

1 (WHEREUPON the following proceedings were held at the
2 bench.)

3 THE COURT: I'm ordering you to give a version of
4 that tape that they can hear.

5 MR. TRAHANT: I will.

6 THE COURT: Today.

7 MR. TRAHANT: Okay. Sure.

8 THE COURT: If ours didn't open, theirs probably
9 didn't open either. I'm telling you the transcript is not
10 evidence. The tape is the evidence. Give them that today.

11 MR. TRAHANT: Yes, ma'am.

12 (WHEREUPON the following proceedings were held in
13 open court in the presence of the jury.

14 (WHEREUPON Michael Wells, having been duly sworn,
15 testified as follows.)

16 DIRECT EXAMINATION

17 BY MR. TRAHANT:

18 Q. Mr. Wells, when we left off yesterday, we were talking
19 about the processing of the Weisses' federal flood claim. Do
20 you recall that?

21 A. Yes, I do.

22 Q. By that time you had already been out of the Weiss claim;
23 correct?

24 A. Yes.

25 Q. It was mostly other folks at Pilot or Allstate who handled

1 the processing of that flood claim; correct?

2 A. Yes.

3 Q. If you look for me, Mr. Wells, this is Exhibit 4. Do you
4 recognize this flood processing document, Mr. Wells?

5 A. No, not particularly that form.

6 Q. You had nothing to do with preparing this document;
7 correct?

8 A. No, sir.

9 Q. If you go down to the bottom of that second page, 374, and
10 at the bottom it says, "Rating elevation location, three
11 floors, lowest floor 19.2, base elevation of 16 feet." Do you
12 know where they got that information from, Mr. Wells?

13 A. My recollection, Mr. Weiss told me that this base floor
14 elevation, his first floor above the garage elevation, was
15 17 feet. So if you add the difference between the two floors,
16 a couple feet there, that should have been the lowest floor
17 elevation.

18 Q. If you would look at page 376 and 377, the one we just
19 referenced, Mr. Wells, you don't have any idea by looking at
20 that document who prepared it, do you?

21 A. No, I don't.

22 Q. This is a February 15, 2006 letter, and it says, "Flood
23 Narrative." When I took your deposition, you initially thought
24 you had prepared this letter did you not?

25 A. That's a standard flood narrative form that we use.

1 Q. Initially, you thought you had prepared this letter;
2 correct?

3 A. Yes.

4 Q. Go up to 376 in the cause and origin section. Mr. Wells,
5 do you recognize what this cause and origin section is?

6 A. Uh-huh. I do.

7 Q. I want to read you the pertinent part. It says, "Cause
8 and Origin: This flood occurred on August 29, 2005. The
9 damage appears to be from the results of the general
10 conditional flooding in the area. First inspection revealed an
11 exterior waterline of 15 to 20 feet and an interior waterline
12 of 8 to 12 feet. Damage was extensive throughout the home."
13 You didn't put that in there, did you, Mr. Wells?

14 A. No. We use that form and often use cut-and-paste to
15 update the different portions of the form that relates to the
16 specific claim we're working on.

17 Q. The question is, Mr. Wells: You would not have put that
18 in there, would you?

19 A. No. No. There was no place to determine the waterline
20 from.

21 Q. That information doesn't relate to the Weiss house at all,
22 does it?

23 A. The waterline? In reference to the waterlines?

24 Q. In reference to the exterior/interior waterline and damage
25 extensive throughout the home, that certainly does not relate

1 to the Weiss house, does it?

2 A. The waterline? No. There was no place to determine a
3 waterline.

4 Q. That's right. You wouldn't know what the damage was
5 throughout the house because there wasn't any house there;
6 correct?

7 A. Correct.

8 Q. That would be an indication to you, Mr. Wells, that you
9 might not have prepared this letter that has your name on it;
10 correct?

11 A. Well, it could be, and that may have been my mistake.
12 That is a form that I have access to when we prepare the flood
13 form. I have to prepare a flood narrative.

14 Q. Is it fair to say, Mr. Wells, that the first time you ever
15 saw the language we just talked about in the cause and origin
16 section was when I took your deposition on March 12, 2007?

17 A. Yes.

18 Q. If you would have actually prepared that letter,
19 Mr. Wells, you absolutely would have signed it; correct?

20 A. I generally do. I generally sign the documents.

21 Q. You would have retained a signed copy of that letter;
22 correct?

23 A. Probably not.

24 Q. I want you to take a look in your deposition at page 86.
25 We are going to look at the question at line 8. Do you have

1 any idea as you sit here, Mr. Wells, where that signed copy of
2 the letter would have gone?

3 A. When we complete a package, we put it with other claims,
4 package it up, and send it overnight to the storm office. It
5 generally is routed to our immediate supervisor, admin, and
6 associated file examiner. Now, that was a flood claim, so it
7 would have went probably to the office where the flood office
8 was, which would have been -- I believe that office was in
9 Mobile.

10 Q. As you sit here, you don't know where a signed version of
11 that letter is; correct?

12 A. Not to my knowledge today.

13 Q. You have never seen one up until today, have you?

14 A. Not a signed version.

15 Q. You don't have any specific recall of preparing that
16 letter, do you?

17 A. Well, like I say, that is part of the package. If I
18 prepared that letter, then that was my mistake by not changing
19 that.

20 Q. You didn't prepare any other part of the package, did you?

21 A. Not the Marshall & Swift portion of it.

22 Q. I want you to take a look back on Bates 377. These
23 numbers on here, Mr. Wells, replacement costs for contents, you
24 didn't prepare those numbers either, did you?

25 A. No. You're correct. I wouldn't have prepared that

1 particular letter. I wouldn't have had access to those
2 numbers.

3 Q. That's right. You didn't prepare those numbers, did you?

4 A. No.

5 Q. As you sit here under oath, you did not prepare that
6 letter that bears your name, did you?

7 A. I did not.

8 Q. Would that indicate to you that your earlier testimony,
9 Mr. Wells, was correct and that beyond November or December of
10 2005 you had no further involvement in the Weiss claim?

11 A. Not after I turned in my note sheets, my initial scope for
12 the flood sheet.

13 Q. When was that?

14 A. It would have had to have been late November.

15 Q. I want to ask you about that cause and origin section.

16 That is not an adequate representation of what happened at the
17 Weiss property, is it, Mr. Wells?

18 A. No. It indicated waterlines.

19 Q. That's misrepresentative of what happened at the Weiss
20 house, isn't it?

21 A. Well, there's no walls to have a waterline.

22 Q. You would agree with me that is a misrepresentation in the
23 cause and origin section in the Allstate letter and one you
24 didn't make?

25 A. No, I didn't.