the United States Sports Insurance Company
2 in 1988 because the leadership of USA Swimming, at
3 that time, was undertaking a huge risk. And their --
4 they had to know that their ability to succeed in
5 that enterprise was going to be directly related to
6 their ability and the impact to have as safe an
7 environment as possible for the clubs it was
8 insuring.

9 So that, I think, kind of lit the fuse on -- and,
10 again, I'm just -- this is kind of an observation
11 because I wasn't there at the time. But I think,
12 from that point on, safety became a very important
13 issue for the organization and has remained
14 continually so over time.

15 Q So you can't put them in any particular order?

16 A No, because I'd be -- I'd be doing -- I wouldn't be
17 doing a justice to something else. I can just say
18 that it's been, in my time at USA Swimming and my
19 belief well before my time at USA Swimming, that the
20 notion of safety has been very, very important.

21 Q Earlier, when we talked, you talked about this Board
22 of Review process.

23 A Uh-huh.

24 Q And tell me a little bit about that. How does that
25 take place? How does that procedure kick in?

1 MR. PYLITT: Jim, just for the -- you're talking
2 about the National Board of Review versus an LSC
3 Board of Review? Is that your question?

4 MR. CURRAN: Yes.

5 MR. PYLITT: Okay. I just --
6 A Okay. Again, this is -- and I will -- I'll speak to
7 it to the extent that I can. But I -- I'm not going
8 to have intimate details on who did what and when and
9 those sort of things.

10 But when USA Swimming developed its Code of
11 Conduct, the Board of Review process was a way for
12 people to file complaints against members who were,
13 they viewed, as being in violation of some aspect of
14 the Code of Conduct. And that complaining process
15 was a way to deal with situations that would come up
16 where a member was in violation or perceived to be in
17 violation of the Code.

18 So there are a variety of areas within the Code
19 of Conduct. And those issues that relate to, as
20 we've already talked about, sexual misconduct or
21 inappropriate drug use, come directly to the
22 Executive Director's office. There are other
23 complaints that might have to do with recruiting
24 issues that I would never see, but they go into a
25 process that allows them to be dealt with.

1 Q Did USA Swimming have reports or documentation on all
2 Board of Review cases involving sexual misconduct?

3 A What do you mean by reports or --

4 Q Well --

5 A -- documentation? I mean --

6 Q Meaning that -- for example, we were talking about
7 the mid-thirties group of people that got expelled
8 from USA Swimming.

9 A Right.

10 Q That list that I haven't seen yet, but I know many of
11 the names that are going to be on that list.

12 A Right.

13 Q Is there a file for each one of those persons?

14 A There is a file.

15 Q Okay. There's a file?

16 A Right.

17 Q So if I pulled a name out that I know is going to be
18 on that list and you know is going to be on that
19 list, there would be a file about what the
20 allegations were, what the evidence was, when the
21 alleged incident took place. And some of them took
22 place pre-1999, correct?

23 A I indicated I think -- yes.

24 Q Right. So there's a file that has, you know, what
25 the allegation was, what the evidence revealed, and

1 what the outcome was, whether it was a Board of
2 Review hearing or whether it was a voluntary
3 walk-away, correct?

4 A Right. And those files are maintained by our outside
5 legal counsel.

6 Q But they're available to you, if you want them,
7 correct?

8 A Yes.

9 Q And -- and for each person that was expelled on that
10 list, a file exists?

11 A I would absolutely believe so.

12 Q Right.

13 A Yes.

14 Q I mean, you're not going to expel somebody without
15 any documentation --

16 A Right.

17 Q -- proof or --

18 A Right.

19 Q -- substantiation of allegations, correct?

20 A I say I believe so only because I haven't seen them,
21 I haven't read them all, but I absolutely believe
22 they exist.

23 Q And you can make them available to your lawyer, if
24 you so chose, correct, or if he requested it of you,
25 correct?

1 A Yes.

2 Q Were you ever asked to produce any of those documents
3 for this lawsuit?

4 MR. PYLITT: I'd object to that. The request for
5 production speaks for itself. I don't believe that
6 you all asked for it, number one. It would also
7 invade the attorney-client privilege to ask him what
8 his lawyer asked him to do or not do.

9 MR. CURRAN: That's absolutely true, and I -- I
10 apologize about that.

11 MR. PYLITT: No, don't apologize.

12 Q Okay. I'm talking about the investigation process
13 for investigating a complaint of sexual misconduct in
14 2000 or before, or 1999 and before. And we talked
15 about this a little bit. But was there, to the best
16 of your knowledge, was there a fee to file a Board of
17 Review complaint for sexual misconduct in 1999 or
18 2000?

19 A I believe there has never been a fee for that.

20 Q Because -- the reason I'm bringing this up, Chuck, is
21 because during the depositions of Arlene McDonald and
22 Lynn Kinstler, there was some testimony about a fee.
23 And your testimony is you don't believe there was a
24 fee?

25 A Well, I --

1 MR. PYLITT: Just for the record, that testimony
2 was about a fee charged by Indiana Swimming for an
3 Indiana Swimming Board of Review. I don't
4 believe they were -- I don't recall them being asked
5 about a fee for a National Board of Review.

6 Q Okay. I'll clarify. I mean, maybe that's where the
7 confusion was.

8 A Right.

9 Q Maybe there was a fee for Indiana Swimming or maybe
10 there wasn't a fee for Indiana Swimming. I'm asking
11 you now about USA Swimming. To the best of your
12 knowledge, there was never a fee, correct?

13 A To the best of my knowledge, we have never had a fee
14 for any complaints that would involve Board of
15 Review.

16 Q Do you know if LSCs, like Indiana Swimming, were
17 authorized to charge a fee for complaints?

18 A I know that LS -- some LSCs do charge a fee.
19 However, with that said, any complaint involving
20 sexual misconduct is under the jurisdiction of the
21 National Board of Review, so it immediately comes to
22 the national office.

23 Q So there would not -- it would not be a violation for
24 an LSC to charge a fee, correct?

25 A No, it would not.

- 1 Q It would not be a violation of USA Swimming rules and
2 regulations to charge a fee in order to file a
3 complaint, correct?
- 4 A The -- correct. The LSCs function as independent
5 entities. They are each separately incorporated.
6 And in most, if not all, cases they actually charge a
7 higher membership fee than USA Swimming's fee. And
8 that is how they generate revenue for their own
9 operations.
- 10 Q Do you know if there was ever a point in time when --
11 when -- when USA Swimming or LSCs had a rule that
12 only a coach could lodge a complaint against a coach?
- 13 A I've heard -- I've heard that come up over the last
14 month, and I have -- cannot -- I have been unable to
15 find out when or where that's coming from because
16 anybody can file a complaint. Even a non-member can
17 file a complaint.
- 18 Q Okay. So you don't have to be a member to file a
19 complaint?
- 20 A No.
- 21 Q And you don't -- and you don't --
- 22 A Anybody can file a complaint against a member.
- 23 Q And you don't have to be a coach to file a complaint
24 against another coach?
- 25 A You do not have to be a coach.

- 1 Q And if an LSC had that rule, would that be a
2 violation of USA Swimming rules and regulations?
- 3 A I honestly -- I honestly can't give you an informed
4 answer to that question. I'd like to think that it
5 would be, but I would -- I would refer that question
6 to legal counsel to answer it. But I don't think
7 they can have a rule that's more restrictive than --
8 that would supersede or override what our rule would
9 be.
- 10 Q Right. So, to the best of your understanding, there
11 is no rule and never has been a rule that, say, a
12 parent can't file a complaint against a coach for
13 their child, correct?
- 14 A Correct. To the best of my understanding, yes.
- 15 Q Okay. And, to the best of your knowledge, has USA
16 Swimming ever had a rule that says that a complaining
17 parent or complaining swimmer could not file a
18 complaint without another coach validating that
19 complaint?
- 20 A I have -- I've -- I'm absolutely unaware that that
21 has ever been the case.
- 22 Q Okay. I talked a little bit about coach-owned clubs
23 before.
- 24 A Uh-huh.
- 25 Q And my understanding -- again, I'm not in your

1 swimming world, as you are -- is that there's
2 parent-governed clubs and there's coach-owned clubs,
3 correct?

4 A Well, there's -- there's really, I think, three
5 general categories of clubs. There are
6 parent-governed clubs, which is the vast majority of
7 clubs. Then there are institutional club teams. It
8 might be a school team, might be a YMCA team. And
9 then the smallest group are the coach-owned clubs.

10 Q And my question is -- and I understand, because you
11 talked about it earlier, about the parent-governed
12 clubs and checking references and doing interviews of
13 coaches and all that kind of stuff --

14 A Right.

15 Q -- and committees and all that kind of stuff. But
16 with regard to coach-owned clubs -- and that's what
17 we have in this case, a coach-owned club.

18 A Right.

19 Q Who oversees a coach-owned club?

20 A Well, I think the most important group that oversees
21 a coach-owned club are the parents of the kids that
22 are in that club.

23 Q But it's not the same parental-governance
24 organizational chart as what exists in a
25 parent-governed club, correct?

- 1 A No, it would be a different organizational chart.
- 2 Q Meaning that the coach-owned club can own the club,
3 and he's the owner. And, by the way, he can be
4 deriving profit from the club, too, right?
- 5 A That's correct.
- 6 Q Because he's not a 501(c)(3). It can be a business,
7 correct?
- 8 A That is correct.
- 9 Q I mean, I assume that there's some, even though the
10 coach-owned clubs are the smallest group of those
11 groups, the three groups --
- 12 A Right.
- 13 Q -- that you decide -- that you told me about, that
14 there's, I assume, some coach-owned clubs out there
15 that are making a lot of money for the coach who owns
16 the club, correct?
- 17 A I don't -- I don't know how many are making a lot of
18 money, but there are -- I think those that are
19 coach-owned are probably striving to make more than
20 they spend.
- 21 Q It can be a business --
- 22 A Yes.
- 23 Q -- for a coach-owned club?
- 24 A That's correct.
- 25 Q It can be a sole source of income for some coaches

1 who own --

2 A That is --

3 Q -- a coach-owned club?

4 A That is correct.

5 Q Meaning --

6 A That's correct.

7 Q -- it's a full-time job for some coaches who own a
8 coach-owned club, if they're successful?

9 A That is correct.

10 Q And it's -- so I was asking you about who oversees
11 the coach-owned club. And you're basically telling
12 me the parents of the swimmers in the club?

13 A Well, I think there's -- I think there's two things
14 there. One is, from the national level, because of
15 the membership requirements, a -- the coach -- or
16 club employees of a coach-owned club are subject to
17 the Code of Conduct and a grievance procedure.

18 But at the local -- on the ground, absolutely. I
19 think it's the parents that have the greatest
20 responsibility, no matter whether their child is in a
21 coach-owned club or an institutional club or a
22 parent-governed club.

23 Q But clearly -- and I used the word autonomous before.

24 A coach-owned club is clearly more autonomous than a
25 parent-owned club because the coach owns the club,

1 correct?

2 A A private company is more autonomous than a public
3 company.

4 Q All right.

5 A Yes.

6 Q And a swimmer or a parent who wants to make a
7 complaint in a coach-owned club has to complain to
8 the coach/owner, correct?

9 A No. Well -- well, they might complain to the
10 coach/owner. But they also would have the
11 opportunity, if it was a complaint of a nonsexual
12 misconduct or a felony or illegal drug opportunity,
13 they would complain to the Local Swim Committee. And
14 if it was in the former category, they would complain
15 to the national -- to National.

16 Q Do you know, in your time as Executive Director of
17 USA Swimming, and based upon your knowledge of things
18 that happened before, whether or not the issue of
19 swim coaches leaving one team, leaving a team and
20 moving to another team, leaving one team because
21 there were allegations of sexual misconduct and then
22 moving to another team, do you know if that was an
23 issue that was brought up and discussed in USA
24 Swimming in the '80s and the '90s?

25 A I --

1 MR. PYLITT: I'm going to object to that question
2 for a whole variety of reasons. There is not an
3 issue at all in this case about Brian Hindson leaving
4 one club to coach another club in the '80s or the
5 '90s, and that's totally irrelevant. I instruct him
6 not to answer.

7 MR. CURRAN: Well, there actually -- there could
8 be in this case. I mean, there could be those --
9 those types of facts in this case. And that's why I
10 think it's fair to ask whether or not he knows
11 whether or not that issue was discussed in USA
12 Swimming.

13 MR. PYLITT: I have no problem with you asking
14 him questions about Brian Hindson, what he did or
15 didn't do or what he knows. But any other coach is
16 totally irrelevant.

17 MR. CURRAN: But part of the -- the issue in this
18 case is what USA Swimming did or did not do with its
19 coaches, in terms of reference checks, background
20 checks or anything else.

21 And it's -- I really believe it's a relevant
22 question as to, you know, whether or not USA
23 Swimming, Mr. Wielgus or before, knew that swim
24 coaches may be moving from one organization to
25 another organization or one club to another club or

1 one job to another job or one coaching position to
2 another coaching position and whether it was
3 discussed by USA Swimming in the '80s and the '90s.

4 MR. PYLITT: And, again, I think you and I have a
5 philosophical difference between whether that's
6 relevant or not relevant to a breach of contract,
7 negligent supervision or invasion of privacy count in
8 this case involving Brian Hindson. So I stand by my
9 objection, and I stand by my instruction.

10 MR. CURRAN: Yeah, that's a good point, Jon. You
11 had made a motion for summary judgment. And the
12 judge's ruling in denying your motion for summary
13 judgment early on, he -- the judge -- or motion to
14 dismiss. I'm sorry. And I don't have the exact
15 language here, but the exact language is they talked
16 about what USA Swimming did or did not do.

17 So it's an issue that's in this case already.
18 The judge has already ruled upon a motion to dismiss,
19 that the actions or inactions of USA Swimming are
20 relevant in this case.

21 MR. PYLITT: I'll stand by my objection.

22 MR. CURRAN: Are you telling him not to answer?

23 MR. PYLITT: Yes.

24 Q Do you know how many claims or complaints about
25 sexual misconduct have been made against USA Swim

1 coaches before 1999?

2 A I don't, no.

3 Q Would that be somewhere in your organization? Could
4 you get that information?

5 A I would have to believe that it's available. I could
6 only make comment on what the situation was like back
7 to 1997.

8 Q But in the records of USA Swimming --

9 A I'm sure that there are records that would be able to
10 shed light on that question. But I, off the top of
11 my head, am unable to.

12 Q Going back to this USSIC thing, my reading of some of
13 the documents says that ultimately a sexual
14 misconduct insurance policy was obtained. Do you
15 remember that?

16 A Yes.

17 Q When was that obtained?

18 A I don't know with any precision when that was, but
19 it's -- I'm going to say it was in the time frame of
20 three to four years ago. But I -- I really have to
21 qualify that.

22 Q And why was that policy obtained?

23 A I think that is, again, another -- another bit of
24 evidence that speaks to the evolution -- evolutionary
25 nature of this issue, both in terms of the number of

1 complaints coming in, the issue becoming more talked
2 about within the general society, and USA Swimming
3 seeking to address that issue as best it could with
4 the information it had at that time.

5 Q So you're saying that you have seen an increase in
6 USA Swimming -- forget society for a second --

7 A Right.

8 Q Because you're the Executive Director of USA
9 Swimming. You've seen an increase in instances or
10 complaints of sexual misconduct since you became the
11 Executive Director, correct?

12 A Correct. But I would -- I would qualify that just a
13 bit because I wouldn't want to leave the impression
14 that there has been -- the impression I would want to
15 leave is that as -- as -- as we have seen these
16 issues, I think, become more public in society, we
17 have also seen these issues become more public within
18 youth organizations. And certainly USA Swimming
19 falls into that.

20 So whereas in my first three or four years on the
21 job I may have only seen one or two of these, ten or
22 twelve years later I see more of these. And I think
23 that's -- that's part of this evolution.

24 And consistent with that evolution in the
25 increase in complaints has been USA Swimming's effort

- 1 to try to address issues related to sexual
2 misconduct.
- 3 Q This sexual misconduct insurance policy that we're
4 talking about, that's not with USSIC?
- 5 A I believe USSIC -- they may have an underwriter for
6 that, but I -- I don't know specifically who writes
7 the policy. But I'm fairly sure that it would have
8 been the managers at USSIC who would have researched
9 and obtained that policy.
- 10 Q But that would be a policy for USA Swimming, the
11 entity, correct?
- 12 A Correct.
- 13 Q And does that policy, to the best of your knowledge,
14 cover individual swim clubs?
- 15 A I honestly don't know the extent of the coverage on
16 that policy.
- 17 Q To the best of your knowledge, has USSIC ever
18 played -- paid a claim for sexual misconduct?
- 19 A To the best of my knowledge, no. But I can't say
20 that that's what actually has been the case. But, to
21 the best of my knowledge, no.
- 22 Q Do you, Chuck Wielgus, receive any compensation from
23 USSIC?
- 24 A I do not.
- 25 Q And so if the sexual misconduct policy is different

- 1 than the regular USSIC policy, are you telling me you
2 don't know why it's separate or with another company?
- 3 A No, I don't. I just -- I don't know. I wouldn't
4 know the answer to that.
- 5 Q This -- this duty to report, we talked about this
6 earlier. You'll agree with me that, back in the '80s
7 and the '90s, that, and pre-1999, that USA Swimming
8 had not adopted any policy mandating the reporting of
9 inappropriate sexual misconduct or advances by a
10 coach, by a fellow USA Swim coach, correct?
- 11 A That would be my -- that would be my guess.
- 12 Q Okay. And today that's still the way it is, correct?
- 13 A Correct. Well, assuming it -- I guess I'm parsing
14 your words. I don't mean to do that.
- 15 Q Well, that's the way it is today?
- 16 A That's the way it is today.
- 17 Q Right. And you don't know that it was any different
18 back in the '80s and the '90s?
- 19 A I don't know that it was any different back then.
- 20 Q You don't believe it was any different back then,
21 correct, based upon all you know and read and seen
22 and taught?
- 23 A Right. It would -- I don't believe it was any
24 different.
- 25 Q Who's in charge of member protection for USA Swimming

1 presently?

2 A I think -- well, I think that is something that, as
3 an organization, I mean, in the most general sense,
4 that is a concern of our governing board at the
5 highest level.

6 Q Is there any particular person? I mean, I know that
7 you have, I guess, kind of ultimate responsibility
8 for that issue. Well, we talked about that earlier,
9 whether you do or you don't. But is there a person
10 in charge of member protection or child safety
11 issues?

12 A There is not a single designated person at this time
13 who has that sole responsibility.

14 Q Well, who would be part of -- who would be involved
15 in any way, shape or form?

16 A I think it would go across -- I mean, it would go
17 across the board to a number of our divisions within
18 USA Swimming. And there would be a number of people.
19 The director of our Club Development Division and --

20 Q Who is that?

21 A Pat Hogan. And the entire staff of people who work
22 within the Club Development Division certainly have a
23 role to play in that.

24 Q How long has he been Club Development? Is that what
25 his -- what's his job title?

- 1 A Club Development Division Director.
- 2 Q How long has he been in that job?
- 3 A Well, I could be off by a year or two, but I'm going
4 to say about six years.
- 5 Q Who was it before him?
- 6 A The -- that division didn't exist before him.
- 7 Q What did Hogan do before he got to USA Swimming?
- 8 A He was a coach.
- 9 Q Where?
- 10 A Charlotte, North Carolina.
- 11 Q A college coach or a youth coach or --
- 12 A No, he was a club coach, the Mecklenburg Aquatic
13 Club, Charlotte, North Carolina.
- 14 Q And as Club Development Division Director, what are
15 his job duties and responsibilities?
- 16 A He is responsible for overseeing a division that was
17 created to provide information, resources, programs
18 and services to member clubs in an effort to help
19 those clubs help themselves to become more effective
20 business units, if you will, in their day-to-day
21 practices.
- 22 Q And is part of his duties child protective services
23 or member protective services?
- 24 A He has been put into that role on -- not only because
25 he oversees a staff of people who, on a day-in,

1 day-out basis, are working with coaches and clubs,
2 and so they're certainly there to provide information
3 and resources and answer questions, but he also
4 served as the staff liaison to our most recent
5 child -- or youth -- youth protection task force.

6 Q Right. That was my question. He was involved in the
7 background check --

8 A And he was involved in the background check --

9 Q Check task force?

10 A -- implementation. Yes.

11 Q Right.

12 A Yeah.

13 Q So he's been involved in the background check task
14 force and the -- the new one, what did you call that?

15 A I want to say it was -- it's the youth -- youth
16 protection task force, yes.

17 Q Okay. So he's been intricately involved in both of
18 those, correct?

19 A Yes, he has been.

20 Q So, therefore, he's been involved in this issue of
21 child sex abuse and -- both from the time he's worked
22 onward but given historical past of things that have
23 gone on, correct?

24 A Yes. But his role was -- was as the staff liaison to
25 a committee of volunteer leaders who really had the

1 charge to address the issue. So his role was kind of
2 providing the administrative support in facilitating
3 that task force.

4 Q You were asked about him in, I think it was, a New
5 York Times article that I read.

6 A Uh-huh.

7 Q And you said you were okay with his relationship
8 before he worked for USA Swimming, correct?

9 A I did, yes.

10 Q You were asked about that by a reporter, correct?

11 A Yes.

12 Q Apparently -- and, again, I just read the article,
13 Chuck. What I gleaned from the article was that, and
14 from other things, is that apparently -- and you tell
15 me if I'm wrong -- that he married one of his
16 swimmers that he coached.

17 MR. PYLITT: I'm going to object to the question
18 as being irrelevant to the issues before the Court.

19 Q Again, I'm talking about -- you know, these are
20 instances -- what I'm talking about now is before
21 1999. And it's a USA Swim coach that -- that I'm
22 understanding, through an article that I read where
23 Mr. -- where Chuck gave -- Mr. Wielgus gave quotes
24 about this guy, Pat Hogan, who I've never met in my
25 life.

1 And what I'm gleaning from it is that Mr. Hogan,
2 who's now the Club Development Director, married one
3 of his swimmers back in, like, the '80s. And I'm
4 asking some questions about that.

5 MR. PYLITT: But, again, just because something
6 is reported in the New York Times doesn't it make it
7 relevant to the issues before this Court.

8 MR. CURRAN: But it -- it goes to the issues of
9 whether or not USA Swimming swim coaches were either
10 having relationships with their swimmers back in the
11 '80s and that now they're, you know, on staff at USA
12 Swimming with -- with responsibility over club
13 development issues and child protective services
14 issues.

15 MR. PYLITT: But there's no allegation of any
16 sexual relationship with a former swimmer in this
17 case.

18 MR. WHEELER: And I would also note that the 7th
19 Circuit, in Hansen versus Hamilton Southeastern
20 Schools, specifically held that a marital
21 relationship, in that case, between a teacher and
22 student did not serve to put anybody on notice about
23 the likelihood that that particular individual would
24 be engaged in similar sexual relationships. And, as
25 a consequence, you know, I think Buddy's correct on

1 the evidentiary basis.

2 MR. CURRAN: Well, I'm trying to find out whether
3 or not, before he married this woman, whether or not
4 there was knowledge in USA Swimming worlds whether or
5 not here's a coach that was having -- making sexual
6 advances or having a relationship with a swimmer that
7 ultimately resulted in marriage. I'm not saying from
8 marriage forward. I'm talking about in the '80s,
9 before, when she was swimming for him.

10 MR. PYLITT: But my objection, Jim, is what does
11 that have to do -- what relevancy would have that,
12 assuming that's true, to Brian Hindson videotaping
13 your client in 2000? That certainly wouldn't cause
14 USA Swimming to say, gee, you better worry about
15 Brian Hindson ten years later bringing a secret
16 camera and videotaping Brooke Taflinger.

17 MR. CURRAN: Well, I think it's absolutely
18 relevant as to whether or not, you know, Brian
19 Hindson was approved as a USA Swim coach of a
20 club-owned team and whether or not USA Swimming
21 required any, you know, reference checks or
22 background checks and looked into Brian Hindson's
23 background before approving him as the coach/owner of
24 Central Indiana Aquatics and whether or not there's
25 been a culture in USA Swimming for years, back into

1 the '80s, that USA Swimming knew about, knew coaches
2 were in relationships, and weren't taking adequate
3 safeguards to protect its members about that.

4 And this instance, which has been -- you know,
5 this instance I'm asking about right now, which has
6 been, you know, comment -- asked of Mr. Wielgus in
7 the past and commented by Mr. Wielgus in the past is
8 fair game to find out what -- what USA Swimming knew
9 about his relationship back in the '80s, whether or
10 not they did anything about it, whether USA Swimming
11 knew about this relationship or other relationships,
12 some of which we already know are going to appear on
13 this list of people that have been expelled for
14 conduct that occurred before this incident with
15 Brooke Taflinger, back in the '80s and the early
16 '90s.

17 MR. PYLITT: Well, I -- again, I have absolutely
18 no objection to you asking Mr. Wielgus all about
19 Brian Hindson or what he knew about Brian Hindson,
20 CIA, Kokomo High School, Westfield High School, about
21 all of those things. I absolutely agree with you
22 that that's relevant. And I assume at some point,
23 after four hours here, you're going to ask him about
24 Brian Hindson and not every other coach in the USA
25 Swimming. It has -- I'm sorry?

1 MR. LITTLE: He's out of tape.

2 THE VIDEOGRAPHER: When you finish.

3 MR. PYLITT: Okay. Whether or not someone else
4 ten years, twenty years before Brian Hindson's
5 conduct with your client has absolutely nothing to do
6 with the issues before the Court.

7 MR. CURRAN: But we believe it does because we
8 believe that, and as our expert report, you know, has
9 stated, that if USA Swimming had done certain things,
10 based upon knowledge that it had had, that Hindson
11 may not have been in the position that he was in.
12 And it goes towards this whole culture in USA
13 Swimming that existed long before Mr. Wielgus was
14 there, as to whether or not anybody was doing
15 anything about it.

16 MR. PYLITT: But -- I understand your position.

17 MR. CURRAN: And this is a great example.

18 MR. PYLITT: No, I understand your position. We
19 philosophically are totally opposite of each other,
20 and I'm going to instruct him not to answer.

21 MR. CURRAN: Well --

22 MR. PYLITT: I think the videographer maybe wants
23 to change the tape, too.

24 THE WITNESS: Can I go to the bathroom?

25 MR. PYLITT: Yeah.

1 THE WITNESS: Excuse myself for just a second?

2 I'm sorry.

3 MR. CURRAN: And you know what? Why don't we do
4 this. Why don't we call the magistrate.

5 MR. PYLITT: Okay.

6 THE WITNESS: Am I okay to go?

7 MR. WHEELER: Do you want to be off the record
8 here?

9 MR. PYLITT: Sure.

10 THE VIDEOGRAPHER: This marks the end of tape
11 number two, the deposition of Charles Wielgus. It is
12 12:02.

13 (A recess was taken.)

14 (Mr. Wheeler left the deposition.)

15 THE VIDEOGRAPHER: We are back on the record.

16 This is the start of tape number three of the
17 deposition of Charles Wielgus. It is 12:19.

18 Q Mr. Wielgus, in reading some stuff on the USA
19 Swimming Web site recently, I saw that USA Swimming
20 recently adopted a new seven-point action plan for a
21 safe and positive sport environment; is that correct?

22 A That's correct.

23 Q And I'm not going to read the whole thing to you, but
24 it talked about disturbing news reports about sexual
25 misconduct between adult swim coaches and underage

1 athletes, correct?

2 A Yes.

3 Q And it stated that -- I'm just reading certain parts
4 of it -- we have a responsibility to provide a safe
5 and positive environment for children and young
6 adults who are our members; is that correct?

7 A Yes.

8 MR. PYLITT: Let me just state this objection for
9 the record. Under Rule 407 of the Rules of Evidence,
10 any subsequent remedial measures to the action before
11 the Court is inadmissible. The events, again,
12 occurred -- five counts of the allegations occurred
13 in the summer of 2000. So I'll just note for the
14 record my objection.

15 MR. CURRAN: And my questions are not aimed at
16 subsequent -- you know, to that point.

17 MR. PYLITT: Okay.

18 MR. CURRAN: It's more about other issues.

19 Q So, in any event, this seven-point action plan was
20 recently adopted in response to certain news reports
21 and other things, correct?

22 A Correct.

23 Q And number one is to develop and disseminate
24 comprehensive guidelines addressing acceptable
25 coaching -- coach behavior. I read you number one.

- 1 A Correct.
- 2 Q And is that something that did not exist -- I know
3 you didn't develop or disseminate them yet. I
4 understand that. That's --
- 5 A Okay.
- 6 Q -- a work in progress, correct?
- 7 A Yes.
- 8 Q And I assume, from reading that, that there's going
9 to be more -- there's going to be specific things
10 that will come out when that document is developed,
11 correct?
- 12 A Yes.
- 13 Q It's safe to say that back in pre-2000, pre-1999,
14 that there were not specific guidelines addressing
15 acceptable coach behavior, correct?
- 16 A I'm -- I don't -- I don't think so within -- for USA
17 Swimming.
- 18 Q Okay.
- 19 A There may have been for Coaches' Association or other
20 entities but not for USA Swimming.
- 21 Q And number two is enhance the system for reporting
22 sexual abuse to USA Swimming and law enforcement.
23 Again, that's self-explanatory.
- 24 A Yes.
- 25 Q You're going to do some work on that?

1 A Yes.

2 Q Three is review USA Swimming's Code of Conduct, as
3 well as other top youth organizations. The Code of
4 Conduct did exist back in 2000, correct, or did it
5 not?

6 A It did exist in 2000.

7 Q Not in its present form, though, correct?

8 A I think it has been amended since then.

9 Q Right. Review USA -- number four, review USA
10 Swimming's current background screening program and
11 determine if enhancements can be made.

12 And we've talked about the current screening --
13 the background screening program as exists from 2006
14 onward. And you've already told me that, back in
15 pre-2000, that there was no background screening
16 program at USA Swimming for criminal -- criminal
17 sexual pleas or verdicts, guilty pleas or guilty
18 findings, correct?

19 A Correct.

20 Q And --

21 A And I also stated that was -- this was kind of part
22 of the evolutionary process.

23 Q Right.

24 A The swimming was one of the first governing bodies
25 to --

- 1 Q Right.
- 2 A -- institute --
- 3 Q Right.
- 4 A -- background checks.
- 5 Q And there was also --
- 6 A Or background screening.
- 7 Q -- no mandated reference checking program in place
- 8 back pre-2000, correct?
- 9 A Yes.
- 10 Q Number five is produce stronger communications to
- 11 member clubs which are responsible for hiring and
- 12 employing coaches regarding preemployment screening
- 13 and responsibilities associated with hiring club
- 14 employees.
- 15 I mean, the document speaks for itself. But,
- 16 again, back in pre-2000 there was really no means of
- 17 communication between member clubs, other than what
- 18 they would do on their own, correct?
- 19 A That's correct.
- 20 Q There was no, I used clearinghouse, with USA Swimming
- 21 back pre-2000 about any information or complaints
- 22 that were generated, correct?
- 23 A That's correct.
- 24 Q So if they didn't talk to each other and find each
- 25 other, then there was no central place for them to

1 find that information back pre-2000, correct?

2 A I'll say yes.

3 Q Six is evaluate the process for coach sharing --
4 sharing coaching history records with member clubs
5 and other youth organizations.

6 Again, that goes to the same point we just talked
7 about, is the sharing of information between clubs
8 did not exist back in 2000 -- pre-2000, only if they
9 did it on their own, correct?

10 A Yes.

11 Q There was no formal methodology or system in place by
12 USA Swimming to -- for the local clubs to compare
13 notes, correct?

14 A There was not.

15 Q And number seven was educate athletes and parents,
16 clubs and club leaders on this important issue,
17 which, again, is self-explanatory.

18 A Right.

19 Q So this seven-point plan -- you'll agree with me the
20 seven-point plan is addressing certain issues that
21 existed not just today but existed pre-2000, correct?

22 A Well, I can't answer that question correct or
23 incorrect, without putting some texture to it.

24 Q Meaning that we've already established that USA
25 Swimming knew that, through the '80s and the '90s,

1 that there were instances of coach misconduct but had
2 not adopted certain of the points set forth in the
3 seven-point plan, correct?

4 A Well, again, I -- there -- had we known in 1997, when
5 I came to work, had I known, that the filming or
6 taking pictures of athletes in a locker room was
7 something that was happening in the sport, we would
8 have taken action. But at that point in time it was
9 an unforeseen activity.

10 So something happens. You try to anticipate
11 things that are going to happen, to the best of your
12 ability, with the information you have at the time.
13 And it's very easy to take a snapshot of where a
14 situation is today and then take another snapshot ten
15 years ago and ask yourself or be asked by others
16 questions as to why you didn't take certain actions.

17 So what USA Swimming, I think, has consistently
18 tried to do is, to the best ability that it could
19 within its policymakers, its volunteer leadership and
20 its professional staff, to be proactive in providing
21 what -- whatever it might be, whether -- in this
22 particular instance, safeguards or child protection
23 programs, services, activities that the organization
24 thinks will help its membership.

25 So, as I said, if we knew that taking pictures by

1 coaches in '97 was a problem, we would have -- and we
2 didn't -- hadn't anticipated it was a problem before
3 that, it was unforeseen, we would have done something
4 about it.

5 And that's what our seven-point plan speaks to
6 now. A number of issues have arisen, as we become
7 increasingly educated and aware. Rather than hiding
8 from those issues, we face those issues. And we come
9 up with a plan that helps us continue this
10 evolutionary process of dealing with what is a
11 significant societal issue at our macro
12 swimming-world level, with the information that we
13 have today.

14 Q In -- and I know you read -- Buddy, I'm just going to
15 move on to Saltzstein's report a little bit here and
16 try and ask some questions that may not be
17 objectionable to you. And if they are, you know,
18 just let me know.

19 There was a guy named Ron Van Pole. He was
20 the --

21 A Ron Van Pool.

22 Q Pool, Pool.

23 A Right.

24 Q He was the President of USA Swimming?

25 A Correct.

1 Q And back in 2005 I read in Saltzstein's report, which
2 I know you read, that -- it said USA Swimming is
3 frightfully behind the curve in this background
4 screening process, and there are those who would have
5 us continue to lag. We must not continue to leave
6 our athletes vulnerable. We owe them the safest
7 environment possible. That's a quote from Ron Van
8 Pole -- Pool, in 2005.

9 MR. PYLITT: According to Saltzstein and this
10 white paper?

11 MR. CURRAN: Yeah.

12 Q Again, I don't know if it's -- I don't know if it's
13 accurate, but apparently it said that he -- it says
14 in this paper that it was to the assembled USA
15 Swimming House of Delegates in December 2005 and
16 currently posted on USA Swimming's Web site.

17 A Uh-huh.

18 Q You're aware of that quote?

19 A I am aware of that quote.

20 Q You knew he said it back then?

21 A I -- I knew he said it when I -- when I saw it
22 recently.

23 Q Were you there when he said it?

24 A I'm -- I was there, yes.

25 Q All right. So do you agree that USA Swimming, when

1 he said this in 2005, was frightfully behind the
2 curve in this background screening process?

3 MR. PYLITT: I'm going to object to that question
4 as totally irrelevant to the issues before the Court.
5 What someone said in 2005 and whether Mr. Wielgus
6 agrees or disagrees has nothing to do with the issues
7 before the Court.

8 MR. CURRAN: Well, based upon -- okay. I'll ask
9 another question.

10 Q Based upon your knowledge and information and
11 experience as the Executive Director of USA Swimming,
12 was USA Swimming frightfully behind the curve in this
13 background checking or reference checking issue in
14 pre-2000?

15 A Were we behind the curve in pre-2000?

16 Q Right.

17 A To the best of my knowledge, in relation to other
18 organizations, particularly those within our
19 industry, no.

20 Q Do you know if there presently are coaches still
21 coaching that are members -- USA -- the swimming
22 member coaches that -- that USA Swimming knows were
23 involved in inappropriate sexual relationships before
24 2000?

25 MR. PYLITT: Let me make sure I understand the

1 question. Is he aware that there are coaches still
2 coaching that were guilty of sexual misconduct before
3 2000?

4 MR. CURRAN: Yes.

5 MR. PYLITT: Today are they still coaching?

6 MR. CURRAN: Yes.

7 MR. PYLITT: I'm going to object to that
8 question, about what he knows today, as being
9 relevant to the allegations in the complaint in 2000.

10 Q Okay. I'll ask it another way. In 2000, when you
11 were the -- you were the Executive Director in 2000?

12 A Yes.

13 Q Did you know of coaches who were still coaching with
14 USA Swimming that had been involved in prior
15 allegations or acts of sexual misconduct involving
16 their swimmers before 2000?

17 A No.

18 MR. PYLITT: Object --

19 A I'm sorry.

20 Q Your answer is no?

21 A Right.

22 Q Okay. You answered. In the '80s and the '90s and up
23 to 2000, had, to the best of your knowledge, had USA
24 Swimming made any efforts to share information
25 between LSCs, or local swim clubs, about allegations

1 of sexual misconduct by USA Swim coaches?

2 MR. PYLITT: I'm going to object to the relevancy
3 of that question. If you want to ask him whether he
4 knows whether USA Swimming shared any information
5 about Brian Hindson, I have absolutely no objection
6 to that question. That's the only thing --

7 MR. CURRAN: Okay.

8 MR. PYLITT: -- that's relevant.

9 MR. CURRAN: I'll ask that question.

10 Q To the best of your knowledge, did USA Swimming or
11 USA -- any USA Swim coaches know about Brian
12 Hindson -- he's right -- Brian Hindson having
13 inappropriate sexual either relationships or conduct
14 or advances to -- with his swimmers?

15 MR. PYLITT: And I don't mean to object, but I
16 think your question was did USA Swimming or any --

17 MR. CURRAN: Or its mem -- or any --

18 MR. PYLITT: Or any of its coaches?

19 MR. CURRAN: Or any of its USA Swim coaches.

20 MR. PYLITT: That he knows about?

21 MR. CURRAN: Yeah, that he knows about.

22 MR. PYLITT: Did they have knowledge that Brian
23 Hindson was having inappropriate sexual relationships
24 with any of --

25 MR. CURRAN: Were dating or sexual advances or

1 anything like that.

2 A Absolutely not.

3 Q Okay. Did -- and we talked about this. If there
4 were USA Swim coaches that knew that Brian Hindson,
5 pre-2000, was either dating or having sexual
6 relationship with or making inappropriate sexual
7 advances, did they have a duty to report that to
8 anybody?

9 MR. PYLITT: Object to the legal conclusion and
10 whether someone --

11 MR. CURRAN: I'm not asking --

12 MR. PYLITT: -- had a duty --

13 MR. CURRAN: -- for a legal -- I'm asking him, as
14 an Executive Director of USA Swimming, did those
15 coaches have -- were they mandated to report it?

16 A No.

17 Q Were they urged -- would they have been strongly
18 urged to report it?

19 A Yes.

20 Q To the best of your knowledge, during the whole time
21 that you've been Executive Director of USA Swimming,
22 has USA Swimming taken -- taken any steps whatsoever
23 in an effort to cover up instances of sexual
24 misconduct between coaches and its member swimmers?

25 A Absolutely none that I'm aware of.

1 Q And I know that you answered my question earlier,
2 that there had been instances when either you or
3 somebody from USA Swimming has reported somebody to
4 proper authorities. And I know you say in most
5 instances it's already been done, but there are some
6 times when it's not. But there have been instances
7 when some -- you or somebody else from USA Swimming
8 has reported inappropriate sexual conduct, conduct,
9 to the approp -- to the proper law enforcement
10 authorities. Has that been done in every instance?

11 A No. Excuse me. No.

12 Q Okay. Why?

13 A Our operating principle has generally been to
14 encourage those filing a complaint, or victims, to go
15 to the appropriate police authorities.

16 Q Okay. But my question still remains the same.

17 A I'm sorry.

18 Q I'm sorry. Do you know if, in every instance that
19 you or somebody from USA Swimming came to know about
20 a question of sexual misconduct or criminal sexual
21 misconduct, if in every instance it was reported to
22 the proper law enforcement authorities, if the person
23 did not report it?

24 MR. PYLITT: I would object to the form of the
25 question of somebody came to know something. If

1 you're asking when there is a complaint filed, a
2 written complaint filed by the victim, certainly he
3 can answer that. But came to know could be a rumor,
4 speculation.

5 MR. CURRAN: I really just want to know if
6 Mr. Wielgus is -- has any knowledge about any
7 instances when it wasn't reported by the victim or by
8 USA Swimming.

9 MR. PYLITT: And my objection to the form is, is
10 did he come to know, does he have any information,
11 whether that's actual knowledge or speculation and
12 rumor.

13 MR. CURRAN: Well, I would imagine, from speaking
14 with Mr. Wielgus today here, that he would not make
15 any type of report unless he felt pretty strongly
16 about it. He wouldn't just do it on innuendo or
17 rumor or gossip.

18 But I just want to know if -- if he had or USA
19 Swimming had ample proof, like you had done in the
20 past -- because you told me you'd done it in the
21 past.

22 THE WITNESS: Uh-huh.

23 Q Were there any instances where you had ample proof
24 and did not report it to the authorities?

25 THE WITNESS: Okay to answer or -- I'm trying

1 to --

2 MR. PYLITT: Yes.

3 THE WITNESS: Okay. I want to make sure I get
4 this right, so I'm going to ask you to kind of give
5 me the question one more time --

6 MR. CURRAN: I got it.

7 THE WITNESS: -- so I can respond to it.

8 MR. CURRAN: Do you want me --

9 THE WITNESS: Oh, I'm sorry. I was waiting
10 for you to -- let me repeat the question and see if
11 I've got it right. It was --

12 MR. CURRAN: Well, how about if you just read it
13 back.

14 THE WITNESS: I'm sorry.

15 MR. CURRAN: No, I'm sorry. I thought you were
16 pausing to answer.

17 THE WITNESS: Okay. I was waiting for the --

18 MR. CURRAN: No.

19 THE WITNESS: -- question again.

20 MR. CURRAN: I got you. We'll try it this way.

21 THE WITNESS: Okay.

22 THE REPORTER: I'm just going to play it back.

23 THE WITNESS: That's fine.

24 (The reporter read back as requested.)

25 A Okay. The two words that trouble me in trying to

1 come up with a good answer to that question are ample
2 proof. But, with that said, because I think there is
3 a very important point to be made here, is that there
4 is, as we all know from just anecdotal and
5 observations, that there is a great reluctance to
6 report on the part of many people, for a variety of
7 reasons. And that -- the point I want to make is
8 that that is, to some extent, why we have been very
9 careful in determining what we should or should not
10 say with police authorities.

11 And as an example to illustrate that and to
12 respond to the question, I would say that there is at
13 least one instance in which I felt I had information
14 that may not have been ample proof but may have been
15 ample enough to go to police authorities, but the
16 victim explicitly asked that we not do that. And she
17 had her own reasons for not wanting us to do that,
18 and I respected that --

19 Q Okay.

20 A -- and offered counsel that she needed to seek or
21 offered advice that she needed to seek professional
22 counsel and talk to those with expertise beyond what
23 I had to --

24 Q So --

25 A -- share with her.

1 Q -- besides -- if we remove for a second that
2 situation, where the victim said please don't report
3 him to the police, do you know of any other instances
4 where you had ample proof and did not -- when I say
5 you, you or USA Swimming, did not report it to the
6 authorities?

7 A I can't say that I -- that I do. And I would -- I
8 have consistently relied very heavily on our legal,
9 outside legal counsel, to determine if and when
10 something was appropriate to share with local
11 authorities. And they would be the ones to have done
12 that.

13 Q With regard to this mandatory versus strongly urged
14 thing you and I talked about here a few times today,
15 in pre-2000, what is your understanding why it was
16 not mandatory for a USA Swimming swim coach to report
17 instances that he knew, he or she knew about, of
18 sexual misconduct or sexual advances or sexual abuse
19 or sexual filming or sexual misconduct? Why -- what
20 is your understanding about why it was not mandatory?

21 A I don't have an understanding of why it wasn't
22 mandatory. I can only -- and I'll hesitate to do
23 that, but I could only speculate. But I have no
24 understanding, other than my own speculation.

25 Q It was certainly discussed, pre-2000, among USA

1 Swimming and its Committees and its Board whether or
2 not it should be mandatory or whether or not it
3 should be strongly urged, correct? That was the
4 language that was used, correct?

5 A I don't recall that that took place. Are you
6 referring to meeting minutes or --

7 Q Yeah, I read it in some meeting minutes. And I'll
8 pull it out for a second, if you want. But my
9 question is really going towards the resistance to --
10 to mandatory duty to report or mandatory reporting.

11 You'll agree with me, won't you, that there was
12 some resistance to mandatory reporting, correct?

13 A I have no knowledge of that. And I have no
14 recollection of being in meetings or in discussions
15 where that topic ever came up.

16 Q Okay.

17 A Not to say that it didn't, not to say that I wasn't
18 there, not to say that I wasn't perhaps paying
19 attention to something else, but I say that with a
20 high level of confidence because I -- that is the
21 sort of discussion that would have struck a chord
22 with me because of my own military school background
23 and an honor code that imposes upon every cadet not
24 only that you do not lie, cheat or steal, but you
25 have an obligation to report those that do.

1 Q Called toleration.

2 A Called what?

3 Q Toleration.

4 A I didn't know that, but --

5 Q That's what they call it in the U.S. military

6 schools.

7 A But that honor code is something that would have

8 absolutely struck a chord with me. So if I was

9 involved in those meetings or discussions, I have

10 honestly no recollection of it.

11 Q Okay. And certainly some of the discussion could

12 have taken place pre-'97, before you got there. But

13 you're saying you don't know about that, correct?

14 A I don't know about that, no.

15 Q Okay. And, in your reading of any documents that

16 you've seen, do you know whether or not that was

17 discussions -- discussed before you got there?

18 A No. The first -- my -- the first acknowledged

19 recollection that this has become a topic of

20 discussion has literally just been within the last

21 several weeks.

22 Q And the -- the point of, you know, having a mandate

23 to report any type of sexual misconduct or sexual

24 inappropriate behavior certainly exists in other

25 organizations, not sports organizations, but, like,

1 Boards of Education and things like that, in other
2 worlds. You're aware of that, correct?

3 A Superficially aware of that.

4 Q Okay. And, again, there's fifty states, and there's
5 thousands of Boards of Education.

6 A Right.

7 Q But it's my understanding that that does exist, that,
8 say, a school teacher in a certain particular state,
9 if he learns of instances of sexual abuse, he has to
10 report it. And if he doesn't, then he can be in
11 trouble.

12 A Uh-huh.

13 Q But that -- and that's a fairly common thing in not
14 sports organizations but in, say, Boards of
15 Education. I'm just telling you that.

16 A Okay.

17 Q That certainly has not been adopted by USA Swimming
18 today, correct?

19 A Correct.

20 Q And it has not been adopted by USA Swimming pre-2000
21 or pre-1999, correct?

22 A That would -- I think that would be correct.

23 Q And I want to know whether or not you feel that
24 there's been a resistance to that concept from the
25 time that you've become the Executive Director of USA

1 Swimming.

2 MR. PYLITT: I'm going to object. That's been
3 asked and answered. He said he had no knowledge. He
4 has no recollection. And he's explained that to you
5 twice, and he'll give you the same answer now the
6 third time.

7 Q So your answer is you have no knowledge?

8 A I would stick with that answer, yes.

9 Q I -- I want to talk to you about -- and, Buddy, just
10 let me know if -- but I'm trying to -- we've now
11 covered some topics that were kind of on our list,
12 but we got through them.

13 MR. PYLITT: Okay.

14 Q I want to talk about, you know, I'm going to call
15 them reprisals or retaliations or anything like that.
16 And I'm -- again, I've seen -- I read and I see and I
17 watch and I learn about USA Swimming through this
18 case and through other forums, not just this case.
19 But, for example, I watched 20/20. I watched ESPN.
20 And I learn things about other cases and other people
21 and other things but still all about USA Swimming and
22 all about this issue.

23 So I'm going to -- for example, there's this guy
24 who was deposed in this case, Ken Stopkotte. And he
25 has said some things that I'm sure you've seen

1 about -- you know, that there's been a culture of
2 child sex abuse in USA Swimming. I'm paraphrasing
3 what he said, but I'm sure you're aware of some of
4 the things he and some other people have said,
5 correct?

6 A I'm aware of the things he said in the 20/20
7 interview.

8 Q Right. Again, I don't know if these things are true
9 or not true, Chuck. I'm just asking you about the
10 things he said, and I'm paraphrasing some of the
11 things he said. And -- and some of the things
12 Saltzstein has said.

13 So what I want to know is, to the best of your
14 knowledge -- and I'll talk about pre-2000 first.

15 A Okay.

16 Q To the best of your knowledge, has there ever been
17 any type of, you know, retaliation or reprisals,
18 pre-2000, against any coaches that spoke out about
19 these issues, to the best of your knowledge?

20 A No, there hasn't been.

21 Q Okay. And now let's go, you know, post-2000.

22 A Okay.

23 Q To the best of your knowledge, has USA Swimming
24 retaliated or taken any reprisals against any coaches
25 that have spoken out about this issue, this sexual

1 abuse issue?

2 A Not that I'm aware of.

3 Q And when I say reprisals or retaliation, I'm talking
4 about things like removed from committees or removed
5 as an official or blackballed or any such thing like
6 that.

7 A Nothing that I'm aware of.

8 Q Okay. Or I'll throw in falsely accused of other
9 types of misconduct. Anything like that? Are you
10 aware of any of that?

11 A I am not, no.

12 Q I assume -- well, would you tolerate that type of
13 treatment?

14 A It would be inconsistent with my nature. And I
15 think -- my own nature. But I also think it would be
16 inconsistent with the organization's nature. There
17 is -- my experiences with USA Swimming have led me to
18 appreciate that this is a very welcoming environment
19 and one that certainly does not discourage differing
20 opinions.

21 Q Did you ever authorize or order any member of USA
22 Swimming or any LSC administrator not to comment or
23 to say no comment to anybody who asked about any
24 lawsuits or allegations concerning USA Swimming?

25 A I'm going to ask you to -- one more time, that

1 question.

2 Q Did you ever authorize or order any member of USA
3 Swimming or employee of USA Swimming or any LSC
4 administrator or officer or board member to either
5 not comment or to say no comment to anyone whoever
6 asked about this lawsuit or any other lawsuits in the
7 United States concerning allegations of sexual
8 misconduct involving USA Swimming?

9 A It's a pretty broad-reaching question. What I --
10 what I -- about the best answer I can give you is
11 that the only time I have knowingly given
12 instructions to -- would be to our staff and to
13 indicate that if you are -- you should not engage in
14 discussions. And if you are asked to give any
15 comments to the media or otherwise, those should be
16 channeled through the communications director at USA
17 Swimming, but that you should not be talking about
18 any of our -- any legal -- any pending legal activity
19 outside of -- well, you should not be talking about
20 that with other people. So, yes, I have given that
21 instruction to our staff but to no one else.

22 Q Did -- along those same lines, did you, as the
23 Executive Director, order -- authorize or order any
24 member of USA Swimming or its employees not to talk
25 to law enforcement officials or authorities about --

1 about any cases?

2 A No. I have -- I have never even suggested or
3 intimated that anyone who has ever seen anything
4 wrong in any arena that ought to be reported to
5 police or other authorities, that they should not do
6 that.

7 MR. CURRAN: Let's take a break.

8 THE VIDEOGRAPHER: We're off the record.

9 (A recess was taken.)

10 THE VIDEOGRAPHER: We are back on the record.

11 Q In pre-1999 would it have been appropriate for a
12 coach to date one of his swimmers?

13 A On a technical level, that -- I don't think there was
14 anything that would make that -- would have made that
15 a violation of a code of conduct because the Code of
16 Conduct didn't come into play until 1999.

17 Q So -- I just want to make sure I get this straight.
18 So is it your position that a coach could date a
19 swimmer -- not an underage swimmer. I'm talking
20 about a -- not an underage swimmer -- in, we'll say,
21 pre-1999 and that would have been okay --

22 MR. PYLITT: I object --

23 Q -- with USA Swimming?

24 MR. PYLITT: Okay. I was going to object to the
25 form about -- are you asking Chuck individually, or

1 are you asking under USA Swimming's rules? Who are
2 you asking Chuck to speak to, I guess?

3 Q Well, I'm going to -- I'll ask it both ways. You
4 know, I'll ask would it have been a violation of the
5 Code of Conduct, pre-1999, for a USA
6 Swimming-approved swim coach to date one of his
7 swimmers?

8 MR. PYLITT: And, again, as to form, of any age
9 or --

10 MR. CURRAN: No. I'm not making it an underage
11 swimmer now. My next question is going to be an
12 underage swimmer.

13 MR. PYLITT: Okay.

14 A I honestly don't know what, if any, code, rule,
15 bylaw, guideline might have been in place then, on a
16 USA Swimming technical piece. I know that post-1999
17 that would not be considered appropriate. I don't
18 know pre-1999.

19 Q Okay. Now let's change it to pre-1999, underage
20 swimmer. Would that, to the best of your knowledge,
21 based -- I know you've been there since 1997.

22 A Right.

23 Q So pre-'99 -- so you're there, but you're only there
24 for a little while.

25 A Right.

1 Q -- a coach is dating an underage swimmer.

2 MR. PYLITT: And the form objection is are you
3 talking about eighteen, twenty-one? I'm not trying
4 to --

5 MR. CURRAN: Eighteen.

6 A Eighteen or over?

7 Q Eighteen.

8 A Right. Okay. I want to make sure I got it right.

9 Q Yeah.

10 A So --

11 Q We're pre-'99, pre-1999.

12 A Right.

13 Q A coach is dating a swimmer under eighteen.

14 A Right.

15 Q Do you, as you sit here as the Executive Director of
16 USA Swimming since 1997, would that have been a
17 violation of the United -- of the Code of Conduct or
18 any rule or regulation of USA Swimming?

19 A I don't know. I just don't know what was in place
20 back then, and I don't have a recollection of it.

21 Q Okay. Now I'll just ask you, to Buddy's point
22 earlier, now I'll ask you just -- not particularly
23 about the Code of Conduct that existed --

24 A Right.

25 Q -- or rules or regulations that you've told me you

1 don't know. Would -- would dating a swimmer under
2 the age of eighteen be okay?

3 A You're asking me as --

4 Q Yeah.

5 A At a personal level?

6 Q Yeah.

7 A The -- the only way that I would find that even
8 possibility acceptable -- and I would question
9 this -- would be a situation where you might have an
10 18-year-old assistant coach and a, you know, 17- or
11 18-year-old age group swimmer. But, as a general
12 rule, I would say absolutely not.

13 Q And post-1999 --

14 A Right.

15 Q -- a swim coach dating a swimmer under the age of
16 eighteen, is that a violation of the Code of Conduct?

17 A I believe that is, yes.

18 Q And a swim coach dating someone, a swimmer, over the
19 age of eighteen, but now we're talking post-1999, is
20 that still a violation of the Code of Conduct?

21 A To be honest, I'd want to look at the Code to make
22 sure. I want to say yes, but I would want to look at
23 it to make sure.

24 Q Isn't the point of the Code of Conduct, post-1999,
25 that the swim coach has authority over the swimmer,

1 and that's what makes it inappropriate?

2 A And I would say that would have been the case

3 pre-1999 as well.

4 Q Right. The question of authority is -- is -- is what

5 we're talking about, correct?

6 A You know, again, I don't -- and I'm not trying to be

7 argumentative or split hairs, but it comes down to

8 what's the definition of authority. Certainly in --

9 they're in a role of trust, of leadership, of

10 influence. You know, again, authority just makes me

11 want to get a little more definition, but -- and I'm

12 not trying to dodge it, but I --

13 Q You know --

14 A -- am trying to --

15 Q -- so when I -- you know, I know we're using this

16 post -- pre-1999, post-1999. It's really just an

17 arbitrary date that this Code of Conduct came into

18 play, correct? Isn't that what you told me, that's

19 when the Code of Conduct came into play?

20 A Well, I think it came into play in 1999.

21 Q In 1999, right.

22 A Right.

23 Q So whether it was in play or not in play, you seem to

24 be saying to me that you seem to be having some

25 problems with a coach with authority dating his

1 swimmer, whether she's underage or not underage,
2 correct?

3 A Yes. I mean, I -- I came into this profession as a
4 coach, or this business as a coach, and so I have
5 a -- I have some pretty, I think, informed and
6 experienced views on what I think would be
7 appropriate and inappropriate behaviors and
8 expectations for someone serving in the capacity of a
9 coach.

10 Q And certainly the Code of Conduct could have been --
11 it wasn't. It was enacted in 1999. But it could
12 have been enacted earlier, it just wasn't, correct?

13 A It certainly could --

14 MR. PYLITT: I'm going to object to that
15 question. A lot of things -- anything could have
16 been. And the fact is it wasn't, so --

17 Q I'm going to ask you the same bunch of questions, but
18 now, instead of the USC (sic) Code of Con -- I'm
19 sorry. Instead of the USA Swimming Code of Conduct
20 in 1999, I'm going to ask you about the USOC Code of
21 Conduct and ask you whether or not dating -- dating a
22 swimmer that a coach had authority over, either under
23 eighteen or over eighteen, would that be a violation
24 of the USC Code of Conduct? USOC Code of Conduct.

25 A I don't know. And I will confess that I have not

1 looked at the USOC's Code of Conduct in a long time
2 and have not committed it to any sort of memory or
3 study.

4 Q With regard to Brian Hindson, who's the star of the
5 show in this case, to the best of your knowledge --
6 and I pretty much know the answer to this question,
7 but I'm going to ask you anyway, for the record.

8 USA Swimming never did any investigation of Brian
9 Hindson's employment before he was at CIA, correct,
10 Central Indiana Aquatics?

11 A Yes, that would be correct.

12 Q And USA Swimming never did any investigation of the
13 circumstances surrounding his employment at a local
14 Catholic high school around here called Chatard High
15 School before he became the coach-owned -- owner of
16 Central Indiana Aquatics, correct?

17 A I can't imagine what authority or jurisdiction we
18 would have had over some -- a relationship he had
19 with a high school.

20 Q Right. So I'm going back to when Brian Hindson
21 became the coach/owner of US -- of Central Indiana
22 Aquatics. We call it CIA in this.

23 A Right.

24 Q There was really no checks at all with regard to him,
25 other than did he have his -- did he have his

1 certifications to be a swimmer (sic).

2 A Right.

3 Q As long as he had his certifications to be a swim
4 coach, he was good to go, correct?

5 A Again, I can answer that, but I have to -- I have to
6 tag some texture to it because I can say the answer
7 to that is no, he didn't have to.

8 But you've got to, I think, also put that in a
9 context of the time and what were other standards and
10 practices within Olympic sports and in youth sports.
11 And I don't believe that USA Swimming has been way
12 behind the curve in the evolving development of best
13 practices. I think we've been close to the front of
14 the curve. And that doesn't mean that there aren't
15 individual instances and nuances of that evolving
16 process where we've lagged behind or even been a
17 little bit ahead. But I think you have to put it in
18 the context of the time.

19 Q And I know, you know, hindsight's 20/20. And, you
20 know, if we knew then what we know now, you and I
21 probably would never meet each other.

22 But my point is, is when I learn about this case,
23 it seems that a coach-owned club back, you know, in
24 the 1999 or pre-1999 time frame, there were very
25 little -- was very little that was done to -- in

1 fact, there was nothing really done, other than to
2 check references or to do background checks. As long
3 as the coach of the coach-owned club had his
4 certifications, he was going to get approved as the
5 coach of this coach-owned club, correct?

6 A Again, I've got to add texture to it. And I don't
7 know specifics, but I would think the evolving
8 process that we have gone through have -- would be
9 mirrored in numerous other industries, be it child
10 daycare centers.

11 Q Right.

12 A Be it assisted-living nursing homes. I'm sure that,
13 you know, what procedures, safeguards, protections
14 were in place ten, fifteen, twenty, twenty-five years
15 ago are much different today than they were at those
16 different snapshot periods along the way. And that's
17 part of the evolving nature of this.

18 So I say no, but I -- again, you've got to put it
19 in -- I think you have to put it in the context --

20 Q Well --

21 A -- of time.

22 Q -- you're kind of saying no because nobody was doing
23 it. And that's what you're kind of saying.

24 A Well, I'm trying to -- you know, if we sat here today
25 and knew that in 2015 there are certain things that

1 are going to happen but today they're unforeseen
2 criminal activities, we would do something about it.
3 But I don't know what those unforeseen criminal
4 activities are going to be in 2015 or 2020. And if
5 it did, as an organization, we would address it. But
6 we don't know. So someone -- something's going to
7 happen in 2015, and in 2016 someone's going to say
8 you should have known.

9 Q But, Chuck, a little different than what you just
10 said in the micro world of USA Swimming. You'll
11 have, I think -- I don't know if you'll agree with
12 me, but I think you'd have to agree with me that
13 there was some stuff going on in USA Swimming with
14 swim coaches. There was some stuff going on
15 pre-1999, in the '80s and the '90s, the stuff that
16 Saltzstein is talking about, the stuff that Stopkotte
17 is talking about.

18 There were people -- there were coaches that were
19 having either dating relationships with or sexual
20 relationships with that were removed from jobs, that
21 were removed from coaching positions. You have to
22 admit that USA Swimming knew or -- knew about those
23 things, correct?

24 A Again, it's hard for me to answer that question
25 because there's a lot there. It's pretty

1 broad-reaching. I'm going to, I guess, ask you to
2 try to help me --

3 Q Yeah. Well --

4 A -- get to a --

5 Q -- you're saying -- your point to me was if in 2015
6 something's going to happen but we don't --

7 A Right.

8 Q -- know about it right now --

9 A Right.

10 Q -- what can we do about it?

11 A Right.

12 Q But what I'm asking you, Chuck, is that's not our
13 circumstance with regard to the USA Swimming
14 organization and with its Code of Conduct and with
15 its rules and its regulations. So we've talked about
16 it. We've beaten a dead horse here about mandatory
17 reporting, strongly-urged --

18 A Right.

19 Q -- reporting, all these kinds of things. I think
20 you'll agree with me that, you know, back before
21 1999, before the Code of Conduct and before 2006,
22 that there were coaches, USA Swimming swim coaches,
23 that USA Swimming knew were having relationships with
24 their swimmers, both underage and not underage,
25 correct?

1 A I can't -- I can't speak to pre-1997. I can only
2 speak to what I know from 1997 going forward. And,
3 as I've -- as I've mentioned several times, the
4 things that were brought to my attention were very
5 few.

6 (Mr. Wheeler rejoined the deposition.)

7 Q But there were -- and, again, these -- these media
8 accounts, you know, you can just Google it, just
9 Google USA Swimming or USA Swimming swim coaches and
10 fired and sex and see what comes up. And there's
11 just a ton of names that come up, that I'm sure you
12 know about. I mean, I'll throw the names out there
13 for you, and you can comment on them. But these are
14 all pre-1999. I mean, you know, some of -- it's
15 famous, famous people, people in big positions. It's
16 all been -- it's been beat to death in the media. I
17 mean, like, Mitch Ivey, I'll throw that name out
18 there.

19 MR. PYLITT: Well, if you're asking him about
20 Mitch Ivey, I'd instruct him not to answer. Mitch
21 Ivey has nothing to do with this case and is
22 absolutely irrelevant.

23 MR. CURRAN: Well, I'm asking him now about what
24 USA Swimming knew from the time that he became the
25 Executive Director in 1997. But certainly as the

1 Executive Director of 1997, Chuck has become
2 knowledgeable about things that went before. I mean,
3 there's documents, there's -- what's going on, first
4 thing you probably said when you got into the job.

5 THE WITNESS: Uh-huh.

6 MR. CURRAN: And that certainly today, as a
7 representative of USA Swimming, I'm asking him
8 whether or not he or other representatives of USA
9 Swimming, to the best of his knowledge, knew about --
10 and I have a list of about ten names that all had
11 documented media account issues of getting fired.
12 And these are all pre -- some of them are in the
13 '80s, the '80s and the '90s, about this -- the issue
14 that coaches were having relationships with or dating
15 their swimmers.

16 The first one I threw out was Mitch Ivey.
17 Well-documented case. And, you know, my question is,
18 is -- was USA Swimming aware of, you know, his
19 situation back when it, you know, was happening or
20 when he was fired and when he got in trouble and the
21 allegations against him.

22 MR. PYLITT: We are going to object to any
23 questions about any coaches as being irrelevant to
24 the issues in this case, with the exception of Brian
25 Hindson. You may have all the media reports you

1 want. That doesn't make it relevant. If anything
2 happened after 2000, that's totally irrelevant to the
3 issues in this case. And if there are any ongoing
4 investigations, as we indicated earlier, under the
5 Amateur Sports Act, the Stevens Act, privacy rules,
6 due process, Chuck is not going to testify about any
7 of them.

8 MR. CURRAN: I'm not --

9 MR. PYLITT: You've already told me --

10 MR. CURRAN: -- asking about any ongoing
11 investigations.

12 MR. PYLITT: And you've already said that you're
13 excluding from his answers any rumors or innuendos.
14 We're talking about actual information and proof.
15 And we're not going to -- he's not going to testify
16 about any of those because it's totally irrelevant.

17 MR. CURRAN: So I just want to make -- and we'll
18 ask the magistrate about this --

19 MR. PYLITT: That's fine.

20 MR. CURRAN: -- because we've got to call --

21 MR. PYLITT: That's fine.

22 MR. CURRAN: -- in a minute. I'm going to ask
23 him about coaches that were either dismissed from
24 their positions --

25 MR. PYLITT: By their clubs?

1 MR. CURRAN: Well, by their clubs, by their
2 schools, by their colleges for having relationships
3 with underage swimmers.

4 MR. PYLITT: Well, we don't have any jurisdiction
5 over any college coaches or any high school --

6 MR. CURRAN: But they're still USA swimmers.
7 They're still USA Swimming club coaches, both then
8 and now.

9 MR. LITTLE: Let's call her up, I think, right?

10 MR. CURRAN: Are we ready? Is it time?

11 MR. PYLITT: I just want to make one point.

12 MR. CURRAN: Is it doing it?

13 MR. PYLITT: I've watched Mr. Little, for four
14 hours here, smirk and laugh and giggle every time
15 Chuck gives an answer to a question. I'm not going
16 to put up for it. And, if we have to, I'll ask the
17 magistrate to have him removed.

18 MR. CURRAN: Well, I didn't know about --

19 MR. PYLITT: Either he can behave himself and
20 control and quit giggling and acting like a
21 14-year-old kid or he's going to leave the room.

22 MR. LITTLE: Right. Because I'm a petty guy,
23 Buddy.

24 MR. CURRAN: Well, listen, listen.

25 MR. PYLITT: First of all --

1 MR. LITTLE: You're the pettiest person I've met.

2 MR. PYLITT: Well, I'm just telling you.

3 Mr. Kazmierczak has been watching him. I've been
4 watching him.

5 MR. KAZMIERCZAK: I'm the one who observed it,
6 Mr. Little. I haven't met you before, and I am not
7 that type of person. I can assure you of that.

8 MR. PYLITT: This is serious business.

9 MR. CURRAN: I'm just trying to take a
10 deposition.

11 MR. PYLITT: I know.

12 MR. CURRAN: I'm just trying to take a
13 deposition.

14 THE REPORTER: I can't get everyone at once.

15 MR. CURRAN: All right. Is it time to call?

16 MR. PYLITT: Yeah.

17 MR. CURRAN: Let's go off the record.

18 THE VIDEOGRAPHER: We are off the record at 1:29.

19 (A recess was taken.)

20 THE VIDEOGRAPHER: We are back on the record. It
21 is 2:57.

22 Q Chuck, I want to start talking to you about Pat
23 Hogan. That's -- that's our -- that was issue number
24 one.

25 A Sure.

- 1 Q And in reading, I think, the New York Times article,
2 I think you were quoted as saying something like I'm
3 okay -- I was okay with that relationship, or
4 something along those lines?
- 5 A Yes.
- 6 Q And I don't know all the details. I only know some.
7 What I know, I think I know, is that he married one
8 of his swimmers; is that correct?
- 9 A Um --
- 10 Q He married a woman who was once one of his swimmers?
- 11 A I think that is correct.
- 12 Q Okay.
- 13 A Yes.
- 14 Q And I think he was twenty-nine and she was eighteen
15 when they got married.
- 16 A I think he was twenty-six.
- 17 Q Okay. Do you know his birth date?
- 18 A I don't.
- 19 Q He's currently sixty-two?
- 20 A Sixty-two?
- 21 Q Isn't he?
- 22 A I don't think so. He could be, but I -- I would put
23 him in the neighborhood of sixty, but I don't know
24 which side.
- 25 Q Okay. I did arithmetic. My arithmetic came out that

1 he was twenty-eight and she was eighteen, but --

2 A It could be. I say I thought -- I think I said I

3 thought he was twenty-six, but I thought he was in

4 his mid-twenties or twenty-six.

5 Q Somewhere around there. She was eighteen, and he was

6 twenty-six or twenty-eight, correct, to the best

7 of --

8 A We think.

9 Q We think.

10 A We think.

11 Q You and I. And we know, we think we know, that he

12 coached her with the Atlanta Dynamo Swim Club?

13 A My understanding, for a period of time. I think in

14 the neighborhood of a year.

15 Q And did you do -- when you said you were okay with

16 that relationship or okay with his employment after

17 knowing about that relationship, did you do any

18 investigation whatsoever about that relationship?

19 A I did not.

20 Q Okay. So when you said you were okay with that

21 relationship, was that based upon no investigation?

22 A No. It was based upon my judgment of Pat's qualities

23 as a person and my belief that what he told me was,

24 about that relationship, was accurate, and my further

25 belief that it was something that I was comfortable

1 with.

2 Q Did you ever speak to his former wife?

3 A I did not.

4 Q Do you know whether or not there was a dating
5 relationship while he was a coach, her coach?

6 A My understanding is that there was not a dating
7 relationship while he was her coach, that the dating
8 relationship came after she had gone off to college
9 and then returned and that he spoke with her parents
10 prior to dating her and received their -- their
11 blessing.

12 Q Okay.

13 A And I -- the only piece I would add to that is she --
14 I believe he said to me that she may have -- he had
15 moved on to a different club; that she may have swum
16 with that club during the summer following that first
17 year of college.

18 Q Meaning that she was swimming for the club and they
19 were dating?

20 A That was kind of my interpretation of it, right.

21 Q And --

22 A But I'm not precisely sure about that piece. The
23 piece I am precisely sure about was that she'd gone
24 off to college, she'd come back, he had talked with
25 her parents, her parents blessed the -- believed

1 the -- blessed them dating. And then that dating
2 turned into a marriage, and they were married for six
3 years.

4 And the other thing that Pat shared with me --
5 and he's the one who came to me, sharing all this
6 information. I had never heard anything about it
7 before. And that is -- and his wife had, ex-wife,
8 felt there was -- not only did he feel there was
9 nothing wrong, her parents felt there was nothing
10 wrong, and she felt there was nothing wrong.

11 And I think the time frame was more -- you keep
12 saying '80s. It might have been even late '70s, but,
13 I'm -- again, I'm not sure about that. But if I did
14 do the math, I come up with late '70s.

15 Q Okay. And based upon your discussions with Pat Hogan
16 solely, I mean not with her parents and not with
17 her --

18 A Right.

19 Q -- just with Pat Hogan, what he told you --

20 A Right.

21 Q -- that's what you based upon your statement that you
22 were okay with that relationship?

23 A Well, it was based upon my knowing Pat in a very
24 close and intimate way for a dozen years and my
25 judgment on his -- on his -- on his character and my

1 belief that what he -- he came to me of his own
2 volition and what he shared with me, and I took it --
3 I took that to be accurate.

4 Q And then --

5 A To answer your question.

6 Q And then he -- and told me earlier that he had an
7 active role on both the background screening
8 committee or task force and the youth sports
9 protection task force; is that correct?

10 A That's correct.

11 Q With regard to -- I talked to you earlier about -- I
12 mentioned a name, Mitch Ivey.

13 A Uh-huh.

14 Q What do you know about him?

15 A I know very little about Mitch Ivey.

16 MR. PYLITT: Jim, just for the record, the judge
17 made it very clear, obviously, that we all have a
18 right for a protective order, and we have that
19 understanding.

20 Just to be overly cautious -- and I'm not an
21 expert on the Amateur Sports Act, and I was trying to
22 get educated in the last few moments when we took a
23 break. We cannot allow Chuck to testify about any
24 victims' names. And I assume you're not interested
25 in that.

1 MR. CURRAN: I'm not going there.

2 MR. PYLITT: Okay. And whether they're in the
3 process or not, it is my understanding, and Chuck
4 will answer your questions, some may be and may have
5 those rights.

6 And the only other thing I want to say is we
7 definitely want to designate these questions as
8 confidential. You've got a right to object to that
9 designation. We'll look at the whole deposition, but
10 I just -- just for privacy purposes, I think I need
11 to be overly cautious and make that --

12 MR. CURRAN: Yeah. Number one, I'm not going to
13 ask any names of victims, Buddy. And, number two, my
14 understanding of the Act, Ted Stevens Act, I don't
15 believe any of the people that I'm -- any of the
16 names that I'm going to mention now are athletes,
17 coaches or officials under the Act.

18 MR. PYLITT: Okay.

19 MR. CURRAN: And if there are, we'll deal with
20 that.

21 MR. PYLITT: Yeah.

22 MR. CURRAN: Okay.

23 MR. PYLITT: Fair enough.

24 Q I was asking you about Mitch Ivey.

25 A Mitch Ivey is currently not a member of USA Swimming,

1 nor -- based on my research, is that he has not been
2 a member of USA Swimming for any time during the time
3 that I've been there. We have recently received a
4 complaint about Mr. Ivey. We have -- I'll kind of
5 put this in quotes -- flagged his name, that should
6 he ever seek to become a member of USA Swimming, that
7 he -- we would then initiate an investigation, and he
8 would be subject to a National Board of Review prior
9 to becoming eligible to become a member.

10 Q So he's not on that banned list, as you -- as we sit
11 here today?

12 A I do not think he's on that banned list because --
13 well, I shouldn't -- I just do not think he's on the
14 banned list, but I'm not a hundred percent sure. But
15 I can't -- if he hasn't been -- if he hasn't been
16 convicted of anything and there has -- and there was
17 no complaint filed against him while he was a member,
18 I can't think that there would be a reason for him to
19 be on that banned list, which is why we would put him
20 on a flagged list, that should he try to become a
21 member, we would initiate an investigation.

22 Q Okay. And my understanding is that he was once the
23 University of Florida coach. Do you know that?

24 A I have heard that, yes, that he was --

25 Q And he was fired from that position?

- 1 A I don't know under what conditions he --
- 2 Q And he's not presently a member, and he's not
3 presently coaching, correct, to the best of your
4 knowledge?
- 5 A To the best of my -- I know he's not a member.
- 6 Q You know he's not a member.
- 7 A I have no idea what he does or where he lives or --
- 8 Q Okay. And whether he's banned or not banned and
9 whether he's on that list to be published soon,
10 you're just not positive right now?
- 11 A No, I would -- I'm positive he -- he would be on the
12 flagged list, not on the banned list.
- 13 Q Okay. And -- by the way, obviously the flagged list
14 is not going to be published, correct? I mean, just
15 the banned list?
- 16 A Correct, correct.
- 17 Q Right.
- 18 A And I'm sorry I wasn't precise about that before, but
19 I was kind of --
- 20 Q Is there other people on the flagged -- see, the
21 flagged list is something new to me. Is there other
22 people on the flagged list?
- 23 A Yes, there would be other people on the flagged list.
- 24 Q Do you know how -- does that list exist now?
- 25 A That list does exist now, yes.

- 1 Q How many people are on the flagged list?
- 2 A It might be a couple dozen.
- 3 Q And that's a list that you have that's generally
4 available to you, you could make available?
- 5 A Yes. It's available --
- 6 Q To very few people, I assume.
- 7 A Well, it's available to all of our Local Swim
8 Committees.
- 9 Q Oh, it is? I'm sorry. I didn't know that. It's
10 a -- it's a list that's available to LSCs?
- 11 A Right.
- 12 Q Not just -- okay.
- 13 A Right. The way -- the way it -- the way it actually
14 works on our database is that it -- I think it's --
15 there's a designation that it needs national office
16 approval. And that's the designation that would
17 cause us to take someone who's a non-member, who's
18 seeking to become a member, that's the trigger that
19 would cause us to, should they try to become a
20 member, initiate an investigation, and they would
21 have to go through a Board of Review process.
- 22 Q You said that you recently received a complaint about
23 Mitch Ivey.
- 24 A Yes.
- 25 Q When you say recently, a week --

1 A Within the last couple --

2 Q -- a month?

3 A Within the last couple weeks.

4 Q Okay. And was the complaint of a sexual nature?

5 A It was, but -- yes, it was. Yes.

6 Q Have you -- since he's not a member, have you

7 initiated an investigation through your legal team?

8 A No. Turned the information over to our legal

9 counsel, and they would initiate an investigation,

10 should he seek to become a member.

11 Q Okay. So, as we sit here today, it's just flagged

12 because of the complaint. But is the complaint being

13 investigated now or not?

14 A Not by us.

15 Q Okay.

16 A Because, I mean, it could be being investigated by

17 police or --

18 Q Right.

19 A -- other authorities but not by us. We would not

20 initiate an investigation until the individual seeks

21 to become a member of USA Swimming.

22 Q And I -- and I don't want to know the person who made

23 the complaint. I have no interest in that. But was

24 the member who made the complaint a member of USA

25 Swimming?

- 1 A I do not believe this person was a member. I'm not a
2 hundred percent sure of that, but I do not believe
3 this individual was a member.
- 4 Q Were they ever a member?
- 5 A I don't know that either.
- 6 Q Okay. Next -- the next person I want to ask you
7 about is Everett Uchiyama.
- 8 A Yes.
- 9 Q What do you know about Everett Uchiyama?
- 10 A Everett Uchiyama was a member of our National Team
11 staff and, for a period of time, beginning somewhere
12 2003, 2004, was our National Team director, until, I
13 want to think -- I want to say maybe January of 2006,
14 when I accepted his resignation.
- 15 Q His resignation as what?
- 16 A National Team director.
- 17 Q Was he banned?
- 18 A He has been banned for life from USA Swimming.
- 19 Q He's going to be on that list?
- 20 A He will be on that list.
- 21 Q Banned for life for sexual reasons?
- 22 A Yes.
- 23 Q Did you ever report him to authorities?
- 24 A No.
- 25 Q Why not?

1 A The way the situation unfolded with Mr. Uchiyama was
2 that I was contacted by a young lady who indicated
3 that he had had an inappropriate relationship with
4 her many years previous. And I suggested to her that
5 she needed to share that information with the
6 appropriate police authorities.

7 And I then took the information which she gave to
8 me, which she, in writing, said she wanted it to be
9 handled very discretely, and I confront -- literally
10 within, I want to say, within 24 to 48 hours
11 confronted Mr. Uchiyama with that information. He
12 did not deny it. I informed him that I was going to
13 take him to a National Board of Review. In lieu of
14 that, he accepted a lifetime ban from USA Swimming.

15 Q Where is he working now?

16 A I'm not exactly sure where he's working, but I have
17 heard that he works at a country club in Colorado
18 Springs.

19 Q Doing what?

20 A I'm not sure of the nature of his work or what he's
21 doing there.

22 Q Is he coaching swimming?

23 A I am not aware of that.

24 Q Did you help him get that job?

25 A I did not.

1 Q Does his wife work for USA Swimming?

2 A His wife does work for USA Swimming.

3 Q In what capacity?

4 A I'm sorry?

5 Q In what capacity?

6 A She is an administrative assistant.

7 Q Has anybody requested a reference of USA Swimming, to

8 the best of your knowledge, about Everett Uchiyama?

9 A To the best of my knowledge, no.

10 Q So if you knew that he was presently coaching

11 swimming in Colorado Springs -- and I know you don't

12 know that -- would you report him to the police, or

13 would you inform him employer, if he was coaching

14 kids?

15 A I indicated to the young lady who called me that she

16 should be reporting that to the police. And, no,

17 I -- I did not think it was our role at USA Swimming

18 to be following someone around and tracking where

19 they're working and -- someone we've banned. That's

20 just not something we do.

21 Q But right now nobody knows he's banned because

22 there's no public list, correct?

23 A Well, I wouldn't say nobody. I'm sure there -- I'm

24 sure there -- there's a grapevine out there that I'm

25 sure people are aware of. But his name will

1 certainly appear on the banned list when it's
2 published.

3 Q Right. But my point is, if he's working at a country
4 club in Colorado Springs and if he's coaching
5 swimming there and if those people don't know
6 anything about his lifetime ban, USA Swimming has not
7 done anything to inform them about it because you
8 view that that's not USA Swimming's role?

9 MR. PYLITT: Jim, I'm going to object to the
10 question. It's been asked and answered. And,
11 secondly, that he said he doesn't know what his job
12 is. That assumes facts not in evidence. I think
13 he's already answered the question.

14 Q When -- when Everett Uchiyama resigned -- when did
15 you say you accepted his resignation?

16 A January, the end of January 2006.

17 Q And was there any kind of settlement regarding his
18 claim -- regarding his situation, his case?

19 A I'm not really sure what you mean by settlement. I'm
20 not -- I mean --

21 Q With his victim?

22 A I don't know what happened between Mr. Uchiyama and
23 his victim. What I do know is that his victim,
24 alleged victim, called me, shared with me, in
25 writing, information, which she asked me to handle

1 discretely. I dealt with the Uchiyama situation. I
2 then called her back to tell her what we had done,
3 and she expressed appreciation and satisfaction for
4 what we had done.

5 Q Did you run by or get the approval of your Board of
6 Directors of USA Swimming in the handling of the
7 Everett Uchiyama matter?

8 A I don't recall that I had any conversation with our
9 Board, other than that I, given the high-profile
10 nature of that position, I, at the very least,
11 informed the President of USA Swimming at that time
12 what we were -- the action I was taking and may have
13 gone so far as to, although I don't recall
14 specifically, to share that information with the
15 Executive Committee of the Board. But I did not seek
16 anyone's approval. It was a personnel matter, and so
17 I assumed responsibility for that.

18 Q The allegations that were made against Everett
19 Uchiyama through you or to you, when did they
20 allegedly take place?

21 A I don't recall. I just know they were sometime in
22 the past. I got the impression it might have been,
23 you know, fifteen to twenty years previous, but I
24 really have no strong recollection of that.

25 Q Next person I want to talk about is Rick Curl. What

1 do you know about him?

2 A Not much. I met Rick Curl for the first time
3 probably early in the last decade, when he was -- he
4 was a fairly high-level coach, had been a coach of a
5 couple of National Team -- or at least one National
6 Team-level athlete. And that was really about my --
7 my only interaction was him was just meeting him and
8 seeing him and talking with him just in a casual
9 manner on a few pool decks.

10 Q Do you know why he got fired from the University of
11 Maryland?

12 A I never even knew he worked at the University of
13 Maryland.

14 Q Did you ever get any information about him having an
15 inappropriate sexual contact with one of his
16 swimmers?

17 A I have never received any information about that.

18 Q Is there a file on Rick Curl?

19 A Not -- not that I'm -- not that I'm aware of.

20 Q Are you aware of any settlement that Rick Curl made
21 with his alleged victim?

22 A I have -- I have heard, just within the past three to
23 four weeks, that there was some sort of a settlement
24 between Rick Curl and a victim or a victim's family.
25 And that's the first I heard of that.

- 1 Q Do you know why he moved to Australia?
- 2 A I don't.
- 3 Q Do you know if he moved to avoid criminal
4 prosecution?
- 5 A I'll give you the same answer I gave to the last
6 question.
- 7 Q Okay. And you said you learned in the last three to
8 four weeks about some kind of settlement?
- 9 A I shouldn't say I learned. I heard a rumor. I -- I
10 would equate learning as knowing for sure, as opposed
11 to --
- 12 Q Heard a rumor?
- 13 A -- hearing something. Right, heard a rumor.
- 14 Q Who did you hear the rumor from?
- 15 A That's a good question. I don't recall who I heard
16 the rumor from, but it -- I don't recall who I heard
17 the rumor from. I can't say.
- 18 Q But the rumor was just to the extent that he paid --
19 he paid a settlement himself, personally? Is that
20 what the rumor was?
- 21 A No, no. I just -- I -- I think I heard it in the
22 context of somebody saying that they had seen his
23 name on a blog or something to that effect.
- 24 Q Next person I want to talk about is Paul Bergen.
- 25 A Okay.

- 1 Q What do you know about him?
- 2 A Not much.
- 3 Q You don't know much about him?
- 4 A Not much at all.
- 5 Q Well, what do you know about him, if anything?
- 6 A I know he's not a member. I, again -- and I'm always
7 cautious about this because I'm not -- I don't think
8 of myself as a petty, gossipy person, but I've --
9 I've recently heard -- heard some rumors about him.
- 10 Q From who?
- 11 A The rumors I've heard relate to the same as Rick
12 Curl, and that his name has appeared on some blogs,
13 and, again, which I've never even -- I don't think
14 I've ever gone to a blog in my life, but I've just
15 heard that his name was appearing on a blog.
- 16 Q Did you speak to Deena Deardurff Schmidt after she
17 appeared on 20/20?
- 18 A No, I did not. But I did send her two
19 communications, one an e-mail and second a letter.
20 And in that communication I attempted to offer some
21 sympathy for experiences she may have had and invited
22 her to come forward and make a complaint against
23 anyone who had acted inappropriately with her. And I
24 have received no response to that.
- 25 Q Next person I want to talk about is Mark Schubert.

1 What do you know about him?

2 A Mark Schubert is currently the National Team head
3 coach for USA Swimming.

4 Q Did you hear any rumors about him?

5 A I have, in recent -- recent weeks, heard rumors about
6 Mark Schubert.

7 Q From whom?

8 A Heard from the President of USA Swimming, Jim Wood.

9 Q Of a sexual nature?

10 A Of a sexual nature.

11 Q Did you initiate an investigation?

12 A I did. Because Mr. Schubert is an employee of USA
13 Swimming, I felt that, even though it was a rumor,
14 that it was something that needed -- that I needed to
15 address. And I contacted the alleged victim and
16 asked her directly. And she absolutely denied that
17 there was any truth to that rumor. And she shared
18 with me the story of how that rumor got started
19 twenty-five or twenty-six years ago.

20 Q Next person I want to talk about is Richard Quick.

21 A Yes.

22 Q Do you know him?

23 A He passed away this past year.

24 Q Did you know him?

25 A I knew Richard very well.

1 Q What do you know about him?

2 A Extraordinary coach. Extraordinary advocate for the
3 swimming sport. I know virtually nothing about his
4 personal life, nor have I ever heard anything.

5 Q You hadn't heard anything negative?

6 A Well, not negative in the context that we're talking
7 about --

8 Q That's what I'm talking about.

9 A -- we're talking about here. No, I've never heard
10 anything about Richard Quick.

11 Q How about Scott MacFarland?

12 A Um --

13 Q Or Farlane, whatever.

14 A I don't know Scott MacFarland. I have -- I have a
15 very fuzzy recollection that his name has come -- has
16 come through in the last -- last maybe three to four
17 weeks. It may be that there is a complaint that has
18 been filed against him and I've put that into the
19 process.

20 Q Meaning investigative process?

21 A Meaning the process of transferring that information
22 to our legal counsel to -- if -- if he's a member,
23 initiate an investigation. If he's not a member, to
24 flag him for investigation should he become a member,
25 or seek to become a member.

1 Q He's on that flagged list, I assume?

2 A I don't know. If he's a member --

3 Q Oh.

4 A I don't know what his status is.

5 Q Next name I want to talk about is Norm Havercroft.

6 Don't know the name?

7 A Blank.

8 Q Okay.

9 A Blank.

10 Q Andy King?

11 A I've certainly heard of Mr. King.

12 Q Okay. Don King?

13 A I have heard of that Mr. King as well.

14 Q What do you know about Don King?

15 A What I know about Mr. Don King is that -- and I've

16 never met him. I wouldn't know him if I saw him.

17 But my understanding is that he was a coach in Lake

18 Oswego, Oregon, that there was a -- he was charged

19 with sexual misconduct, that he went to trial, was

20 acquitted. USA -- that we conducted our own

21 investigation and found reason to ban him for life,

22 irrespective of the fact that he was acquitted in his

23 criminal trial.

24 Q So he's going to be on that published banned-for-life

25 list, when it comes out?

1 A Yes, he would be on that list.

2 Q Keith Anderson?

3 A Keith Anderson. I believe he's on the banned list,
4 but I know -- I say I believe because, again, I
5 just -- I looked at kind of a draft of that list
6 quickly. But I know nothing more about Keith
7 Anderson.

8 Q Next person I want to talk about is Jack Nelson.

9 A I know Jack Nelson.

10 Q What do you know about him? What do you know about
11 him in this regard?

12 A Jack Nelson was a -- recently retired in the last few
13 years, longtime swim coach, based in Fort Lauderdale,
14 Florida, head coach of the 1976 women's Olympic team,
15 which was the team that was involved in the Olympic
16 Games where there was the great -- a great deal of
17 scandal around the allegedly doped East German women.
18 And he has crusaded since that time to try to get
19 recognition for those women. Other than that, I,
20 aside from occasionally seeing Jack Nelson at a
21 function or event, I -- I know nothing else.

22 Q Have you been contacted by Diana Nyad about Jack
23 Nelson at all?

24 A I have not.

25 THE VIDEOGRAPHER: Excuse me.

1 MR. WHEELER: Hold on.

2 Q Did USA Swimming ever investigate Jack Nelson, to the
3 best of your knowledge?

4 A To the best of my knowledge, USA Swimming has,
5 certainly since 1997, has not invested --
6 investigated Coach Nelson. And I'm not aware of any
7 complaints, formal complaints, that have been filed.

8 Q Any investigation before 1997, that you're aware of?

9 A Not that I'm aware of. I mean, nor have I heard any
10 rumors.

11 MR. PYLITT: Do you want to change, Jim? He's
12 got --

13 MR. CURRAN: Oh, yeah, sure.

14 MR. PYLITT: He's running out of tape.

15 MR. CURRAN: Sure.

16 THE VIDEOGRAPHER: This marks the end of tape
17 three in the deposition of Charles Wielgus. We're
18 off the record at 3:30.

19 (A recess was taken. Mr. Kazmierczak left the
20 deposition.)

21 THE VIDEOGRAPHER: We are back on the record.
22 This is the start of tape number four in the
23 deposition of Charles Wielgus. It is 3:31.

24 Q I asked you earlier about Andy King. When did you
25 first get any notice about problems with Andy King?

1 A About who and Andy King?

2 Q About any problems with Andy King.

3 A The first time that I ever heard about Andy King was
4 in, I want to say, January of 2003.

5 Q In what regard?

6 A My recollection is that a gentleman by the name of
7 Clint Benton, who, at the time, was the general chair
8 of Pacific Swimming, contacted me about Mr. King and
9 that he, Mr. Benton, was looking for some advice or
10 counsel from USA Swimming regarding a letter that had
11 come to Mr. Benton from a young lady who was
12 expressing concerns about Mr. King.

13 I then turned that letter, at Mr. Benton's
14 request, over to a gentleman by the name of Wells
15 O'Brien, who, at the time, was the general counsel
16 for USA Swimming, seeking his advice as to how best
17 to respond. He gave me his advice, and I shared that
18 verbatim back with Mr. Benton.

19 Q You recollect it being January 2003, not earlier, in
20 2002?

21 A No. My recollection, it was January of 2003.

22 Q By the way, when -- we just talked about a lot of
23 names. When you get these phone calls or hear these
24 rumors, do you -- do you do a memo to a file or open
25 a file in this regard?

1 A No. First of all, in terms of gossip and rumors,
2 I -- usually if I'm involved in a situation and I'm
3 starting -- if someone's starting to move into a
4 gossip or rumor, I usually walk away or I put my hand
5 up and say I don't want to engage in that.

6 In terms of phone conversations that I've had
7 with individuals who feel they have something to
8 share or a possible complaint they want to discuss,
9 as I mentioned earlier, my response to them is always
10 to put it in writing.

11 And then -- and, again, it's not like there has
12 been an awful lot of these. But when it -- when I do
13 receive something, then I immediately turn it over to
14 an administrative assistant, who is our liaison with
15 our outside counsel, and it moves right into the
16 process. And that usually happens within minutes,
17 perhaps hour -- no more than hours, of when I receive
18 the communication.

19 But, you know, I mentioned earlier today that I
20 responded -- sometimes will respond with an e-mail
21 with my contact information, and that happens very,
22 very seldom. But I, if someone wants it, I certainly
23 give it to them, if they haven't taken it down over
24 the phone. But, again, there haven't been -- there
25 hasn't been so many of these that -- the volume

1 hasn't been such that it's required me to, you know,
2 initiate a log or a file because I immediately put
3 them into a process.

4 Q I totally appreciate what you said to me about
5 rumors. But sometimes rumors -- you know, sometimes
6 where there's smoke, there's fire. You'll agree with
7 that, correct?

8 A Yes.

9 Q And so I just want to be clear that if it's something
10 you heard or if it's considered to you to be a
11 rumor --

12 A Right.

13 Q -- then no investigation would be initiated, correct?

14 A On those instances where someone has shared something
15 with me that I would consider a rumor, my response
16 has always been file a complaint or get somebody else
17 to file a complaint, and we'll act on it. But I
18 don't want to have any more discussion with you about
19 a rumor. I don't want to be gossiped with. So file
20 a complaint or get somebody else to file a complaint.

21 Now, in the situation much earlier with
22 Mr. Schubert, clearly a rumor but someone in my
23 employ, I'm going to look into that. So I think
24 there is a -- there is a processing distinction
25 there.

1 Q Next name I want to talk to you about is John Sfire
2 or Sfire. Is that a name that --

3 A John Sfire.

4 Q Sfire?

5 A Yeah.

6 Q Is that a familiar name to you?

7 A It's an all-too-familiar name. And I say that with a
8 little bit of a smile only because there seems to
9 have been a -- a running -- a running series of
10 issues with Mr. Sfire over the past ten years or so.
11 I believe he's been suspended several times. He is
12 not currently a member of USA Swimming. But I don't
13 know a whole lot of particulars about Mr. Sfire's
14 various run-ins with his -- with his team or his --
15 or with other coaches.

16 Q Is he on the banned list or the flagged list?

17 A I think the answer to that is yes. I'm not sure
18 which list he's on, quite frankly. But I do know
19 he's no longer a member. I don't know whether he's
20 banned for life or not. I don't think so.

21 But I think he is on the flagged list because in
22 the -- he's kind of been involved -- I guess my view
23 of it is there's kind of a Hatfield-McCoy's club
24 recruiting war going on in Rochester, Minnesota. And
25 the latest -- the most recent volley in that was some

1 sort of a sexual misconduct charge by the fellow he's
2 been feuding with for years. And so I think that was
3 enough to -- for us to put Sfire on the flagged list.
4 And that's my general understanding of where that is
5 right now.

6 Q So to get on a flagged list -- well, is there any
7 criteria to get on a flagged list?

8 A Actually, that's -- I think that is something, as
9 part of our seven-point plan, is we look at a number
10 of issues on that plan and some of the applications
11 that will be implemented as a result of that plan.

12 I think dealing with this flagged list will be
13 something we will absolutely have to sort through
14 because, as a for-instance, you know, at one end of
15 the spectrum we could take anyone who has been found
16 to be a sexual offender and put them on that list
17 because they might someday try to become a member.
18 So you kind of work back from there to a reasonable
19 place.

20 So if -- you know, if -- and, again, these
21 things, just by happenstance, if we learn of a high
22 school swim coach who's not our member but has been
23 found guilty of a sexual misconduct, we would -- I
24 would put that person on our flagged list because
25 they might very well try to become a member of USA

1 Swimming someday.

2 So right now we're making those -- those sort
3 of -- kind of random judgment calls. And I think
4 this will probably become more formalized as we go
5 forward and try to address this issue.

6 Q The flagged list, you told me, exists, and it's
7 available to the LSCs. How long has the flagged list
8 existed?

9 A I don't know precisely, but I would -- I think for
10 several years now. And, again, whether that's two or
11 three years or six or seven years, I'm not sure. But
12 we have started to flag the names of individuals who
13 we would want to investigate before we granted them
14 membership.

15 Q Next name is Rob Mirande.

16 A Yes.

17 Q Did you ever investigate him?

18 A I believe that Mr. Mirande is currently under
19 investigation.

20 Q Is he banned?

21 A He's currently under investigation.

22 Q Okay. Do you know when you were first contacted
23 about Mirande?

24 A I am fuzzy here, but I want to say the first time I
25 ever heard his name was in the fall of 2008, maybe

1 September or October of 2008.

2 Q Was an investigation immediately authorized?

3 A At that time?

4 Q Yes.

5 A What was talked about at that time was -- this was a
6 conversation with a mother who was expressing
7 concerns about her daughter and a possible
8 inappropriate relationship with Mr. Mirande. And I,
9 as would have been normal practice, said please send
10 me information so that we can initiate an
11 investigation.

12 Q And do you know when the investigation was initiated?

13 A I do not know when the actual investigation was
14 initiated. This particular lady did not contact me
15 until a year later, perhaps longer. In October of
16 this past year is my recollection. And, once again,
17 I asked her to share information with us in writing.
18 And I believe that was done shortly thereafter. And
19 I believe that information was immediately turned
20 over to our legal counsel.

21 MR. CURRAN: Can I just take a little break? I'm
22 nearly done.

23 THE WITNESS: Okay.

24 MR. CURRAN: I just want to just look at a couple
25 notes.

1 MR. PYLITT: Sure.

2 THE VIDEOGRAPHER: We're off the record.

3 (A recess was taken.)

4 THE VIDEOGRAPHER: We are back on the record.

5 MR. CURRAN: Are you okay, Buddy?

6 MR. PYLITT: I'm sorry?

7 MR. CURRAN: Good? Good to go?

8 MR. PYLITT: Yeah.

9 MR. CURRAN: Okay. I thought you wanted me for a
10 second. Okay.

11 MR. PYLITT: No. I was just going to ask you a
12 question, but --

13 Q In my readings about some of your recent interviews
14 and stuff, this Deena Deardurff made some statements
15 or had a press conference or something. Did you ever
16 contact her?

17 A Yes. I sent her an e-mail and a letter.

18 Q Did you ever inquire of -- when I read her stuff, she
19 never -- she never indicated who her violator was
20 that she claimed.

21 A That's correct.

22 Q Did you ever find out from her or through her or
23 through others who her violator was?

24 A No. But I -- I asked her directly to let -- please
25 file a complaint and let me know. I shouldn't say --

1 that's a little strong. I encouraged her to come
2 forward and file a complaint so we could take action.

3 Q So, as you sit here today, you don't know who her
4 alleged violator was?

5 A I don't know.

6 Q Okay. Just what she said, that -- I think she said
7 that he's in some kind of Hall of Fame or something?

8 A That was one of the things that she did mention,
9 and -- in her press conference. And it was also one
10 of the -- it was also an issue which I addressed in
11 my communication to her, which was to indicate to her
12 that USA Swimming doesn't have a Hall of Fame, and we
13 certainly don't vet candidates for the Hall of Fame.
14 But that really was secondary to my giving her the
15 opportunity and encouraging her to come forward with
16 a complaint that we could act on.

17 Q And I asked you about this guy earlier, this guy Paul
18 Bergen. I'm sorry to switch up on you.

19 A Yes. That's okay.

20 Q And what did you -- what did you tell me about him?

21 A I think all I said was he was -- well --

22 Q You said don't know much about him, not a member,
23 recently heard rumors about him. That's what you
24 told me, correct?

25 A Yes.

- 1 Q And I don't know if I asked you who you heard the
2 rumors from or you didn't remember who -- I can't
3 remember. Did you hear -- do you remember who you
4 heard the rumors from?
- 5 A No. Again, I just think it was in that same -- other
6 people reading blogs, jeez, so-and-so was named on
7 some blog. And so that's where -- his name was kind
8 of in that list of a few names that were mentioned on
9 some blog.
- 10 Q Okay.
- 11 A Again, I've never gone on the blogs, don't know where
12 that came, but --
- 13 Q Okay. Another name, Bob Gillespie?
- 14 A It doesn't ring a bell.
- 15 Q Okay. Todd Greiner?
- 16 A Doesn't ring a bell.
- 17 Q Chris Wheat?
- 18 A Chris Wheat does ring a bell. Coach here in
19 Indianapolis area. I think recently -- recently
20 accused of inappropriate sexual contact.
- 21 Q USA Swim member?
- 22 A I believe Chris Wheat is a USA Swim -- or was.
- 23 Q Is he on either list, flagged or banned?
- 24 A I believe he's on the banned list, yes.
- 25 Q Pete Malone?

1 A I do know a Pete Malone.

2 Q Do you know anything about him, along the lines we're
3 talking about?

4 A In this context, no. Although, there was an issue
5 with his club, and they -- and I think maybe a coach
6 at his club, but --

7 Q Do you -- did -- do you know why Malone recently
8 resigned from his club?

9 A I don't.

10 Q Okay.

11 A I don't.

12 Q No investigation, no knowledge about that?

13 A No. I just -- all I heard is that he recently
14 retired.

15 Q Jack Nelson, did I ask you about Jack Nelson?

16 A You did, yes.

17 Q Did -- do you know any of -- do you know anything
18 about any of his victims committing suicide?

19 A I didn't know Jack Nelson had victims, but --

20 Q Okay. Do you know if any claims have been made by
21 any victims -- well, we know about certain names that
22 are in -- there's lawsuits filed and things like
23 that. Of the different people that I went through
24 the list for, I mean, some of them are not -- have no
25 problems, and the public ones we know about.

1 Do you know of any claims made against USA
2 Swimming for any of the other people who I asked you
3 about today in this -- in this list of people, that
4 made claims or filed claims?

5 MR. PYLITT: Jim, I'm going to object to that. I
6 mean, that really is pretty farfetched and irrelevant
7 and has nothing to do with litigation, claims that
8 may have been filed against USA Swimming. You know,
9 I can't imagine the judge is going to make him answer
10 those types of questions.

11 MR. CURRAN: Yeah, I certainly don't want to ask
12 him about the victims' names.

13 Q I think I asked you earlier, has USSIC paid -- USSIC
14 or the other company paid any claims of victims, to
15 the best of your knowledge?

16 A I really don't know the answer to that question.

17 Q And this child protection policy thing I think we
18 talked about a little bit. My reading of some of the
19 documents is that it was for the National Team, for
20 only the National Team. Is that true?

21 A My -- you're talking about the child protection
22 policy?

23 Q Yes.

24 A I believe that that was for, yes, for staff and
25 volunteers who would be part of a delegation,

1 National Team delegation, that would earn a trip.

2 Q That's the way I read it, too.

3 A Right.

4 Q That's the way I read it. So this child protection
5 policy, just to make sure I'm reading it right, was
6 only for the National Team. It was not a policy that
7 went down to the club level; is that correct?

8 A That's correct. That's my understanding, yes.

9 Q And is that for monetary reasons?

10 A I don't think monetary reasons, at least to my
11 recollection, was never a part of the discussion.

12 Q Well, why was it then? Why is the child protection
13 policy only for the National Team?

14 A I think that the -- and, again, I was not on the task
15 force, nor was I the liaison to the task force, so I
16 don't -- I can only speculate. And my speculation
17 would be that those were situations where we had
18 athletes and adults going on extended trips. And so
19 that there was a feeling that some policies,
20 procedures, safeguards ought to be put in place.

21 Q So why wouldn't those policies, procedures, and
22 safeguards be appropriate for all levels?

23 A I think -- again, this goes back to the evolutionary
24 nature of this issue and how it's being addressed.

25 In September of 2009 USA Swimming President Jim Wood

1 appointed a Youth Protection Task Force, which is a
2 subsequent task force to the Background Check
3 Implementation Task Force, which was a supplement --
4 subsequent task force to the Background Check Task
5 Force.

6 So we have a task force that said we should do
7 background checks. We then have a task force that
8 works on the criteria and implementation of that.
9 Then the next step in the iteration is, gosh, you
10 know, maybe we should have a task force that looks at
11 a broader set of safeguards and protection. And that
12 youth task force submitted their report on May 1, and
13 they've been in place for about nine months.

14 Q Another name I want to throw out to you, George
15 Gibney. Any -- does that ring a bell at all?

16 A That does not ring a bell.

17 Q Do you know if he's a USA Swimming swim coach?

18 A Actually --

19 Q Gibney.

20 A -- sounds like a -- sounds like an Irish -- is he an
21 Irish coach?

22 Q Yes.

23 A Yeah, I think I've heard the name.

24 Q Was he ever a USA Swimming coach?

25 A Not -- I don't know the answer to that.

- 1 Q You don't know if he's a member now?
- 2 A I do not know he's a member now, but he was a coach
3 in Ireland.
- 4 Q Is he on either list, flagged or banned?
- 5 A I don't know. I don't know.
- 6 Q I asked you earlier about ASCA.
- 7 A Yes.
- 8 Q And does ASCA have any endorsement -- do they do any
9 endorsement of coaches or anything like that, or
10 certifications for coaches?
- 11 A They do. They provide a fairly comprehensive program
12 of coach education and certification.
- 13 Q Is it necessary to have certification from ASCA in
14 order to be a USA Swimming swim coach?
- 15 A This is an area a little bit outside my day-to-day
16 work. But I believe that to be identified as the
17 head coach of a club, that you need to have a
18 certain -- you need to have completed a certain level
19 of coaching education, a certification with ASCA or
20 have a certain level of experience. But, again, I'm
21 a little outside my area of information and knowledge
22 here.
- 23 Q What about a guy named John Leonard?
- 24 A I know John Leonard.
- 25 Q Who is he?

1 A He's the Executive Director of the American Swimming
2 Coaches Association.

3 Q ASCA, correct?

4 A ASCA, correct.

5 Q Have you ever heard any rumors, along the lines we're
6 talking about today, about John Leonard?

7 A In terms of sexual misconduct with athletes? I have
8 not.

9 Q Any other criminal, not just sexual, but criminal
10 allegations against him that you've heard about?

11 A Against Mr. Leonard?

12 Q Yes.

13 A The only allegation against Mr. Leonard is that
14 he's -- he's a serial marriage guy. He's had many
15 marriages. But I apologize. I don't mean to be
16 flip. It's late in the day.

17 MR. CURRAN: Thank you, sir. I'm done.

18 MR. WHEELER: Nothing.

19 EXAMINATION,

20 QUESTIONS BY MR. PYLITT:

21 Q Mr. Wielgus, let me ask you just one or two
22 questions. Earlier in the day I think Mr. Curran
23 asked you a little bit about drug -- dug -- drug
24 testing.

25 A Yes.

- 1 Q Does United States Swimming do drug testing?
- 2 A We do not.
- 3 Q Okay.
- 4 A Drug testing is done really by two entities, the
5 United States Anti-Doping Agency, which is an
6 independent agency, and then FINA, which is our
7 international federation.
- 8 Q Okay. And the doping agency, does that go by an
9 acronym? Are there initials?
- 10 A U-S-A-D-A, USADA.
- 11 Q And that stands for --
- 12 A United States Anti-Doping Agency.
- 13 Q Do you know how many members there are of USA
14 Swimming today, swimming members?
- 15 A There are a little more than 300,000 members.
- 16 Q Okay. And I believe you testified earlier this
17 morning that certain elite swimmers or certain -- a
18 handful of Olympic swimmers are drug tested.
- 19 A Yes.
- 20 Q Does the average young ten-year-old that swims for a
21 local club that's in USA Swimming get drug tested?
- 22 A I wish they would because that would say we've really
23 got a prodigy on our hands, but no.
- 24 Q Okay.
- 25 A The universe is probably somewhere between 200 to 300

1 athletes that are on the drug-testing list.

2 Q All right. We talked a little bit about Brian
3 Hindson today. Did you know Brian Hindson before he
4 was arrested?

5 A Know him, no. I met Brian Hindson, Hindson, back in
6 the early 2000, 2001, 2002 area at one of our
7 conventions.

8 Q All right.

9 A But other than hallway chatter at a convention, I
10 have no other interaction with him.

11 Q Fair to say you get to meet a lot of coaches during
12 the course of your --

13 A I -- I do. I spend a lot of time with --

14 Q All right.

15 A -- coaches.

16 Q Have you checked to determine whether there were any
17 complaints made to USA Swimming about Brian Hindson
18 before his arrest in February of '08?

19 A There were absolutely, to the best of my knowledge,
20 no complaints about Mr. Hindson.

21 Q And after his arrest there was a National Board of
22 Review convened. There was an emergency suspension.
23 He was banned for life; is that correct?

24 A That's correct.

25 Q All right. Before that arrest and that Board of

1 Review, was Brian Hindson ever a subject of any
2 National Board of Review?

3 A Not -- I believe the answer to that is no.

4 Q Okay. And before February of '08, when he was
5 arrested, did you have any information, rumor or
6 information, complaints, that there was any concern
7 that Brian Hindson would be filming swimmers naked in
8 the dressing rooms?

9 A None whatsoever. I mean, that is a -- in a sense --
10 I would just maybe editorialize a little bit and say
11 that the issue of filming or taking pictures was not
12 even on the radar screen until just in the last
13 couple years, when this particular issue came up and
14 we had a situation with Michael Phelps, where
15 somebody took a cell phone picture of him.

16 Q Right.

17 A And I think that has raised our awareness of this --
18 this is something that I think will become part of
19 our -- of our seven-point action plan as we look
20 going forward, how we will try to provide safeguards
21 for things like that.

22 Q And from the time you first became the Executive
23 Director at USA Swimming, had there been any Boards
24 of Reviews convened against any other coaches for
25 filming swimmers surreptitiously, before Brian

1 Hindson?

2 A No.

3 Q All right. Does anyone from USA Swimming go out and
4 routinely inspect facilities that coaches are running
5 clubs from?

6 A No. That's -- we don't perform any sort of auditing
7 or inspection services.

8 Q All right. Does USA Swimming tell a coach that he
9 can only practice between certain hours and he can't
10 practice between other hours?

11 A We are -- we're not the boss of clubs, and we're not
12 the employer of coaches.

13 Q All right. Other than the National --

14 A Other than the National Team head coach and our youth
15 team head coach.

16 MR. PYLITT: All right. That's all I have.

17 FURTHER EXAMINATION,

18 QUESTIONS BY MR. CURRAN:

19 Q When Brian Hindson filmed Brooke Taflinger and other
20 girls, but we're here about Brooke Taflinger, they
21 were filmed in a coach's locker room. There's the
22 pool, the pool deck, coach's office with a window out
23 onto the pool deck, and behind it a bathroom, shower,
24 little locker room.

25 To the best of your knowledge, there was -- there

1 was no prohibition, from the USA Swimming perspective
2 at the national level, of girls changing in a coach's
3 locker room, correct?

4 A Oh, gosh. No, there isn't. But, I mean, there are
5 so many different facility configurations that --

6 Q And -- so the answer is no, correct?

7 A The answer is no, yes.

8 Q And would it -- no strict-rule prohibition. And I
9 know there's all kind of facility configurations. I
10 totally understand that.

11 Was there -- at the time this happened, around
12 2000, there was also no requirement, from the USA
13 Swimming perspective, to have chaperones at practices
14 or parents at practices, correct?

15 A There was no requirement to do that, no.

16 MR. CURRAN: Right. Okay. That's all I have.

17 MR. WHEELER: I actually have a question in
18 follow-up to Mr. Pylitt's -- developed a question
19 by -- that Mr. Pylitt asked you with respect to
20 filming.

21 EXAMINATION,

22 QUESTIONS BY MR. WHEELER:

23 Q Based on my understanding of the questions that you
24 were asked by Mr. Curran, and your responses, USA
25 Swimming was at least aware that in the past twenty

1 or twenty-five years that there had been physical
2 sexual misconduct between some coaches and some
3 athletes that had occurred on occasion?

4 A I think that's -- that's fair to say, that, just as
5 these things happen in schools, at camps, youth
6 sports programs, religious youth organizations, that
7 that is an issue that anyone who's dealing with kids
8 is at least somewhat aware of that issue.

9 Q Let me ask you, what about the issue of swim coaches
10 filming athletes in a nude environment?

11 A Not even on the radar screen.

12 Q So that isn't something you guys had seen happen
13 before?

14 A Totally unforeseeable, unanticipated. The only issue
15 related to filming that has gotten any attention, at
16 least from our perspective, recently has to do
17 with -- whether it's -- whether parents are taking
18 film of their kids swimming and then posting it on
19 the Internet, is that somehow conflicting with -- you
20 know, who owns that content, that sort of thing. But
21 in the sense we're talking about, totally unforeseen.

22 MR. WHEELER: Thank you.

23 MR. PYLITT: Signature.

24 THE VIDEOGRAPHER: Okay. This marks the end of
25 tape four in the deposition of Charles Wielgus.

1 STATE OF INDIANA)
) SS:
2 COUNTY OF HAMILTON)

3

4 I, Paula A. Morgan, Notary Public in Hamilton
County, Indiana, do hereby certify that the deponent
5 was, by me, sworn to tell the truth in the
aforementioned matter;

6 That the deposition was taken on behalf of the
Plaintiff at the time and place heretofore mentioned
7 with counsel present as noted;

8 That the deposition was taken down by means of
Stenograph notes, reduced to typewriting under my
direction and is a true record of the testimony given
9 by said deponent and was thereafter presented to the
deponent for signature.

10 I do further certify that I am a disinterested
person in this cause of action; that I am not a
11 relative or attorney of any of the parties or
otherwise interested in the event of this action and
12 am not in the employ of the attorneys for the
respective parties.

13

14 IN WITNESS HEREOF, I have hereunto set my hand and
affixed my notarial seal this _____ day of May,
2010.

15

16

17

18 _____
Paula A. Morgan, Notary Public

19

20 County of Residence: Hamilton

21

22 My Commission expires: December 8, 2016

23

24

25

James M. Curran
ATTORNEY AT LAW
86 Washington Avenue
Milltown, New Jersey 08850

NOTICE OF DEPOSITION FILING

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

B.N.T.,

Plaintiff,

CAUSE NO.

1:09-cv-0771-WTL-DML

vs.

BRIAN HINDSON, et al.,

Defendants.

In compliance with the Indiana Rules of Procedure, Rules of the Industrial Board or Federal Rules of Procedure, pursuant to Indiana Supreme Court Order dated 10-1-86, you are hereby notified of the filing with Counsel for Plaintiff of the deposition of CHARLES WIELGUS taken on May 12, 2010.

(Date of Filing)

cc: Bernard L. Pylitt
Thomas E. Wheeler

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