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CIVIL DISTRICT COURT  
PARISH OF ORLEANS  
STATE OF LOUISIANA

NO. 2020-02558    DIVISION "M"    SECTION 13

CAJUN CONTI LLC, CAJUN CUISINE I LLC,  
and CAJUN CUISINE LLC d/b/a/ OCEANA GRILL  
VERSUS  
CERTAIN UNDERWRITERS AT LLOYD'S, LONDON

VOLUME II

Continuation of the 1442 Zoom  
Deposition of CERTAIN UNDERWRITERS AT LLOYD'S,  
LONDON, through its Representative, ETHAN GOW,  
taken on Monday, November 9, 2020, commencing at  
4:35 p.m.

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1 APPEARANCES:  
2  
3     Representing the Plaintiffs:  
4     ALVENDIA KELLY & DEMAREST, LLC  
5     Attorneys at Law  
6     909 Poydras Street, Suite 1625  
7     New Orleans, Louisiana 70112  
8     BY: RODERICK "RICO" ALVENDIA, ESQ.  
9     JENNIFER L. KUECHMANN, ESQ.

AND

10     GAUTHIER MURPHY & HOUGHTALING, LLC  
11     Attorneys at Law  
12     3500 N. Hullen Street  
13     Metairie, Louisiana 70002  
14     BY: JOHN W. HOUGHTALING, ESQ.  
15     JENNIFER PEREZ, ESQ.

16     Representing the Defendant:  
17     PHELPS DUNBAR, LLP  
18     Attorneys at Law  
19     400 Convention Street, Suite 1100  
20     Baton Rouge, Louisiana 70802  
21     BY: VIRGINIA Y. DODD, ESQ.  
22     ALLEN C. MILLER, SR., ESQ.

23     ALSO PRESENT: Charles Miller

24     Reported by:  
25     KAY E. DONNELLY  
          Certified Court Reporter  
          State of Louisiana

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S T I P U L A T I O N

1     It is stipulated and agreed by and among  
2     counsel that the continuation of the 1442 Zoom  
3     Deposition of CERTAIN UNDERWRITERS AT LLOYD'S,  
4     LONDON, through its Representative, ETHAN GOW,  
5     is hereby being taken under the Louisiana Code  
6     of Civil Procedure in accordance with the Code.  
7     The formalities of sealing and  
8     certification are hereby waived. The witness  
9     reserves the right to read and sign the  
10    deposition. The party responsible for service  
11    of the discovery material shall retain the  
12    original.  
13    All objections, save those as to the form  
14    of the questions, are hereby reserved until such  
15    time as this deposition, or any part thereof,  
16    may be used or sought to be used in evidence,  
17    and are to be made in accordance with the Code  
18    of Civil Procedure.  
19    \* \* \* \* \*  
20    KAY E. DONNELLY, Certified Court Reporter,  
21    in and for the State of Louisiana, officiated in  
22    administering the oath to the witness.  
23  
24  
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1       ETHAN GOW, Avondale Underwriting  
 2 Associates, 1000 Elm Street, Suite 1900,  
 3 Manchester, New Hampshire, 03101, after having  
 4 been first duly sworn, testified on his oath as  
 5 follows:  
 6       MR. HOUGHTALING:  
 7       This is John Houghtaling on behalf  
 8 of the Plaintiffs. And this is the deposition  
 9 of an officer, director, employee, agent, and/or  
 10 representative of Certain Underwriters at  
 11 Lloyd's, London, subscribing to policy number  
 12 AVS011221002 designated by Certain Underwriters  
 13 at Lloyd's, London pursuant to Article 1442 of  
 14 the Louisiana Code of Civil Procedure.  
 15 EXAMINATION BY MR. HOUGHTALING:  
 16       Q. Sir, can you tell me -- it my  
 17 understanding that you are being produced as a  
 18 representative of Certain Underwriters at  
 19 Lloyd's?  
 20       A. Yes. That is correct. I have been  
 21 produced here to discuss with you the questions  
 22 in the 1442.  
 23       And I have been produced on behalf of  
 24 the syndicates that are part of the program of  
 25 this placement.

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1       Q. Okay. Thank you.  
 2       And you have seen the 1442 deposition, I  
 3 presume?  
 4       A. I have seen it. Yes.  
 5       Q. Okay. And if we could bring it up on  
 6 the -- do you have a copy of it in front of you?  
 7       A. I'm sorry. I'm working on one screen  
 8 today. I do have it. But, unfortunately, if I  
 9 look at it, I lose you.  
 10       Q. No problem. No problem. I'm going to  
 11 have my assistant here try to put it up.  
 12       And as we -- tell me your name, please?  
 13       A. My name is Ethan Gow.  
 14       Q. And can you spell that for me?  
 15       A. Ethan, E-T-H-A-N, and the last name is  
 16 Gow, G-O-W.  
 17       Q. Yeah. I'm jealous you have got an  
 18 easily spelled name. Really simple.  
 19       A. Yes, sir.  
 20       Q. And, sir, who do you presently work for?  
 21       A. I work for Avondale Underwriting  
 22 Associates.  
 23       Q. So you don't work directly for Certain  
 24 Underwriters at Lloyd's?  
 25       A. No, sir.

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1       Q. Okay. And what is the relationship of  
 2 Avondale to the Certain Underwriters?  
 3       A. Sure.  
 4       So Avondale is an MGU, which is managing  
 5 general underwriter, on behalf of several  
 6 markets. Some of those markets include Lloyd's,  
 7 London syndicates.  
 8       Q. And where are you based out of?  
 9       A. Manchester, New Hampshire.  
 10       Q. All right. So here is the 1442  
 11 deposition. I'm just going to the Notice.  
 12       Let me go through it and just make sure  
 13 we have got the right person, that you are the  
 14 person with the most knowledge here that can  
 15 help us answer some of these questions. Okay?  
 16       A. Yes, sir.  
 17       Q. Okay. Number 1, the underwriting  
 18 process in the issuance of a Lloyd's Property  
 19 and Business Income (extra expense) policy, and  
 20 any other policy.  
 21       A. I can help you with that.  
 22       Q. Okay. The forms available in putting  
 23 together a Lloyd's manuscript policy.  
 24       A. Yeah. So we don't -- Avondale does not  
 25 issue a Lloyd's manuscript policy.

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1       So, you know, in specific to this  
 2 question, I wouldn't have any knowledge of a  
 3 Lloyd's manuscript policy.  
 4       Q. What about the forms that the Certain  
 5 Underwriters used to put together this policy?  
 6       A. Yes. The ISO forms, yes, I can help you  
 7 with that.  
 8       Q. Okay. Number 3, the communications or  
 9 submission with any State Department of  
 10 Insurance, including Louisiana, regarding  
 11 insurance coverage and related rates.  
 12       A. Yeah. So Avondale, in regards to this  
 13 policy, it is an excess and surplus lines  
 14 policy. So, Avondale does not have any -- we do  
 15 not file any coverage or rates with the -- with  
 16 any state, including the State of Louisiana.  
 17       Q. Are you familiar with the communications  
 18 by the author of the form policy?  
 19       A. No, I am not.  
 20       Q. All right. Number 4, any endorsements  
 21 or forms utilized by Lloyd's to exclude any  
 22 physical loss or damage caused by a virus.  
 23       A. I can speak to the forms that Avondale  
 24 has available.  
 25       Q. When you say "Avondale has available,"

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1 what do you mean?  
 2 A. Well, Avondale is -- well, again, I know  
 3 you know this, but I'll just explain it for the  
 4 Record here.  
 5 But, certainly, Lloyd's, London isn't an  
 6 insurance company or it is not an insurance  
 7 carrier. It is just an exchange of carriers.  
 8 So we, amongst other people, we  
 9 represent several Lloyd's carriers to underwrite  
 10 on behalf of and to issue policies on behalf of.  
 11 But Lloyd's does not provide us with any Lloyd's  
 12 specific language for this program.  
 13 Q. Yes. You, on behalf of the members, go  
 14 out and help them find the forms and policies?  
 15 A. Well, we agree to which forms will be  
 16 available to us prior to putting together the  
 17 program.  
 18 Q. Okay. The frequency in which Lloyd's  
 19 utilizes endorsements or forms to exclude any  
 20 physical loss or damage caused by a virus.  
 21 A. Sure. I mean, again, I can't speak to  
 22 Lloyd's as a whole.  
 23 Again, Lloyd's isn't a carrier of each  
 24 individual -- I mean, there is, you know, 100  
 25 and some carriers within Lloyd's.

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1 They all may view this differently, so I  
 2 can't speak to that specifically. But in  
 3 regards to this policy, I can certainly explain,  
 4 you know, how Avondale put together this form.  
 5 Q. Great. The frequency -- let's see. The  
 6 method or guidelines utilized in determining  
 7 which policies include an endorsement or form  
 8 excluding physical loss or damage caused by a  
 9 virus?  
 10 A. Sure.  
 11 I can explain that as it relates to  
 12 Avondale, yes.  
 13 Q. Sure.  
 14 The differences in policy rates, which  
 15 include and do not include certain exclusion,  
 16 including any exclusion of a physical loss or  
 17 damages caused by a virus.  
 18 A. I can explain that.  
 19 Q. Okay. Let me see. Wait. Let me go  
 20 through.  
 21 All right. So if it is okay, I'm going  
 22 to ask you some questions about Lloyd's, London  
 23 in general, how it works.  
 24 And I'm going to preface this by saying,  
 25 I'm going to apologize upfront if I ask what

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1 seem like stupid questions or that I don't know  
 2 what I'm talking about. So I am going to  
 3 preface that upfront and apologize in advance.  
 4 A. No problem.  
 5 Q. Okay. What I want to understand is  
 6 basically how Lloyd's, London works in how the  
 7 policy was constructed with the deal that was  
 8 made with my clients, in general how that is  
 9 done. And then we will get to how it worked or  
 10 didn't work in this case. Okay? Fair enough?  
 11 A. No problem.  
 12 Q. Okay. So explain what Lloyd's, London  
 13 is. You have done a little bit of it. But, for  
 14 the Record, if you will do that.  
 15 A. Sure.  
 16 And I will just speak generally. I'm  
 17 sure if someone were to -- you know, would have  
 18 specifics, it may be different.  
 19 But, you know, just from a general  
 20 perspective, Lloyd's, London is a corporation  
 21 that manages a group of what they call  
 22 syndicates.  
 23 It sounds sinister, but it is not. It  
 24 is a group of 100 plus carriers that provide  
 25 insurance across industries around the world.

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1 And they can -- they can delegate their  
 2 authority to different MGUs, like Avondale, for  
 3 business that they -- you know, for instance  
 4 they don't operate in the United States on a  
 5 stand-alone basis. So a carrier would come to  
 6 Avondale to distribute their product on their  
 7 behalf.  
 8 So then -- so that is Lloyd's in a  
 9 nutshell. It is an insurance exchange, much  
 10 like a stock exchange. I mean, the New York  
 11 Stock Exchange, but it isn't a stock. It is  
 12 made up of many different companies.  
 13 So Lloyd's operates very similar to  
 14 that. It is not a thing or a person or a  
 15 company. It is a -- it is an amalgamation of  
 16 many different carriers.  
 17 Q. And a carrier or name or member, they  
 18 can be a member of Lloyd's, correct?  
 19 A. That is correct. Yes.  
 20 Q. And how does that work?  
 21 A. You know, I don't exactly know, but I do  
 22 know that it is -- you know, there is a  
 23 financial guarantee that would come up.  
 24 You know, you have to post sort of a --  
 25 I don't know what the term they would use is,

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1 but you essentially have to post assets to be  
 2 able to be a part of Lloyd's so that they know  
 3 that you are going to pay claims.  
 4 And then there is certainly a  
 5 designation of the lines of business that you  
 6 are going to write.  
 7 Q. You sign by-laws?  
 8 A. I would -- I mean, I would assume so. I  
 9 mean, again, I have never filled out -- I'm not  
 10 privy to that application process, but I would  
 11 assume it is not easy.  
 12 Q. And you said that there are designated  
 13 lines of business. Can you describe that?  
 14 A. Sure.  
 15 So, in our case, Avondale writes  
 16 commercial property with some of the syndicates  
 17 of Lloyd's, London.  
 18 But, certainly, Lloyd's, London writes  
 19 all different types of business from general  
 20 liability, workers' compensation, event  
 21 insurance, terrorism.  
 22 So, I mean, they -- I mean, Lloyd's,  
 23 London is -- they essentially write -- anything  
 24 that you can think of that can be insured, they  
 25 will write it.

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1 Q. Okay. Now, Avondale, the company you  
 2 work for, is not a direct member of Lloyd's,  
 3 London, is it?  
 4 A. No, sir.  
 5 Q. You help members buying the policies, I  
 6 guess, put together policies?  
 7 A. Yeah. So, essentially, what we are  
 8 contracted to do is distribute, underwrite, and  
 9 then issue a policy on their behalf.  
 10 Q. All right. Now, are there different  
 11 categories in a syndicate of membership? That  
 12 is a bad question.  
 13 When a syndicate -- what is a syndicate?  
 14 Let's start there.  
 15 A. It is just -- it is -- honestly, it is  
 16 just a synonym for a carrier. So their  
 17 insurance companies are called syndicates. A  
 18 member of Lloyd's is called a syndicate.  
 19 So it is just synonymous with being an  
 20 insurance carrier that is part of Lloyd's,  
 21 London.  
 22 Q. And in this policy there are several  
 23 syndicate members, correct?  
 24 A. That is correct.  
 25 Q. And that is typical?

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1 A. Typical to an MGU?  
 2 Q. Yes.  
 3 A. You know, again, we have several Lloyd's  
 4 carriers. But we have domestic carriers. We  
 5 have European carriers. We have different  
 6 carriers.  
 7 So, I mean, certainly, you know,  
 8 Lloyd's, London is probably the most -- the most  
 9 easily named carrier that an MGU would have.  
 10 Q. And describe the process. I am a  
 11 business in New Orleans, and I want business  
 12 interruption coverage covering my business.  
 13 How do I go -- walk me through the  
 14 process of how it happens that I end up with a  
 15 policy with a group of syndicates.  
 16 A. Sure.  
 17 Again, I can only speak to this specific  
 18 policy and how it was placed. And then also I  
 19 can certainly only speak to how Avondale would  
 20 -- you know, how you get coverage through  
 21 Avondale.  
 22 So this particular program is only  
 23 accessed through a wholesaler. So if you are a  
 24 business in New Orleans, you would go to your  
 25 local agent, a retail agent who would then --

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1 you know, by law, they have to try to procure  
 2 insurance from an admitted market or a standard  
 3 market, which is a more highly regulated, highly  
 4 oversight -- it has high oversight within the  
 5 state.  
 6 If you get declined with your standard  
 7 market -- and, again, declinations don't  
 8 necessarily mean you are doing anything wrong.  
 9 Declination can be simply that you, you know,  
 10 are in a location -- as you know in the past  
 11 couple of months in Louisiana, it has been  
 12 difficult and challenging from a hurricane  
 13 perspective. So, you know, a standard market or  
 14 admitted market may want to -- may not want to  
 15 take on that exposure.  
 16 There are certain -- you could be a  
 17 class of business. You know, just if you are a  
 18 woodworker, there are certain -- you know, there  
 19 may be a standard carrier that wouldn't want to  
 20 take on that exposure.  
 21 So the insurance agent, you know, would  
 22 be a licensed professional who would go out  
 23 there and try to procure coverage from an  
 24 admitted market.  
 25 If they were not able to procure

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1 coverage from an admitted market, they would go  
 2 to a wholesaler to then access the excess and  
 3 surplus lines market. And that is how you would  
 4 access Avondale.  
 5 And that is how Avondale would then  
 6 assign different syndicates to this particular  
 7 program.  
 8 Q. Okay. So, as a business, I first go to  
 9 a retail broker, correct?  
 10 A. Yeah. Retail agent. Sure.  
 11 Q. Retail agent. Sorry.  
 12 I go to a retail agent. That is -- you  
 13 corrected me. Thank you.  
 14 The proper term would be, I would go to  
 15 a retail agent, correct?  
 16 A. That is correct.  
 17 Q. And that agent would then go to a U.S.  
 18 wholesale broker?  
 19 A. Correct. After a number of -- after  
 20 some declinations where they were not able to  
 21 procure coverage through the standard markets  
 22 and they wanted to pursue a surplus lines  
 23 policy.  
 24 That is how you gain access to Avondale,  
 25 and that is generally how you would gain access

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1 to a Lloyd's, London syndicate.  
 2 Q. Okay. But Avondale is not a U.S.  
 3 wholesale broker, is it?  
 4 A. No, sir.  
 5 Q. So you would go to a U.S. wholesale  
 6 broker. And then what? Then that U.S.  
 7 wholesale broker, as my understanding is, they  
 8 go to a London broker?  
 9 A. They could go to London directly. There  
 10 are wholesale brokers in the United States that  
 11 do have access to Lloyd's, London carriers  
 12 directly.  
 13 Other wholesale brokers may choose to --  
 14 they, essentially, are a second sales -- they  
 15 are, essentially, another distribution channel  
 16 for that account.  
 17 So, you know, just as the retail agent  
 18 shopped that account around his insurance  
 19 carriers, the wholesale broker would then shop  
 20 that account around his surplus lines carriers.  
 21 And one of those surplus lines carriers may be  
 22 Lloyd's syndicates, and also that would include  
 23 Avondale.  
 24 Q. Okay. And so is there a way where the  
 25 U.S. wholesale does not go to the London broker?

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1 A. The only way you can access Lloyd's,  
 2 London syndicates directly is to go through a  
 3 London broker.  
 4 Q. Do you know if that is what happened in  
 5 this case?  
 6 A. I don't know.  
 7 Q. All right.  
 8 A. Well, sorry. On this policy --  
 9 Q. On this policy.  
 10 A. -- the Lloyd's, London carriers were  
 11 accessed through Avondale.  
 12 Q. The Lloyd's, London carriers were  
 13 accessed through Avondale?  
 14 A. Through our --  
 15 Q. So there is not a London broker  
 16 involved?  
 17 A. Well, I don't know if the wholesaler  
 18 went to a London broker prior to coming to us.  
 19 But, no, we -- no, we do not go through a London  
 20 broker.  
 21 Q. So explain the process of after it gets  
 22 to you. If you know, in this matter, explain  
 23 how it got to Avondale, and then what happened?  
 24 A. Yeah. So the wholesale broker would  
 25 send it to many different insurance carriers,

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1 and also probably other MGUs, as well, you know,  
 2 operations set up similar to us.  
 3 I mean, we are one of maybe multiple  
 4 hundreds of different MGUs that are spread  
 5 across the country.  
 6 Every MGU is a little bit different in  
 7 the carrier capacity and the eligibility  
 8 requirements for a certain program.  
 9 So the wholesale broker may send it to  
 10 another 10 or 15 places to try to get it placed  
 11 that look similar to Avondale.  
 12 Q. Okay. And --  
 13 A. And so -- sorry. Go ahead.  
 14 Q. Oh, no. Go ahead. This is helpful.  
 15 A. Good.  
 16 Q. So, I'm learning.  
 17 So the U.S. wholesale broker, you said  
 18 they would send "it." And I assume "it" is a  
 19 package of information?  
 20 A. Correct. So, yeah.  
 21 If you are -- again, if you are that  
 22 business in New Orleans, you would have worked  
 23 with your insurance agent to come up with an  
 24 application.  
 25 It is sort of a standardized application

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1 of eligibility that that insurance agent would  
 2 have sent to his admitted market.  
 3 And then he would have then passed that  
 4 along to the wholesaler, as sort of their sales  
 5 packet to try to sell the risk to the surplus  
 6 lines market.  
 7 Q. Yes. And then what is contained in that  
 8 packet of information?  
 9 A. Yeah. So, in general, that package  
 10 would contain -- you know, in the instance here,  
 11 we are talking about a commercial property  
 12 policy.  
 13 So what we would be looking for is an  
 14 insurance application very similar to something  
 15 that would be presented on an ACORD application.  
 16 So it is, essentially, just, you know,  
 17 named insured, mailing address, some information  
 18 about the locations being insured, some values,  
 19 any specific operations that are going on at  
 20 each location, coverage that is being desired,  
 21 limits that are being desired.  
 22 And then, you know, sometimes we get  
 23 that information on an Excel spreadsheet that  
 24 makes -- it, you know, makes everything in life  
 25 easy to have things in Excel. And then loss

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1 runs, so if there had been previous losses from  
 2 years prior.  
 3 And then anything -- again, it is a  
 4 sales pitch from the agent to the wholesaler to  
 5 us. So anything else that would help them sell  
 6 us to write that risk could be included.  
 7 Q. All right. And other than -- let's take  
 8 a scenario that we have here, business  
 9 interruption.  
 10 A. Sure. Okay.  
 11 Q. And I outline and I give you the  
 12 information of my business, my income. I give  
 13 you information of the limits, I assume, that I  
 14 am seeking.  
 15 A. Yes.  
 16 Q. Okay. And my loss history.  
 17 A. Correct.  
 18 Q. Okay. In that packet of information, do  
 19 I propose any terms of the policy?  
 20 A. Yes. So, you could -- you could suggest  
 21 which deductibles you would like to see; what  
 22 valuation you would like to see; and, again, the  
 23 limits you would like to see.  
 24 Q. Other than that, any more specificity in  
 25 general than that?

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1 A. Well, I mean, it is on a case-by-case,  
 2 but, no. I mean, in general, it is -- again,  
 3 you know, the insured can suggest things.  
 4 And, you know, it is different than the  
 5 admitted market. The wholesale market has the  
 6 right to, you know, include or exclude things as  
 7 they see fit.  
 8 Q. Yeah. And do you know any specifics in  
 9 this particular matter how that was done?  
 10 A. No, I don't.  
 11 Q. Okay. All right. And then so take me  
 12 through.  
 13 The packet of information gets to either  
 14 a London broker or to an MGU, such as Avondale.  
 15 Then what happens?  
 16 A. So the general underwriting process  
 17 begins for acceptability.  
 18 So, you know, again, we are underwriting  
 19 a commercial property in this particular case.  
 20 So, again, we are looking through that packet of  
 21 information.  
 22 We are making a determination as to  
 23 whether, one, the class of business is a class  
 24 of business that is eligible for our program; if  
 25 the limits are eligible for our program; if the

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1 desired deductibles are eligible for our  
 2 program; the loss history, is that eligible for  
 3 our program; is the location eligible for our  
 4 program.  
 5 If all those things sort of get checked  
 6 "yes," so then you would do some passive reviews  
 7 online. You know, again, online has a lot of  
 8 information nowadays where you can Google things  
 9 and determine, you know, some ancillary things  
 10 that may help you in the underwriting process.  
 11 There could be a back and forth between the  
 12 wholesale broker regarding questions.  
 13 And then, ultimately, it will end up in  
 14 a proposal for insurance, which will then be  
 15 passed along to the wholesale broker, who is a  
 16 licensed professional, passing it on back to the  
 17 insurance agent, the other licensed  
 18 professional, who then is going to give it to  
 19 the insured.  
 20 So Avondale would never -- we are two  
 21 people -- two insurance professionals removed  
 22 from the insured.  
 23 Q. Yes. Okay. When you say "our program,"  
 24 you are talking about Avondale, as the MGU,  
 25 correct?

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1 A. Yes, sir.  
 2 Q. Not an insurance program, correct?  
 3 A. Correct.  
 4 Q. Okay. And when you say "our program,"  
 5 am I correct that what you mean is, it kind of  
 6 fits the profile of prescreening of something  
 7 that you can likely bring to market and get  
 8 bought?  
 9 A. That is correct. Yeah. I mean, as an  
 10 MGU, we have the authority to bind on behalf of  
 11 our markets.  
 12 So, again, I just -- I'm not correcting  
 13 you, but I'm just saying, you know, we wouldn't  
 14 go back to Lloyd's or we wouldn't go back to any  
 15 of our carriers. They give us the authority to  
 16 say yes or no.  
 17 Q. Okay. When you say you bind it, what do  
 18 you mean that you bind it, and when does the  
 19 binding process happen?  
 20 A. Sure. So Avondale would put together a  
 21 quote.  
 22 That quote, again, would get passed on  
 23 to the wholesale agent, who is passing it back  
 24 to the retail agent, who is passing it back to  
 25 the insured.

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1 There is a -- there could be a  
 2 negotiation in limits, premium, terms. If it is  
 3 accepted, the quote, then we are given a bind  
 4 order from the agent, who then gives the bind  
 5 order to the wholesale broker, who then gives  
 6 the bind order to Avondale, at which point we  
 7 bind the contract with a formal -- I mean, it is  
 8 going to sound redundant here, but it is called  
 9 a binder.  
 10 Q. I got it.  
 11 A. So it is, essentially, just a  
 12 placeholder until the policy is issued.  
 13 So that binder, again, we are going to  
 14 run it right down the chain, again, back to the  
 15 insured, so that they can choose to accept the  
 16 binder, make sure everything -- they have that  
 17 chance to review it. And then it stays there  
 18 until the policy is issued.  
 19 Q. So when you talked about the initial  
 20 bind, you are not talking about the binder  
 21 saying where Avondale is the MGU who is binding  
 22 the insurance?  
 23 A. I'm sorry. Can you say that one more  
 24 time, please?  
 25 Q. When you initially said that "we get

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1 things together and we bind it," you did the  
 2 initial, but then there was another process  
 3 where there was an actual binder.  
 4 The first process you talked about, the  
 5 bind, that is not where -- Avondale isn't  
 6 standing in there as the insurer?  
 7 A. Well, Avondale -- we do have authority  
 8 on behalf of our markets to bind business as  
 9 part of a contractual piece that we have with  
 10 our insurers, that we bind business on their  
 11 behalf.  
 12 Q. At some point?  
 13 A. Correct.  
 14 Q. Okay. All right. So I want to get -- I  
 15 want to sort of drill down, if it is okay, in  
 16 understanding the process very, you know,  
 17 specifically of the deal that gets negotiated,  
 18 okay, between my client and the market.  
 19 A. Understood.  
 20 Q. So we have in this particular case, we  
 21 have got a retail agent. All right. And then  
 22 that retail agent gets to a U.S. wholesale  
 23 broker, and then the U.S. wholesale broker gets  
 24 to Avondale?  
 25 A. You got it.

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1 Q. Okay. Now, does Avondale have direct  
 2 contact with the -- do they make direct contact  
 3 to the managing agents of these syndicates?  
 4 A. No, sir.  
 5 MR. MILLER:  
 6 Objection to the form of the  
 7 question.  
 8 EXAMINATION BY MR. HOUGHTALING:  
 9 Q. Okay. You become the managing agent?  
 10 A. Well, the managing agent -- again, I'm  
 11 just -- managing agents generally -- I'm just  
 12 going to kind of go with your -- we are an MGU,  
 13 so a managing general underwriter, as opposed to  
 14 an MGA, which is a managing general agent.  
 15 The difference generally being is that  
 16 MGUs do not have claims authority. So we don't  
 17 have claims authority on this program. So,  
 18 again, I'm just -- I think I am sort of get what  
 19 you are saying.  
 20 But just from a -- like, we wouldn't  
 21 consider ourselves an agent of Lloyd's.  
 22 Q. Okay. How does Avondale -- once the  
 23 package of information gets to Avondale, how  
 24 does Avondale go to the market to shop it?  
 25 A. We don't. So we are -- again, we are

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1 given the underwriting authority on behalf of  
 2 our markets, which includes some Lloyd's  
 3 syndicates, to underwrite, quote, bind without  
 4 going back to them, as long as it fits within  
 5 the program authority.  
 6 Q. Okay. So they have a certain amount of  
 7 program authority that they give you, and they  
 8 let you handle all? They outsource that to you?  
 9 A. Yes. As long -- again, as long as it  
 10 fits that criteria.  
 11 Anything outside of that criteria does  
 12 require going back to them, but that is -- that  
 13 is not what we do.  
 14 Q. Okay. And my understanding is sometimes  
 15 you have a lead member that initially buys off  
 16 on it, and then they go to the market and they  
 17 fill the remaining percentages?  
 18 A. Yeah. So, again, our program is pretty  
 19 well diversified. We will have probably 20  
 20 different carriers on a single policy, of which  
 21 I think, if we are speaking to this specific  
 22 policy, which is all I can do, is say that there  
 23 are 11 Lloyd's syndicates on this policy out of  
 24 17 total carriers on the policy.  
 25 Q. And in this particular process, is it

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1 that you analyze the risk, you put things -- do  
 2 you put a slip together? I've heard something  
 3 about a slip.  
 4 A. Yeah. So I think --  
 5 Q. Is there a slip?  
 6 A. -- what you are actually talking about  
 7 is how we -- how Avondale gets its capacity to  
 8 put this together.  
 9 So that process would involve a slip  
 10 where, you know, again it is a -- we have a  
 11 contract with each of our different carriers.  
 12 And those contracts are called slips.  
 13 Again, there is some verbiage, you know, that  
 14 is, you know, more insurance than it is sort of  
 15 contractual.  
 16 But it is, essentially, just the  
 17 contract between Avondale and the insurance  
 18 carrier, again, to do what I spoke of before,  
 19 which is, essentially, underwrite on their  
 20 behalf within a certain set of eligibility  
 21 guidelines.  
 22 Q. Is that --  
 23 A. The --  
 24 Q. Is that -- sorry. Is that slip done per  
 25 risk?

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1 A. No. No.  
 2 Q. No. Okay. Explain that.  
 3 A. No. That is a master -- so it is a  
 4 master slip that is done on an annual -- that  
 5 will run on an annual basis. And that is a slip  
 6 between Avondale and its carriers.  
 7 Q. And that is what was done in this case?  
 8 A. Sorry. Can you just -- you are breaking  
 9 up --  
 10 Q. Is that what was done in this case?  
 11 That is how this policy was written?  
 12 A. No. This policy was written on an  
 13 Avondale program through a previously agreed to  
 14 line slip with our carriers.  
 15 Q. All right. So explain to me the back  
 16 and forth between Avondale and the wholesale  
 17 broker with regards to the negotiation or the  
 18 terms of the insurance. Explain how that  
 19 worked.  
 20 A. Sure. Yeah. I mean, there is far more  
 21 negotiation on the surplus lines side of the  
 22 business, primarily because it is mostly  
 23 unregulated; whereas, an admitted market would  
 24 have -- you know, an admitted market carrier  
 25 would have to -- what you said earlier, would

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1 file forms. They would be filing rates. They  
 2 would be filing deductibles.  
 3 So, essentially, the pricing between a  
 4 Liberty Mutual and a Travelers isn't hugely  
 5 different.  
 6 Whereas, on the surplus lines side of  
 7 the business, there is huge variation between  
 8 coverage forms. There is huge variations  
 9 between premiums, deductibles.  
 10 So the negotiation can be a little bit  
 11 more because different MGUs and then different  
 12 surplus lines carriers will have completely  
 13 different views of risks and how it fits their  
 14 portfolio.  
 15 So the negotiation, generally, as you  
 16 could probably guess, focuses mostly around  
 17 price. But in areas like Louisiana, where this  
 18 policy was issued, where there is a catastrophe  
 19 exposure by way of a named storm, hurricane,  
 20 certainly there is a deductible issue there  
 21 where there is usually some negotiation around  
 22 what types of deductibles get used to cover that  
 23 peril.  
 24 Q. Okay. And so take me through the  
 25 process, the initial process, and then how the



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1 specifics of the policy are formed of the deal.  
 2 A. Sure.  
 3 Q. Take me through that. If you can walk  
 4 me through sort of from the beginning. There is  
 5 a packet of information, I assume. I want this  
 6 kind of limits. I want business interruption  
 7 coverage in this particular area. And then it  
 8 gets more specific?  
 9 A. Yeah.  
 10 Q. Take me through the process of how that  
 11 works.  
 12 A. Sure. So just to be clear, too, you  
 13 know, we don't issue stand-alone business  
 14 interruption coverage.  
 15 So I know sort of what you are getting  
 16 at, but it is part of a commercial property  
 17 policy that may or may not include business  
 18 interruption.  
 19 So we wouldn't be issuing -- Avondale  
 20 does not issue business interruption only  
 21 policies.  
 22 Q. Understood.  
 23 A. But for the purposes of this, so we  
 24 would come up -- we would evaluate the risk. We  
 25 would determine how it fits into our portfolio.

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1 Again, speaking to Louisiana, you know,  
 2 we are mostly concerned about the catastrophe  
 3 exposure that the hurricane peril presents. So  
 4 we would -- we would see how that peril fits  
 5 into our portfolio.  
 6 We have some underwriting guidelines  
 7 internally that we use around acceptable  
 8 deductibles based on where the location is,  
 9 possibly what the construction of the building  
 10 is, the age of the building. So, essentially,  
 11 things that maybe make it better or worse in  
 12 regards to that specific peril.  
 13 And then the pricing will go up or down  
 14 depending on that. The same with the  
 15 deductible; it will go up or down depending on  
 16 those characteristics.  
 17 Q. Okay.  
 18 A. Those characteristics -- sorry. Go  
 19 ahead.  
 20 Q. No, no, no. Go ahead. Go ahead. This  
 21 is helpful. I don't mean to interrupt you.  
 22 A. Yeah. So those characteristics will  
 23 then, you know, get put into a proposal back to  
 24 the wholesaler and say, you know, Listen, here  
 25 is where -- here is where we think Avondale is

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1 likely to be on this presented risk.  
 2 This is -- we will lay out the pricing.  
 3 We are going to lay out your deductibles. We  
 4 are going to lay out the limits and the  
 5 valuations that we would feel comfortable with.  
 6 And then they have the opportunity, you  
 7 know, to accept that quote or, you know, likely  
 8 with all contracts, you can counter. And then  
 9 that would come back, back up through the chain,  
 10 to us, and we decide whether we would want to do  
 11 that or not.  
 12 Q. Okay. And when you say "we" and "accept  
 13 it" and the rest of it, you are doing it on  
 14 behalf of a group of trusted investors that you  
 15 have a contract with?  
 16 MR. MILLER:  
 17 Objection. Objection to the form of  
 18 the question.  
 19 MR. HOUGHTALING:  
 20 What is wrong with that, Allen?  
 21 MR. MILLER:  
 22 You can answer.  
 23 You called it -- you said he is  
 24 doing it on behalf of a group of investors. I  
 25 think he has already testified he is doing it on

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1 behalf -- he has the authority himself. He  
 2 doesn't have to go back to the investors.  
 3 EXAMINATION BY MR. HOUGHTALING:  
 4 Q. Okay. So you have a -- you have a  
 5 contract with a group of investors, correct?  
 6 A. Again, terminology, I'm not trying to  
 7 wipe it here, but --  
 8 Q. No, no, no. Please. I want specifics.  
 9 I'm a contract lawyer, so I likes -- specifics  
 10 is my thing. I like it.  
 11 A. You got it. So they are not really --  
 12 they are not investors. They would provide risk  
 13 capital to us to -- again, to utilize on their  
 14 behalf under the contracted program rules.  
 15 So, again, I just don't want the term  
 16 that they are investors. They are not investors  
 17 in Avondale, by any means.  
 18 Q. Understand. They are not investors.  
 19 I guess when I use the term "investors,"  
 20 when I'm using the term, I mean someone is  
 21 investing in a certain risk hoping for a return?  
 22 A. Understood. I think we are talking  
 23 about --  
 24 Q. They are not investing in Avondale, per  
 25 se?

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1 A. Sure. You got it.  
 2 Q. They are investing in the risk that I'm  
 3 going to take and I'm hopefully getting some  
 4 profit.  
 5 I'm going to take a risk if an event  
 6 happens or not; and I am going to get a return  
 7 on my investment, a gain or a loss?  
 8 A. Yeah. We were ceding them risk, pieces  
 9 of risk, yes.  
 10 Q. Yes. And they decide to take a certain  
 11 percentage of that risk?  
 12 A. They decide to take a certain percentage  
 13 of the Avondale program, and so the Avondale  
 14 program disseminates that capital differently on  
 15 a per risk basis. But, again, that is -- that  
 16 is an Avondale item.  
 17 Q. Yeah. It can happen with one particular  
 18 risk or a grouping of risks?  
 19 A. Yes, sir. Correct.  
 20 Q. Kind of like a fund, per se?  
 21 A. Similar. Yeah, could be.  
 22 Q. Similar to a fund?  
 23 A. Yes.  
 24 Q. All right. So walk me through -- let's  
 25 get more specific, if we can. And this has been

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1 helpful.  
 2 Let's get more specific into what  
 3 happens specifically here for a particular  
 4 restaurant in New Orleans that wants to cover  
 5 its property and the business interruption  
 6 associated with it.  
 7 A. Okay. Sure. Yeah. So, again, once the  
 8 proposal is made, within that proposal they will  
 9 have a set of terms and conditions that they can  
 10 either accept or counter or decline.  
 11 I think that it is important to note,  
 12 too, that it is unlikely that we are the only  
 13 person quoting on a risk. I think if we are,  
 14 then maybe we made a mistake.  
 15 But, generally, we are not the only  
 16 person or the only carrier MGU quoting on a  
 17 risk. So there will, generally, be a choice.  
 18 That is why you use the wholesale market, to try  
 19 to get choices.  
 20 Q. Okay.  
 21 A. So, again, once the negotiations start,  
 22 there is something about our quote that the  
 23 wholesaler is representing back to the agent,  
 24 who is representing back to the insured.  
 25 You know, maybe they have kicked other

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1 quotes out. Some don't look like they are worth  
 2 negotiating, and then maybe they picked a couple  
 3 to start negotiating with.  
 4 In this particular case, we were,  
 5 obviously, one of those. And you know, they  
 6 ended up accepting the terms of the quote, and  
 7 we ended up issuing a binder for this policy,  
 8 which, again, acts as a placeholder until we  
 9 formally issue the policy.  
 10 Q. Okay. And when you say "the terms of  
 11 the quote," what exactly are the terms? Take me  
 12 through the steps. What are the terms of the  
 13 quote?  
 14 A. Sure. So the key terms that an insured  
 15 would be -- again, would be focused on here  
 16 would be deductibles.  
 17 And that would be a deductible for -- we  
 18 call it the AOP, which is all other perils,  
 19 which is generally, you know, sort of your -- if  
 20 no other deductible is mentioned, the AOP  
 21 applies.  
 22 So that would be if you had, you know, a  
 23 water damage loss or, you know, something -- I  
 24 don't know. I can't think of anything else off  
 25 the top of my head. But so that would apply

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1 there.  
 2 In the case of in New Orleans when we  
 3 choose to include wind or hail, which we did in  
 4 this case, you would also see a separate named  
 5 storm deductible, wind deductible, hail  
 6 deductible, you know, again, depending on loss  
 7 history.  
 8 Let's say they've had a couple -- using  
 9 the restaurant example, let's say they've had a  
 10 couple water damage losses. We may choose to  
 11 put on a water damage deductible. Again, to  
 12 help mitigate some of that loss history and make  
 13 the account fit our program and help with the  
 14 rates, as well.  
 15 And then, certainly, they have -- again,  
 16 the largest one is, of course, price. So  
 17 pricing varies hugely by carrier and by MGU. It  
 18 just depends on certain -- certain things fit  
 19 different programs differently.  
 20 And certain underwriters, you know --  
 21 and when I say "underwriters," in this case I  
 22 mean the Avondale underwriter -- would, you  
 23 know, obviously have some authority to price the  
 24 risk as they see fit, as well based on how they  
 25 feel about the risk.

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1 So there is some -- it is not all  
 2 mandate pricing or it is not all technical  
 3 pricing. There are some gut feel that goes into  
 4 it.  
 5 And then, certainly, there is a market  
 6 out there, right? So, you know, it is -- you  
 7 try to get the highest price you can for the  
 8 risk.  
 9 Q. Sure. And, consequently, on the  
 10 opposite side, the person that is offered the  
 11 premium is trying to get the most coverage for  
 12 the least amount?  
 13 A. Yes, sir. Certainly, they are looking  
 14 for the most fair pricing possible.  
 15 Q. Yeah. And so the deductible helps  
 16 decrease the risk?  
 17 A. It helps decrease the risk for the  
 18 carriers, yes.  
 19 Q. And the decreased risk generally, all  
 20 the things being equal, decreases the cost,  
 21 potential cost?  
 22 A. Generally, yes.  
 23 Q. And increased risk, all the things being  
 24 equal, increases cost?  
 25 A. Correct. Yeah. Increased risk could

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1 increase cost or push it outside the eligibility  
 2 of the program.  
 3 Q. Okay. And so the deductibles help with  
 4 that. What about in -- tell me about the role  
 5 of endorsements and when do the role of  
 6 endorsements -- when are they discussed? Are  
 7 they discussed in the beginning of the initial  
 8 packet of information that goes out?  
 9 A. Yes. So the quote document will have a  
 10 list of forms. And, again, I am going to use  
 11 "forms" here. I think you are saying  
 12 endorsements to mean forms, but --  
 13 Q. Yeah.  
 14 A. -- generally coverage forms. So the  
 15 coverage forms will be listed on the quote.  
 16 Q. Okay. So I want to take you back.  
 17 Let's back up a little bit. Let's back up to  
 18 the stage -- because I want to start in the  
 19 chronology -- back up to the stage where it is  
 20 the insurance retail broker can't bind it in any  
 21 other place in the market; decides to go a  
 22 surplus lines carrier; needs a U.S. wholesale  
 23 broker. They have a general idea of the packet  
 24 of information.  
 25 When does it get specific enough to

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1 where it is this deductible, this endorsement,  
 2 this menu of items?  
 3 A. So that is at the quote stage. I would  
 4 -- I would mention, though, that, you know, the  
 5 retail agent, you know, going through a standard  
 6 market -- the standard market, it is not a  
 7 coincidence that they are called the standard  
 8 market. Most of those things that are in the  
 9 admitted and standard market are standard.  
 10 And once you get into the -- once you  
 11 get into surplus lines arena, it is why  
 12 generally a retail agent is happy to pass off  
 13 that work to a wholesaler.  
 14 The wholesalers are just far more  
 15 familiar with the surplus lines market. That  
 16 general market, the wholesaler will know the  
 17 carriers and know which sets of forms will be  
 18 used in their base policy.  
 19 So speaking from Avondale, I would -- I  
 20 would hope that a good wholesale broker knows  
 21 which carriers are using which forms.  
 22 So as far as when the insured has  
 23 knowledge of which forms, from Avondale's  
 24 perspective, they will have knowledge at the  
 25 quote stage. But a good wholesaler and a good

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1 insurance agent will be disseminating that  
 2 information back down probably prior to the  
 3 quote.  
 4 And maybe that is why they choose, you  
 5 know, Avondale versus another market, which  
 6 could be coverage forms.  
 7 Q. Okay. So --  
 8 MR. MILLER:  
 9 John. John, is it a good time for a  
 10 break?  
 11 MR. HOUGHTALING:  
 12 Yeah. Yeah.  
 13 MR. MILLER:  
 14 We have been going for an hour.  
 15 MR. HOUGHTALING:  
 16 Yeah. Sure.  
 17 MR. MILLER:  
 18 Let me say this, too. I mean, look,  
 19 I'm giving a whole lot of leeway on this general  
 20 education about how the market and stuff works,  
 21 but --  
 22 MR. HOUGHTALING:  
 23 I'm asking specifically -- I want to  
 24 know specifically -- Allen, I want to know  
 25 specifically what happened here.

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1 But in order to know that --  
 2 MR. MILLER:  
 3 Well --  
 4 MR. HOUGHTALING:  
 5 -- the way --  
 6 MR. MILLER:  
 7 -- I'm ready -- I'm ready --  
 8 MR. HOUGHTALING:  
 9 -- I need to --  
 10 MR. MILLER:  
 11 -- for you to ask those questions.  
 12 MR. HOUGHTALING:  
 13 -- have him define those terms,  
 14 okay?  
 15 MR. MILLER:  
 16 I'm ready for you to ask those  
 17 questions. Thanks.  
 18 MR. HOUGHTALING:  
 19 Yeah. We are getting there. We are  
 20 getting there fast.  
 21 (Recess held.)  
 22 EXAMINATION BY MR. HOUGHTALING:  
 23 Q. All right. So the AOP refers to "all  
 24 other perils," right?  
 25 A. Correct.

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1 Q. Okay. And the AOP, the all other  
 2 perils, I assume it is an all-risk type policy  
 3 you discussed?  
 4 A. That is correct.  
 5 Q. Unless it has a specific deductible  
 6 associated with that risk? It has to be  
 7 outlined for that specific risk?  
 8 A. So, yeah. If there is no other  
 9 deductible listed on the policy, then the AOP is  
 10 the deductible.  
 11 Q. All right. Explain to me how -- you  
 12 were talking about forms and that the forms  
 13 usually come when the quote comes.  
 14 Okay. Describe to me what do you mean  
 15 by forms.  
 16 A. So the quote would include a  
 17 standardized set of forms that would apply to  
 18 the quote, which would eventually become part of  
 19 the policy.  
 20 So we list those forms on the quote so  
 21 that the wholesaler and the insurance agent have  
 22 a chance, obviously, to review the forms that  
 23 would apply, and then certainly ask questions  
 24 about the forms.  
 25 Q. Now, I understand there is a list of

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1 forms. But can you draw down to me -- because  
 2 when I say the word "form," I'm a lawyer. It  
 3 could mean a lot of different things.  
 4 So what exactly do you mean when you say  
 5 a list of forms?  
 6 A. Sure. So I -- so Avondale issues an  
 7 ISO-based policy. So the forms that would be  
 8 included on that quote would be an outline of  
 9 the ISO coverage forms that would apply to the  
 10 risk.  
 11 Q. And when you say ISO coverage forms -- I  
 12 know there is a thing like there is an ISO form  
 13 policy and then there is also ISO endorsements  
 14 and ISO exclusions and ISO things.  
 15 Can you draw down on what you mean when  
 16 you say ISO forms are listed?  
 17 A. So as it pertains to the specific risk,  
 18 there will be a set of applicable ISO forms.  
 19 Again, we don't issue, you know, sort of a -- I  
 20 don't know what you mean by an ISO policy, per  
 21 se, but our policy is made up of specific ISO  
 22 forms.  
 23 Q. Okay. And when you say it is made up of  
 24 specific ISO forms, can you describe what you  
 25 mean by that?

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1 A. Oh, so there is a -- you know, like,  
 2 there is a form for what is covered, how it is  
 3 covered.  
 4 So, you know, we issue an ISO form that  
 5 would talk about what is covered. So that might  
 6 be the building and business personal property  
 7 form. That is ISO.  
 8 There would be the how it is covered,  
 9 which would be the cause of loss form, which is  
 10 ISO.  
 11 And then there is other, you know, that  
 12 is the -- that is sort of 90% of the policy  
 13 coverage falls in between those two forms.  
 14 Then there is certain -- there are some  
 15 state forms that get applied.  
 16 Q. And when there is a quote that is  
 17 attached to that, is that the entire policy? Is  
 18 it with the quote, or is it a short form?  
 19 A. No. We just -- we just list the forms  
 20 and their applicable numbers.  
 21 Q. When you say -- what do you mean  
 22 applicable? So, like, in this particular case,  
 23 you have listed forms. What applicable numbers  
 24 are we talking about?  
 25 A. All right. So like the business

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1 personal property form has a name. It is called  
 2 the CP0010, for instance. So, you know, that  
 3 corresponds to an ISO number so that you can  
 4 find the form.  
 5 Q. Got it. So it lists a short form of the  
 6 coverage, and then it has got like a serial  
 7 number or such?  
 8 A. That is -- yes, that is a good way to  
 9 describe it. Yes.  
 10 Q. And then that serial number ascribes to  
 11 an exact long form portion of the policy?  
 12 A. Yes, sir.  
 13 Q. So in this particular situation, what  
 14 would have been issued would be a list of the  
 15 different forms and the serial numbers on them?  
 16 A. That is right.  
 17 Q. And there would be a CP number?  
 18 A. That is correct.  
 19 Q. Okay. Explain ISO. What ISO is.  
 20 A. Yeah. So, I mean, the acronym itself  
 21 stands for Insurance Service Office, I think. I  
 22 don't know. Actually, I think it is Insurance  
 23 Service Office or Insurance Services Office.  
 24 But, essentially, it is an organization  
 25 that started sometime around 1970. And, really,

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1 what it is, is it is an insurance aggregation  
 2 organization.  
 3 So what they are going to be doing is,  
 4 they are going to be taking data, statistics,  
 5 loss information, building information, could be  
 6 rating information, and they are capturing all  
 7 of that data and they are capturing it from  
 8 insurance companies all across the country that  
 9 file into ISO.  
 10 And what they are essentially doing in  
 11 that case is building a database of statistics  
 12 for insurance companies to use.  
 13 And also they do write policy language,  
 14 which an insurance carrier can subscribe to ISO  
 15 to have access to the policy language,  
 16 standardize policy language.  
 17 Again, you know, from an Avondale  
 18 perspective, the benefit of using ISO would be  
 19 that it is standardized and used. It is sort of  
 20 the standard insurance policy wording for the  
 21 surplus lines industry.  
 22 Q. Yeah. And ISO goes to like the  
 23 insurance commissioners about the forms to get  
 24 approval?  
 25 A. I don't know the answer to that.

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1 Q. I'm sorry?  
 2 A. I don't know the answer to that.  
 3 Q. Were you aware that ISO does that, that  
 4 they --  
 5 MR. MILLER:  
 6 Objection. I think he --  
 7 MR. HOUGHTALING:  
 8 You can answer.  
 9 THE WITNESS:  
 10 I don't know.  
 11 EXAMINATION BY MR. HOUGHTALING:  
 12 Q. Okay. Do you know that non-surplus  
 13 lines -- well, you know that ISO creates forms  
 14 for non-surplus lines insurance companies?  
 15 A. Well, I think they create a -- they  
 16 create forms that can be used by either surplus  
 17 lines or non-surplus lines companies, I would  
 18 assume.  
 19 Q. Okay. And you are aware that state  
 20 insurance regulators regulate policy forms?  
 21 MR. MILLER:  
 22 Objection to the form of the  
 23 question.  
 24 THE WITNESS:  
 25 I don't know how that would apply in

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1 the surplus lines markets.  
 2 I mean, if we wanted to, we could  
 3 manuscript policy wording, but we don't. So,  
 4 you know, again, we don't -- as a surplus lines  
 5 market, we do not file coverage with any state.  
 6 EXAMINATION BY MR. HOUGHTALING:  
 7 Q. Yes, but are you aware that the ISO  
 8 forms are used by companies that have to go  
 9 through that regulation?  
 10 A. Again, I can only speak to Avondale.  
 11 And we don't -- again, we don't file any forms.  
 12 So I don't know how --  
 13 Q. Let me ask this: You are aware of that,  
 14 though, correct?  
 15 MR. MILLER:  
 16 Objection. Asked and answered.  
 17 EXAMINATION BY MR. HOUGHTALING:  
 18 Q. You are aware that ISO does that,  
 19 correct?  
 20 A. All I can say -- I mean, I have never  
 21 worked for a standard lines company that used  
 22 ISO forms, so -- I apologize. I don't know the  
 23 answer. I don't know -- I don't know that.  
 24 Q. Well, Lloyd's uses standard ISO forms,  
 25 correct?

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1 A. I don't know that Lloyd's does. I know  
 2 we -- we, Avondale, uses ISO forms.  
 3 Q. You use ISO forms?  
 4 A. That is correct.  
 5 Q. All right. And the reason is they are  
 6 standardized?  
 7 A. In the United States, yes.  
 8 Q. In the U.S. Okay.  
 9 Is it another reason that those forms  
 10 are vetted by insurance commissioners? Does  
 11 that factor into it at all for you, for  
 12 Avondale?  
 13 A. Well, I think -- I think the fact that  
 14 they would be, again, used as a standard makes  
 15 it -- makes us less prone to, you know, have  
 16 judgement against the form itself.  
 17 Q. Correct. And what do you mean by that;  
 18 judgment against the form itself?  
 19 A. Again, if -- you know, as an MGU, we  
 20 would not have the expertise to draft our own  
 21 forms. So having the ability to use a  
 22 standardized product that many other carriers  
 23 use, allows us the ability to pass that burden  
 24 off on professionals.  
 25 Q. Yeah. So because you don't have the

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1 expertise of what specific language, you  
 2 subscribe to the company that does that, that  
 3 has that expertise?  
 4 A. That is correct.  
 5 Q. And they draft the language?  
 6 A. Yes.  
 7 Q. And then you purchase and copyright  
 8 those forms?  
 9 A. I don't know that we copyright.  
 10 Q. I'm sorry. You purchase copyrighted  
 11 forms, I should say?  
 12 A. I don't -- I don't know if they are  
 13 copyrighted, but we purchase access to the  
 14 forms.  
 15 Q. Access. Okay. And in this particular  
 16 matter, the quote would be based upon what forms  
 17 are listed?  
 18 A. That is correct.  
 19 Q. And some of those forms will not just be  
 20 coverage, but some of those forms would be --  
 21 well, let me ask you this: Is the deductible  
 22 that effects the risk, are those also forms with  
 23 numbers?  
 24 A. Well, I think the deductible would  
 25 appear on a form.

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1 Q. And would that also have an ISO number?  
 2 A. Yes, but it is a different ISO number.  
 3 And, I'm sorry. I don't have it in front of me  
 4 right now. But, essentially, it is called the  
 5 declarations page.  
 6 Q. Okay. And then describe to me the  
 7 endorsements, how the endorsement works.  
 8 Endorsements, as my understanding is, they can  
 9 add or take away coverage on a general policy?  
 10 A. Yes. An endorsement is a -- I mean, it  
 11 could be -- they could add or take away  
 12 coverage.  
 13 They could also specify a designated --  
 14 like, a service-of-suit clause would be an  
 15 endorsement. You know, as you know, "How do you  
 16 sue us?" that is an endorsement on the forms.  
 17 So there could be clarification  
 18 endorsements. There could -- you know, in our  
 19 case, we have an endorsement that tells the  
 20 insured who the carriers are behind the policy.  
 21 So, they are not always  
 22 coverage-related. But, yes, they certainly  
 23 could take away or add coverage.  
 24 Q. And how would I know if they take away  
 25 or they add coverage? Would it say it?

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1 A. Well, the name of the forms generally  
 2 say what the form does. I think that is -- you  
 3 know, ISO is pretty good about making sure that  
 4 these -- that the language is pretty clear.  
 5 But, certainly, the form number, you  
 6 would have access to review of that form prior  
 7 to acceptance of the quote.  
 8 Q. Okay. And the endorsements in this  
 9 particular case, does it affect what type of  
 10 rate is -- well, let me ask you this: If you  
 11 have endorsements that add coverage, that adds  
 12 risk, correct?  
 13 A. Not in all cases.  
 14 But, you know, certainly there could be  
 15 things that if, you know, you didn't want -- you  
 16 know, like if you didn't want business  
 17 interruption coverage, you know, we could  
 18 exclude that.  
 19 And that would reduce our liabilities  
 20 out. So that would reduce the amount of limit  
 21 that we were putting out, so that would  
 22 subsequently reduce the premium.  
 23 So, you know, certainly anything that  
 24 restricted limits would allow us to do that.  
 25 Q. Okay. So, but there are endorsements

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1 that add coverage, correct?  
 2 A. Correct. Yes.  
 3 Q. And if you have an endorsement that adds  
 4 coverage, that adds risk, correct?  
 5 A. I mean, I don't -- I mean, it might  
 6 not.  
 7 MR. MILLER:  
 8 Asked and answered.  
 9 EXAMINATION BY MR. HOUGHTALING:  
 10 Q. Well, I mean -- let me ask you this: If  
 11 you are adding risk, you are -- well, if you are  
 12 adding coverage, you are adding risk, are you  
 13 not?  
 14 A. Again, it depends on -- it depends on  
 15 the endorsement. But, generally, yeah, if you  
 16 had an endorsement that was adding coverage that  
 17 was acceptable, you could choose to -- I mean,  
 18 yeah, I guess in some cases that could increase  
 19 your risk.  
 20 Q. Yeah. And it --  
 21 A. I don't -- I don't think it is 100% of  
 22 the time. So that is why -- that is the only  
 23 reason I'm having trouble answering your  
 24 question.  
 25 Q. And, in general, you add risks, you add

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1 risks that you are going to pay for. You add  
 2 risk and the potential cost goes up?  
 3 MR. MILLER:  
 4 Asked and answered.  
 5 THE WITNESS:  
 6 Yes. I think in theory, certainly  
 7 the more risk there is on a particular account,  
 8 that could talk to rate and premium.  
 9 EXAMINATION BY MR. HOUGHTALING:  
 10 Q. Okay. And the converse is, if you have  
 11 an endorsement that eliminates coverage, that  
 12 eliminates certain risk?  
 13 A. Again, possibly.  
 14 MR. MILLER:  
 15 Same objection.  
 16 THE WITNESS:  
 17 If it -- if it does -- if it is, you  
 18 know, sort of implicit to -- if it is  
 19 significant to the policy, yes.  
 20 EXAMINATION BY MR. HOUGHTALING:  
 21 Q. Who determines if it is significant to  
 22 the policy?  
 23 A. The individual. In this case, the  
 24 Avondale underwriter could determine whether the  
 25 endorsement was material to the pricing or not.

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1 Q. Well, what about the customer?  
 2 A. Well, they have the chance to either  
 3 accept or decline it.  
 4 Q. Yes. But they also -- they negotiate  
 5 risk. They look at not just the quote, but they  
 6 look at the forms being given to them.  
 7 MR. MILLER:  
 8 Objection. You are asking him to  
 9 tell you what the customer does?  
 10 MR. HOUGHTALING:  
 11 He is describing that.  
 12 EXAMINATION BY MR. HOUGHTALING:  
 13 Q. And I think we have laid some foundation  
 14 that, of course, its negotiation, correct? It  
 15 is not just the price. It is also the coverage,  
 16 right?  
 17 MR. MILLER:  
 18 He can answer.  
 19 THE WITNESS:  
 20 They have an opportunity through  
 21 their wholesale broker and their agent to review  
 22 coverage, yes.  
 23 EXAMINATION BY MR. HOUGHTALING:  
 24 Q. Yes. And it is a negotiation on -- is  
 25 it your understanding that insureds only care

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1 about price?  
 2 A. No, I would hope not.  
 3 MR. MILLER:  
 4 Objection.  
 5 MR. HOUGHTALING:  
 6 I'm sorry.  
 7 MR. MILLER:  
 8 You can answer.  
 9 EXAMINATION BY MR. HOUGHTALING:  
 10 Q. I'm just asking to your general  
 11 knowledge, your business. This is it.  
 12 They don't just care about price. They  
 13 care also about what type of coverage it is,  
 14 correct?  
 15 A. That is -- you know, the needs of the  
 16 client would go back to the insurance  
 17 professionals that they are dealing with, I  
 18 mean, if their agent is going to guide them in a  
 19 direction that is best for them.  
 20 Q. But that is also a consideration for  
 21 their purchasing, right? They are purchasing  
 22 coverage. You understand it matters what type  
 23 of coverage it is in determining --  
 24 A. Yes.  
 25 Q. -- what price is fair?

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1 A. Yes.

2 Q. Okay. And the way the person is able to

3 judge the quote is by the forms that are given

4 to them, correct?

5 A. That would be the way that they would be

6 able to interpret the coverage being offered,

7 yes.

8 Q. Okay. In this particular case, how did

9 Avondale assess the risk of loss at Oceana in

10 determining what forms to give and what price to

11 quote?

12 A. So when I reviewed the policy, I didn't

13 see any specific -- you know, again, it is the

14 class of business, the location. So, it is a

15 restaurant in Louisiana, New Orleans area.

16 There is also a limit that was involved

17 in this. So, you know, there was a pretty large

18 limit for Avondale that was put out. I didn't

19 see any specific, you know, underwriting that

20 made this seem out of normal.

21 Q. Do you recall or were you involved with

22 the initial underwriting? Do you have any

23 knowledge -- strike that.

24 Do you have any knowledge of the initial

25 underwriting of what went into what forms were

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1 given to Avondale? I'm sorry. What forms were

2 given -- strike that. It is late.

3 Do you have any personal knowledge as to

4 the particular forms that were given to Oceana

5 in the quote that was given?

6 A. My knowledge of that would be based on a

7 file review. But then, also, that there are

8 base forms that are on all our policies.

9 Q. But sitting here -- so, you weren't

10 involved in the original underwriting decisions

11 and price and negotiations?

12 A. No, sir.

13 Q. Do you know who was?

14 A. Off the top of my head, we -- we were on

15 this risk for three years from my review of the

16 file. So, I did see that the underwriter

17 changed. So this particular policy number that

18 we are talking about, I don't know who the

19 underwriter was.

20 Q. Were you privy at all to the agent and

21 what the particular retail agent in this case

22 was looking for?

23 A. No. We don't have any contact with the

24 retail agent. We don't have any contact with

25 the insured. Our contact is designated only to

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1 the wholesale broker.

2 Q. Got it. Okay.

3 Does Avondale try to keep up with the --

4 for its clients, does Avondale keep up with the

5 forms of coverage that are available through

6 ISO?

7 MR. MILLER:

8 Objection to the form of the

9 question.

10 THE WITNESS:

11 Sorry. Can you just -- can you

12 rephrase it so I can help you?

13 MR. HOUGHTALING:

14 Sure. Sure. Sure. Sure.

15 EXAMINATION BY MR. HOUGHTALING:

16 Q. Does Avondale in pricing and putting

17 together forms for pricing for ISO forms, does

18 it keep up with or try to keep up current with

19 the ISO forms that are available?

20 A. Yes. I mean, as best we can. You know,

21 they don't change often. And when there are

22 significant changes, we certainly would look to

23 update forms.

24 Q. Okay. And when was there, in your mind,

25 the last significant change in forms?

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1 MR. MILLER:

2 Objection. Lacks foundation. But

3 you can answer.

4 THE WITNESS:

5 So I would -- I would have to say I

6 don't know the edition dates of ISO forms or

7 when they start to update.

8 I would say that our base policy has

9 stayed static for several years.

10 EXAMINATION BY MR. HOUGHTALING:

11 Q. And when you say "base policy," what are

12 you referring to when you say "base policy?"

13 A. So that would be the, again, "what is

14 covered," "how it is covered" portion.

15 Q. When you say "base policy," are you

16 speaking also of endorsements?

17 A. I can't -- that is what I can't speak

18 to. I can't speak to how often they would

19 update endorsements.

20 We don't use -- I mean, ISO has, as you

21 probably know, you know, hundreds and hundreds

22 and hundreds of forms, which are not applicable

23 to this program.

24 So I don't want to make a guesstimate as

25 to those types of things. But, again, our



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1 policy is based on essentially two forms. Those  
 2 two forms have stayed static with Avondale for  
 3 several years.  
 4 Q. Okay. So you have the policy forms and  
 5 then you have a bunch of endorsements forms, as  
 6 well?  
 7 A. There is -- I would just more call it --  
 8 MR. MILLER:  
 9 Objection.  
 10 THE WITNESS:  
 11 -- ancillary forms.  
 12 EXAMINATION BY MR. HOUGHTALING:  
 13 Q. Okay. Ancillary. Ancillary meaning  
 14 what?  
 15 A. They may or may not be coverage forms.  
 16 Like I said, they could be, you know, listing  
 17 who the particular -- who the carriers are on  
 18 the policy.  
 19 It could be the service-of-suit clause.  
 20 It could be privacy notices. It could be state  
 21 notices. They are not always coverage forms.  
 22 Q. Okay. Let me reduce my question just to  
 23 the coverage endorsements.  
 24 A. Okay.  
 25 Q. Change in coverage endorsements, when

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1 was the last time that ISO, in your mind or to  
 2 your knowledge, made a major change to the  
 3 coverage endorsements in its --  
 4 MR. MILLER:  
 5 Objection to the form of the  
 6 question.  
 7 EXAMINATION BY MR. HOUGHTALING:  
 8 Q. What do you call them? General form  
 9 policies?  
 10 A. Yeah. Again, I don't know the exact  
 11 answer to that. I can tell you that we haven't  
 12 updated our versions of the forms in several  
 13 years.  
 14 Q. And when you say update the forms, you  
 15 mean the general policy forms?  
 16 A. We haven't changed them. Yes.  
 17 Q. Okay.  
 18 A. I don't know -- I don't know if there is  
 19 newer versions available. I don't know the  
 20 answer to that.  
 21 Q. Okay. And as to the last time, can you  
 22 give me a year as when is the last time you  
 23 updated the forms?  
 24 A. Well, I -- I can tell you that if you  
 25 have the policy in front of you, which I could

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1 bring up, but if you have it, there is an  
 2 edition date on the bottom of the policy. That  
 3 would have been the last time that we had  
 4 updated the form.  
 5 Q. Yeah. Let me -- let me give it to you.  
 6 And I will mark it as Exhibit 1, the policy  
 7 itself.  
 8 And I can pull it up on here. Yeah. Do  
 9 we need to page through it? I see different  
 10 dates and stuff on it.  
 11 A. Yeah. And that is sort of what I was --  
 12 you know, again, I'm not trying to be evasive  
 13 here, but it is just --  
 14 Q. Oh, no. No, no. Please.  
 15 A. -- typically for me, they are all the  
 16 edition dates. Each form will have its own  
 17 edition date.  
 18 So, you know, again, as to when we last  
 19 updated the form, the edition date is -- again,  
 20 the ISO edition date is at the bottom of the  
 21 forms. Bottom right, usually. And so that will  
 22 give you when, the time that form was updated.  
 23 Q. Okay. And you want us to flip through  
 24 that to --  
 25 A. Oh, sorry. So if the one I'm looking at

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1 right here -- you have to scroll down to the  
 2 bottom again. So you can see that is 05-2015.  
 3 Q. Okay.  
 4 A. That would have been the edition date of  
 5 that form.  
 6 Q. In this particular matter, do you know  
 7 what forms, both the general policy and the  
 8 endorsement forms, were given with the quote?  
 9 MR. MILLER:  
 10 Objection to the form of the  
 11 question.  
 12 I don't know that any endorsement  
 13 forms were given with the quote, but you can  
 14 answer.  
 15 THE WITNESS:  
 16 Again, I apologize. I'm working  
 17 with one screen. But the insured would have  
 18 been given a quote.  
 19 MR. HOUGHTALING:  
 20 Uh-huh.  
 21 THE WITNESS:  
 22 And on that quote, there would have  
 23 been a list of applicable forms and then their  
 24 corresponding numbers.  
 25 EXAMINATION BY MR. HOUGHTALING:

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1 Q. And any endorsement forms would be  
 2 listed on there, correct?  
 3 A. Correct.  
 4 MR. MILLER:  
 5 Same objection.  
 6 EXAMINATION BY MR. HOUGHTALING:  
 7 Q. And then the forms will determine the  
 8 rate?  
 9 A. The forms, they are a factor in rate  
 10 determination.  
 11 Q. Yeah. Sure.  
 12 And did you analyze the risk of business  
 13 interruption when Avondale gave its quote on  
 14 those particular forms? What risks were  
 15 considered?  
 16 A. You know, again, I was not involved in  
 17 the underwriting of the policy. So I can,  
 18 again, speak through a file review and certainly  
 19 anecdotally as to how business interruption  
 20 would be underwritten. Is that fair?  
 21 Q. Was the risk of business interruption  
 22 from a pandemic considered?  
 23 MR. MILLER:  
 24 Objection to the form of the  
 25 question.

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1 THE WITNESS:  
 2 The policy certainly isn't written  
 3 to cover a pandemic, no.  
 4 EXAMINATION BY MR. HOUGHTALING:  
 5 Q. Was the risk that the policy could be  
 6 interpreted as covering a pandemic? Was that a  
 7 consideration?  
 8 A. No.  
 9 Q. Okay. When you issued the policy, did  
 10 you consider that the risk of viral  
 11 contamination warranted attention?  
 12 A. No.  
 13 Q. Did you know that the drafter of the  
 14 policy, the author of the policy, ISO, told that  
 15 to the Insurance Commissioner of Louisiana in  
 16 2006?  
 17 MR. MILLER:  
 18 Objection to the form of the  
 19 question.  
 20 THE WITNESS:  
 21 I don't -- I don't know the answer  
 22 to that.  
 23 EXAMINATION BY MR. HOUGHTALING:  
 24 Q. Were you aware at the time that this  
 25 policy was issued that there was an ISO virus

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1 exclusion form?  
 2 A. Not at the time, no.  
 3 Q. You do now?  
 4 A. Again, ISO has -- I mean, ISO has  
 5 hundreds and hundreds of forms. So that is not  
 6 a form that we used as part of our policy.  
 7 Q. Okay. The question is: Do you use it  
 8 now?  
 9 A. We do.  
 10 Q. When did you start using it?  
 11 A. April of 2020.  
 12 Q. Do you know the number, the CP number of  
 13 the endorsement that you are using now?  
 14 A. I can bring it up for you, but --  
 15 Q. Sure. Yeah.  
 16 A. Yeah. Just give me -- give me one  
 17 second. And when I say one second, I mean,  
 18 like, two minutes.  
 19 Q. Okay. I'm not going to hold you to it.  
 20 Let me give you what is marked as Plaintiffs  
 21 Exhibit 4. Let me see which one you got here.  
 22 Oh, Exhibit 2. I'm sorry. Exhibit 2. And I  
 23 will pull it up on the screen for you.  
 24 A. I have it, if you need it.  
 25 Q. If you go to --

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1 A. I have the number, if you are ready.  
 2 Q. Okay. Go ahead. What is the number?  
 3 A. The number is CP0140.  
 4 Q. Okay. And let me pull up -- go to this  
 5 page, please.  
 6 So does this appear to be the  
 7 endorsement Commercial Property CP01400706?  
 8 A. Again, without going side-by-side, I'm  
 9 just going to say that that has the right name,  
 10 and it has got the right form number on it.  
 11 So I would -- I would say that that is  
 12 likely the form.  
 13 Q. Okay. You are aware now that that form  
 14 existed at the time that this policy was issued?  
 15 A. That is correct.  
 16 Q. Do you know whether or not that  
 17 endorsement form changed the policy?  
 18 A. What are you --  
 19 MR. MILLER:  
 20 Objection to the form of the  
 21 question.  
 22 THE WITNESS:  
 23 Sorry.  
 24 EXAMINATION BY MR. HOUGHTALING:  
 25 Q. You mentioned before that certain

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1 endorsements change policies and some do not.  
 2 Do you know whether this is the type of  
 3 endorsement that changed? And my question is:  
 4 Do you know whether or not this exclusion, that  
 5 would have existed at the time of the policy  
 6 that was issued to my client, whether that  
 7 endorsement changed the policy?  
 8 A. We don't -- we don't --  
 9 MR. MILLER:  
 10 Let me object to the form of the  
 11 question because that endorsement was not in the  
 12 policy.  
 13 MR. HOUGHTALING:  
 14 Thank you for your speaking  
 15 objection, okay?  
 16 EXAMINATION BY MR. HOUGHTALING:  
 17 Q. Do you know whether or not that changed  
 18 the general policy form?  
 19 A. We don't --  
 20 MR. MILLER:  
 21 Same objection.  
 22 THE WITNESS:  
 23 Avondale does not feel it changes  
 24 anything to the policy.  
 25 EXAMINATION BY MR. HOUGHTALING:

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1 Q. I'm sorry?  
 2 A. Avondale does not feel that that form  
 3 changes anything.  
 4 Q. Do you know what ISO has said about  
 5 that?  
 6 A. No.  
 7 Q. Do you know what ISO tells its customers  
 8 about that form as to whether it changes the  
 9 policy?  
 10 A. I do not know.  
 11 Q. Let's pull it back up.  
 12 MR. MILLER:  
 13 And, John, all of my objections are  
 14 reserved, right, save as to form?  
 15 MR. HOUGHTALING:  
 16 Yes.  
 17 EXAMINATION BY MR. HOUGHTALING:  
 18 Q. Can you read the first sentence after  
 19 Commercial Property Form CP01400706? What does  
 20 the first sentence say?  
 21 A. "This endorsement changes the policy.  
 22 Please read it carefully."  
 23 Q. Thank you.  
 24 A. I would like to point out, though, that  
 25 the ISO forms are meant to -- they stand-alone,

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1 so you could have a policy that included virus  
 2 coverage, and then you would utilize this form  
 3 to exclude it.  
 4 Q. Are --  
 5 A. These forms are meant to stand-alone.  
 6 So the fact is that they changed the policy,  
 7 they wouldn't change our policy.  
 8 Q. Does it say that?  
 9 A. Well --  
 10 Q. The policies that you are issuing right  
 11 now with this endorsement, does it say that,  
 12 that this endorsement changes the policy?  
 13 A. Yes, it does.  
 14 Q. Will you read Paragraph B, the first  
 15 clause in Paragraph B?  
 16 A. "We will not pay for loss or damage  
 17 caused by or resulting from any virus,  
 18 bacterium, or other microorganisms that induces  
 19 or is capable of inducing physical distress,  
 20 illness, or disease."  
 21 Q. Okay. What loss or damage is caused by  
 22 a virus that is excluded here?  
 23 MR. MILLER:  
 24 Objection to the form of the  
 25 question. You are asking him to interpret a

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1 policy. He is not a lawyer. And the policy at  
 2 issue in this case doesn't need an exclusion  
 3 because it doesn't cover viruses.  
 4 MR. HOUGHTALING:  
 5 You cannot give a speaking  
 6 objection. You can object to the form. I got  
 7 it. I am asking you -- I'm sorry -- I'm asking  
 8 the witness --  
 9 MR. MILLER:  
 10 But you are asking him to interpret  
 11 an exclusion that is irrelevant.  
 12 MR. HOUGHTALING:  
 13 I am absolutely because he just  
 14 testified that his company does not believe that  
 15 it does. So I can ask it. Thank you.  
 16 EXAMINATION BY MR. HOUGHTALING:  
 17 Q. Now, "We will not pay for loss or damage  
 18 caused by or resulting from any virus."  
 19 What loss or damage caused by or  
 20 resulting from any virus? What damage does  
 21 virus do that is excluded here?  
 22 MR. MILLER:  
 23 The document speaks for itself,  
 24 John.  
 25 EXAMINATION BY MR. HOUGHTALING:

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1 Q. Do you know?  
 2 A. Yeah. So we don't generally interpret  
 3 any of the wordings. We let the ISO forms stand  
 4 for what they are.  
 5 Again, it is our interpretation that  
 6 there was no coverage for the virus to begin  
 7 with, so this form again just becomes a  
 8 redundancy.  
 9 Q. You think it is redundant?  
 10 A. We do think it is redundant, certainly  
 11 as it relates to the current climate.  
 12 Putting this form on provides the  
 13 redundancy that seems to be needed.  
 14 Q. Why does it seem to be needed?  
 15 A. We are getting sued.  
 16 Q. And is the risk of getting sued on  
 17 policies and policy language, is that part of  
 18 the risk that you undertake?  
 19 A. Well, I think -- I think certainly part  
 20 of our ability to put out a policy. Again, what  
 21 I explained earlier was part of why we utilize a  
 22 standard policy form is so that we can reduce  
 23 any of the ambiguity in any of the policies.  
 24 Q. Yeah. And it --  
 25 A. So if something happens that was outside

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1 of predictability, like a pandemic and there  
 2 needs to be some redundancy to clarify anything  
 3 that goes on, then having a redundant form isn't  
 4 a bad thing.  
 5 Q. Is it a good thing to clarify language?  
 6 A. I think --  
 7 MR. MILLER:  
 8 Objection.  
 9 THE WITNESS:  
 10 Certainly, I think, you know, when  
 11 we are working business-to-business, you know,  
 12 there is certainly an expectation that when we  
 13 work with insurance professionals that people  
 14 understand how a policy reads.  
 15 I think it is -- it is certainly a  
 16 challenge for an insured to understand a policy,  
 17 which is why they hire an agent, which is why  
 18 that agent hires a wholesaler.  
 19 So I think, you know, part of  
 20 working business-to-business, especially through  
 21 two insurance professionals is to -- we  
 22 generally don't feel -- there is sort of an  
 23 understanding in the industry as to what these  
 24 forms say.  
 25 So, you know, when this goes outside

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1 of a business-to-business dealing and it gets  
 2 brought into the forefront, you know, this is --  
 3 I don't think it is a -- I think we are -- when  
 4 circumstances change because of outside things,  
 5 you know, again, a redundancy, you know, we try  
 6 to be as clear as we can. And if redundancy is  
 7 necessary, we are willing to do it.  
 8 EXAMINATION BY MR. HOUGHTALING:  
 9 Q. And do you think this clarification is  
 10 necessary, not necessarily to professionals, but  
 11 to the insureds themselves?  
 12 A. Again, I can't speak to what an insured  
 13 would say.  
 14 I mean, certainly, I know more than  
 15 most, and less than some. But I think, you  
 16 know, certainly, you know, between a wholesaler  
 17 and an insurance agent, again, both licensed  
 18 individuals that we have not had to -- we don't  
 19 generally have to explain these things.  
 20 So, again, as a company that works  
 21 business-to-business, it is hard for me to  
 22 answer how an insured would react to policy  
 23 forms. Again --  
 24 Q. You --  
 25 A. -- they hired an agent who hired a

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1 wholesaler, so --  
 2 Q. And when you are talking  
 3 business-to-business, Oceana is a business,  
 4 right?  
 5 A. Insurance business to insurance  
 6 business.  
 7 Q. Oh, insurance business. Because  
 8 insurance people, they should have the  
 9 knowledge. They either have the knowledge or  
 10 they should have the knowledge as to what these  
 11 forms -- a deeper understanding as to what these  
 12 forms mean than an insured might, correct?  
 13 A. Well, I think -- I think a lot in the  
 14 same way that -- I mean, I don't -- certainly, I  
 15 mean, you know, I wouldn't venture into, you  
 16 know, a deposition like this without an  
 17 attorney.  
 18 And, you know, Oceana hired an attorney  
 19 to do some of this work. I mean, there is a  
 20 level of, you know, contract language that  
 21 requires -- if you are not versed in it, that  
 22 may require professional assistance.  
 23 I think hiring an insurance agent to  
 24 help you with your insurance policy is a good  
 25 thing. I think them transferring that again to

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1 a wholesale agent to explain the surplus lines  
 2 industry is a good thing.  
 3 Q. So it is a good thing and you think that  
 4 is a good thing to be able to have someone. You  
 5 think it needs to be translated by an insurance  
 6 professional as to what these terms may mean?  
 7 MR. MILLER:  
 8 Objection. Asked and answered.  
 9 What is your next question?  
 10 MR. HOUGHTALING:  
 11 You can answer.  
 12 THE WITNESS:  
 13 Well, translation is difficult. I  
 14 think the -- again, the ISO language has stood.  
 15 You know, I definitely think that if  
 16 you are -- if you are not familiar with -- I  
 17 mean, listen, I've been in the insurance  
 18 industry now a handful of times.  
 19 I don't always understand my health  
 20 insurance. I don't always understand my car  
 21 insurance. And I think utilization of an agent  
 22 to get me comfortable with what things -- what  
 23 they mean and what they say -- I mean, we just  
 24 -- we went through a couple instances of we used  
 25 different terms for things, you and I.

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1 So, you know, insurance terms,  
 2 insurance language, you know, it is not always,  
 3 you know, the way that people talk. As much as  
 4 it tries to be, it is just not.  
 5 So I think having -- having  
 6 professionals assist you on things that you are  
 7 not 100% confident with, I don't -- again, I  
 8 think it is -- I think it is -- there is nothing  
 9 bad about it.  
 10 EXAMINATION BY MR. HOUGHTALING:  
 11 Q. And in dealing with these forms, I mean,  
 12 you, yourself, said that Avondale isn't a  
 13 professional in the drafting of policy language,  
 14 which is why you turn to a company like ISO,  
 15 correct?  
 16 A. That is correct.  
 17 Q. Okay. So it would be -- it is important  
 18 to you -- you need to understand what ISO was  
 19 saying about the forms?  
 20 A. I'm sorry. You broke up.  
 21 MR. MILLER:  
 22 Objection to the form of the  
 23 question.  
 24 MR. HOUGHTALING:  
 25 Because you are not a professional

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1 in drafting these particular language and you  
 2 rely upon ISO to help draft the language for  
 3 you, then it is should be incumbent upon you,  
 4 should it not, to keep up with what ISO is  
 5 saying about its particular policy forms?  
 6 MR. MILLER:  
 7 Objection to the form of the  
 8 question.  
 9 THE WITNESS:  
 10 Well, I think -- I think, again, ISO  
 11 policy forms are utilized by many different  
 12 companies doing many different things.  
 13 I think, you know, ISO creates forms  
 14 and an insurance MGU like us has the opportunity  
 15 to use the forms that apply to our program that  
 16 are the best fit for our program.  
 17 So, I mean, I don't know if that  
 18 answers your question.  
 19 EXAMINATION BY MR. HOUGHTALING:  
 20 Q. When selling this policy to Oceana, did  
 21 Avondale consider the risk that disease-causing  
 22 agents may render a product impure?  
 23 MR. MILLER:  
 24 Objection to the form of the  
 25 question.

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1 THE WITNESS:  
 2 No.  
 3 EXAMINATION BY MR. HOUGHTALING:  
 4 Q. In selling the policy to Oceana --  
 5 sorry. When selling the policy to Oceana, did  
 6 you consider the risk that disease-causing  
 7 agents can cause a product to be impure by  
 8 changing its quality?  
 9 MR. MILLER:  
 10 Same objection.  
 11 THE WITNESS:  
 12 I mean, I hate to answer these the  
 13 same way every time. But, you know, again, when  
 14 we look at these, we are looking at -- we have  
 15 to anticipate how we think the coverage language  
 16 would be applied in a certain case.  
 17 And, you know, in those two  
 18 instances that you mentioned, we would not have  
 19 expected the policy to apply in those cases.  
 20 EXAMINATION BY MR. HOUGHTALING:  
 21 Q. You didn't believe that the viral  
 22 contamination warranted your attention?  
 23 MR. MILLER:  
 24 Objection to the form.  
 25 THE WITNESS:

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1 I mean, from strictly an  
 2 underwriting perspective, we would not have  
 3 considered that to be an insured risk.  
 4 So, you know, much in the same way  
 5 that we don't give the workers' compensation  
 6 line any attention because our policy doesn't  
 7 cover it, certainly, we wouldn't give --  
 8 wouldn't have given this any underwriting  
 9 attention because we didn't believe it was  
 10 covered.  
 11 EXAMINATION BY MR. HOUGHTALING:  
 12 Q. And you didn't consider the risk that  
 13 the disease-causing agents can cause a product  
 14 to be impure by changing its substance?  
 15 MR. MILLER:  
 16 Same objection.  
 17 THE WITNESS:  
 18 Yeah. Again, I mean, I know -- I  
 19 hate to keep giving you the same answer again,  
 20 but --  
 21 EXAMINATION BY MR. HOUGHTALING:  
 22 Q. Did you consider that risk or not?  
 23 A. So, we just wouldn't have considered it  
 24 something that the policy covered. So, you  
 25 know, making it a part of any underwriting

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1 decision wasn't -- no, it was not considered.  
 2 Q. Do you know whether -- were you aware  
 3 that that is what ISO told the Louisiana state  
 4 regulators when --  
 5 MR. MILLER:  
 6 Objection. Asked and answered.  
 7 MR. HOUGHTALING:  
 8 -- when it looked to clarify its  
 9 policy --  
 10 MR. MILLER:  
 11 Asked and answered.  
 12 MR. HOUGHTALING:  
 13 -- with this endorsement?  
 14 THE WITNESS:  
 15 Yeah, I'm not aware of that or the  
 16 instance or the particular policy language that  
 17 we are speaking to. So, I don't know the answer  
 18 to that, no.  
 19 EXAMINATION BY MR. HOUGHTALING:  
 20 Q. Okay. When selling the policy to  
 21 Oceana, did you consider the risk the  
 22 disease-causing agents may enable the spread of  
 23 disease by their presence on interior building  
 24 surfaces?  
 25 MR. MILLER:

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1 Same objection.  
 2 THE WITNESS:  
 3 Yeah. Yeah, the same answer for  
 4 that, too. Again, you know, we wouldn't have  
 5 considered it to be a covered cause of loss.  
 6 EXAMINATION BY MR. HOUGHTALING:  
 7 Q. Okay. Because you didn't consider it to  
 8 be property damage, correct?  
 9 A. We wouldn't have thought that it would  
 10 have -- would have been covered under our  
 11 policy.  
 12 Q. Did you consider the risk that when  
 13 disease-causing viral contamination occurs that  
 14 potential claims may involve the cost of  
 15 decontamination?  
 16 MR. MILLER:  
 17 Objection to the form of the  
 18 question.  
 19 THE WITNESS:  
 20 Here, you are going to get a  
 21 different answer now. It is going to be a  
 22 two-parter.  
 23 MR. HOUGHTALING:  
 24 Okay.  
 25 THE WITNESS:

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1 You know, first, from an  
 2 underwriting perspective, again, we wouldn't  
 3 have considered that to be something that this  
 4 policy would have responded to.  
 5 The second part of that is Avondale,  
 6 as an MGU, does not have any access or any  
 7 claims authority. So in regards to what happens  
 8 to claims, that is outside of the Avondale's  
 9 purview.  
 10 EXAMINATION BY MR. HOUGHTALING:  
 11 Q. Yes. But analyzing the risk is your  
 12 purview, correct?  
 13 A. Yes.  
 14 Q. Okay. Did you consider the risk that  
 15 viral contamination of this property can involve  
 16 a potential claim for the cost of  
 17 decontamination?  
 18 A. No.  
 19 MR. MILLER:  
 20 Object to the form. Asked and  
 21 answered.  
 22 EXAMINATION BY MR. HOUGHTALING:  
 23 Q. The answer is no?  
 24 A. No.  
 25 Q. Why did you think viral contamination

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1 was not covered? Who told you that?  
 2 A. So, again, we let the policy wording  
 3 speak for itself. You know, again, we -- we  
 4 rely on the direct physical damage portion of  
 5 the policy to dictate where we think coverage  
 6 could be applicable.  
 7 Q. Did you consider that the direct  
 8 physical loss of damage can be when viral  
 9 contamination impacts surfaces and then there  
 10 would be a cost to decontamination?  
 11 A. No.  
 12 Q. How about the risk of potential claims  
 13 of business interruption?  
 14 A. No. Again, we wouldn't have considered  
 15 any part of any virus or pandemic to be covered  
 16 under our policy. So it wouldn't have been a  
 17 consideration in the underwriting process.  
 18 Q. Would it have been helpful to you if you  
 19 knew that -- strike that.  
 20 Would it be helpful to you -- and we  
 21 can't go back in time. At the time of this  
 22 underwriting, would it have been helpful to you  
 23 if you were aware that in 2000 -- well, strike  
 24 that. Let me show you an exhibit.  
 25 Let me ask you whether this would have

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1 been helpful to you. Let's look at the -- maybe  
 2 it is the same exhibit. Oh, Exhibit No. 2.  
 3 Let's go back. Would it have been helpful to  
 4 you --  
 5 MR. MILLER:  
 6 John, can you identify this exhibit?  
 7 MR. HOUGHTALING:  
 8 Yeah. Sure. This is Exhibit No. 2.  
 9 MR. MILLER:  
 10 Yeah, but what is it?  
 11 MR. HOUGHTALING:  
 12 You don't know? Exhibit No. 2 is a  
 13 -- Exhibit No. 2 was a document produced by ISO  
 14 and explaining its endorsement and why it needed  
 15 clarification. And --  
 16 MR. MILLER:  
 17 And I just wanted --  
 18 MR. HOUGHTALING:  
 19 -- you saw this --  
 20 MR. MILLER:  
 21 And I just wanted to make sure you  
 22 identified it so I could say that we object to  
 23 this exhibit.  
 24 This witness doesn't know anything  
 25 about this exhibit.

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1 But now you can ask your question.  
 2 MR. HOUGHTALING:  
 3 I'm not -- I'm asking him -- he has  
 4 already testified that he has not seen it. He  
 5 didn't know about it.  
 6 MR. MILLER:  
 7 Right.  
 8 MR. HOUGHTALING:  
 9 I got that.  
 10 EXAMINATION BY MR. HOUGHTALING:  
 11 Q. So what I'm asking you is: Would it  
 12 have been helpful to you in analyzing the risk  
 13 for your clients if you were aware that ISO told  
 14 the State of Louisiana, quote, Disease-Causing  
 15 agents may render a product impure (change its  
 16 quality or substance), or enable the spread of  
 17 disease by the presence on interior building  
 18 surfaces or the surfaces of personal property.  
 19 When the disease-causing viral or bacterial  
 20 contamination occurs, potential claims involve  
 21 the cost of replacement of property (for  
 22 example, the milk), cost of decontamination (for  
 23 example, interior building surfaces), and  
 24 business interruption (time element) losses?  
 25 Would that have been helpful to you in

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1 deciding whether or not at the time of  
 2 underwriting this policy to include this form  
 3 exclusion, CP --  
 4 MR. MILLER:  
 5 Objection to the form of the  
 6 question.  
 7 MR. HOUGHTALING:  
 8 -- CP01400706?  
 9 THE WITNESS:  
 10 I mean, again, without -- it is hard  
 11 to answer that question only because I don't  
 12 know what policy they are saying has a hole in  
 13 it.  
 14 Again, it could -- ISO is a  
 15 business, as well. They make money by selling  
 16 their policy forms. So alerting somebody that  
 17 their policy may have a gap in it, I just don't  
 18 know if they are saying that the policy that we  
 19 issued had a gap in it. I don't know.  
 20 I mean, I can -- again, this is the  
 21 first I am seeing of this document. So I don't  
 22 know the answer to that. But I -- what I am not  
 23 seeing here is that the policy that we issued  
 24 had a gap in it.  
 25 EXAMINATION BY MR. HOUGHTALING:

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1 Q. Certainly, if you had seen this and it  
 2 was referring to the policies that you were  
 3 selling, you would have followed it and included  
 4 this, if you wanted to exclude the risk of viral  
 5 contamination?  
 6 MR. MILLER:  
 7 Objection to the form of the  
 8 question.  
 9 THE WITNESS:  
 10 I mean, I think when we look at this  
 11 -- again, I'm sorry. I'm just trying to read it  
 12 so I can speak to you about it more, a little  
 13 bit better.  
 14 But, you know, again it is hard for  
 15 me to say this. It is -- I'm just looking at  
 16 it. I don't -- again, without knowing how it  
 17 would have changed the policy that we issued, I  
 18 am a little uncomfortable sort of answering how  
 19 it would -- what it would do hypothetically.  
 20 I don't know the answer. So it is  
 21 -- again, I don't know the answer to that  
 22 because it is not really addressing the policy  
 23 form or the policy that we issued.  
 24 EXAMINATION BY MR. HOUGHTALING:  
 25 Q. Do you know that it is not addressing

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1 the policy that you issued?  
 2 A. No, I don't know. And that is all --  
 3 all I'm saying is, this is the first time I'm  
 4 seeing this.  
 5 Q. Okay. You don't know that. You have  
 6 never seen this before?  
 7 A. That is correct.  
 8 Q. Okay. But after the COVID-19 pandemic  
 9 began, you now became aware that these existed  
 10 at the time you sold the policy?  
 11 A. Well, we became aware that once these  
 12 started to -- once the interpretation of these  
 13 forms were going to consumers and were going to  
 14 noninsurance professionals, that utilizing  
 15 redundancy would help our form.  
 16 Q. When you say that they were going to  
 17 noninsurance professionals, why would it be --  
 18 why would it be helpful to have it go to  
 19 noninsurance professionals?  
 20 A. Again, from the surplus lines  
 21 perspective, what we are generally talking to  
 22 are non-filed forms. What we are generally  
 23 talking to is commercial -- in our instance, its  
 24 commercial property insurance.  
 25 You know, again, we utilize -- our

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1 business is sold through a licensed insurance  
 2 professional and a wholesaler, who then goes to  
 3 a licensed insurance professional and a  
 4 retailer, who then is -- you know, they are part  
 5 of a team that advises the insured as to what  
 6 the best product is for them to purchase.  
 7 So that three-tiered system is in place  
 8 much in the same way that you generally don't  
 9 buy a house without a real estate agent.  
 10 There are just certain transactions that  
 11 are best utilized with a professional to make  
 12 sure that your interests are protected.  
 13 Q. And because the professional may have  
 14 more understanding or more knowledge about  
 15 interpretations of the wording that is at issue?  
 16 A. Certainly different -- certainly  
 17 different terminology within a policy is helpful  
 18 to have someone who can explain that terminology  
 19 and give you -- you know, maybe a different  
 20 example of how that terminology could apply to  
 21 them.  
 22 Q. And this may be one of those cases,  
 23 correct?  
 24 A. I'm sorry. I didn't hear the question.  
 25 Q. This may be one of those cases?

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1 A. What? What may be one of those cases?  
 2 Q. Where it is helpful to have a  
 3 clarification.  
 4 A. What -- sorry. What -- what may be?  
 5 Q. Strike. Strike it.  
 6 Did you consider the risk of civil  
 7 authority shut -- let me strike that.  
 8 Do you know whether or not this policy  
 9 that you sold provided civil authority coverage?  
 10 A. This policy included the business  
 11 interruption form, which has a civil authority  
 12 clause inside it, yes.  
 13 Q. Okay. And that coverage -- what is your  
 14 understanding of that coverage? Strike that.  
 15 Did you consider the risk of a civil  
 16 authority shutting down businesses because of  
 17 viral contamination from a pandemic?  
 18 MR. MILLER:  
 19 Objection to the form of the  
 20 question.  
 21 THE WITNESS:  
 22 No. In this case, again, we would  
 23 go back and -- we would not have expected our  
 24 policy to respond to that event.  
 25 EXAMINATION BY MR. HOUGHTALING:



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1 Q. Did you consider it? Did you consider  
 2 pandemics a risk when issuing these policies?  
 3 MR. MILLER:  
 4 Objection. Asked and answered.  
 5 THE WITNESS:  
 6 No. Again, you know, we don't  
 7 consider things that we wouldn't expect the  
 8 policy to respond to.  
 9 EXAMINATION BY MR. HOUGHTALING:  
 10 Q. What is your understanding of selling an  
 11 all-risk policy?  
 12 MR. MILLER:  
 13 Objection to the form of the  
 14 question. That is kind of vague, John. What do  
 15 you mean?  
 16 MR. HOUGHTALING:  
 17 No, I don't think so.  
 18 EXAMINATION BY MR. HOUGHTALING:  
 19 Q. What is your understanding of -- is this  
 20 considered an all-risk policy that was sold?  
 21 A. I mean, there is -- I don't know that  
 22 there is a definition of what all-risk is.  
 23 So it is -- I don't want to -- I don't  
 24 want to be the first guy to go on Record to  
 25 define what an all-risk policy is.

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1 But, you know, again, we are providing  
 2 them with a standard policy form via ISO that  
 3 provides them with a very standardized set of  
 4 perils and coverages.  
 5 And, again, they can -- that is their  
 6 determination as to if they want more or less.  
 7 Q. Do you know how many occurrences of a  
 8 civil authority shutdown occurred in the city of  
 9 New Orleans?  
 10 A. You mean, how many civil authority  
 11 orders there were? Or, how many -- can you just  
 12 ask the question again.  
 13 Q. Sure. Sure. Do you know how many -- do  
 14 you know how many occurrences of civil authority  
 15 shutdown orders were issued in New Orleans?  
 16 A. As it relates to COVID?  
 17 Q. Yes.  
 18 A. I don't know the exact number, no.  
 19 Q. You know if it is more than one?  
 20 A. I -- I don't. Sorry. I don't know that  
 21 it was more than one, but I know it was at least  
 22 one.  
 23 Q. Do you know if -- do you know if there  
 24 was shutdown orders both from the mayor and the  
 25 governor of Louisiana?

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1 A. I would -- you know, given that the  
 2 shutdown orders are generally state of  
 3 emergencies, I would -- again, I am not privy to  
 4 Louisiana law, but I would assume that when  
 5 shutdown orders are given, they are a state of  
 6 emergency and would run through a mayor or a  
 7 governor.  
 8 Q. Do you know -- were you in this business  
 9 in 2003?  
 10 A. I was a young man then; but, yes.  
 11 Q. Okay. You were in the business?  
 12 A. Yes.  
 13 Q. And were you writing risk for commercial  
 14 lines of insurance then?  
 15 A. Yes.  
 16 Q. Okay. And as part of that, do you read  
 17 any industry trade journals or anything?  
 18 MR. MILLER:  
 19 All right, John. Let me interject  
 20 right here. Look, it is 6:13. Can you identify  
 21 which of your areas of inquiry for this 1442  
 22 this line of questioning applies to?  
 23 MR. HOUGHTALING:  
 24 It doesn't. It has to do with  
 25 underwriting and his understanding. And I'm

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1 probing his understanding of whether or not he  
 2 considered it a risk or not.  
 3 MR. MILLER:  
 4 All right.  
 5 MR. HOUGHTALING:  
 6 So you can instruct him to answer or  
 7 not.  
 8 MR. MILLER:  
 9 Well, I'm about to. Your rope is  
 10 getting real short on this. We have been going  
 11 for a very long time.  
 12 MR. HOUGHTALING:  
 13 Thank you. I understand. So you  
 14 do, but I'm not getting paid by the hour, Allen.  
 15 I want to get out of here, too. I'm getting  
 16 close, if that helps.  
 17 EXAMINATION BY MR. HOUGHTALING:  
 18 Q. So were you in the business in 2003  
 19 during the SARS pandemic?  
 20 A. I was -- I was in the business in 2003.  
 21 Q. Okay. Were you involved with  
 22 underwriting for Lloyd's?  
 23 A. No.  
 24 Q. Who were you involved in underwriting  
 25 for?

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1 A. 2003, I was in the ceded reinsurance at  
 2 Liberty Mutual.  
 3 Q. Do you know whether or not those  
 4 reinsurers paid for the pandemic shutdown of the  
 5 Mandarin Oriental or the Peninsula?  
 6 MR. MILLER:  
 7 Objection to the line of  
 8 questioning. You can answer, if you know.  
 9 THE WITNESS:  
 10 I don't know. I don't know the  
 11 answer to that.  
 12 MR. HOUGHTALING:  
 13 Okay. Give me one second. Give me  
 14 one second now. Let me take a short break and  
 15 let me check my notes.  
 16 (Recess held.)  
 17 EXAMINATION BY MR. HOUGHTALING:  
 18 Q. Okay. Do you whether or not there is  
 19 reinsurance involved here? Is the risk  
 20 reinsured?  
 21 A. Well, I don't know the answer to that.  
 22 Avondale would not purchase reinsurance on  
 23 risks.  
 24 Q. All right. What happens at the end of  
 25 the term? How does that work? The policy

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1 premium, do you know how much the policy  
 2 premiums were paid in this matter per year?  
 3 MR. MILLER:  
 4 That is a compound question, John.  
 5 MR. HOUGHTALING:  
 6 Sorry.  
 7 EXAMINATION BY MR. HOUGHTALING:  
 8 Q. Do you know how much Oceana paid for  
 9 this policy per year?  
 10 A. Sorry. If you don't mind I'm just --  
 11 Q. Sure.  
 12 A. -- looking it up for you.  
 13 Q. Sure.  
 14 A. 16,000. That is what it looks like in  
 15 my system. Oh, wait. Yeah, does that seem to  
 16 track?  
 17 Q. It was more than that, but --  
 18 A. I might be looking -- like I said, they  
 19 -- that is the wrong policy. Sorry.  
 20 MR. MILLER:  
 21 Ethan, if you don't know, you don't  
 22 know. We don't need you to go --  
 23 THE WITNESS:  
 24 I don't know.  
 25 EXAMINATION BY MR. HOUGHTALING:

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1 Q. Like 86,000?  
 2 A. Given the limit, I wouldn't be surprised  
 3 if it -- you know, since now that I'm  
 4 remembering it, it did include wind. So that  
 5 would make sense.  
 6 Q. Okay. And what happens at the end of the  
 7 policy premium? How does it work? At the end  
 8 of the policy premium, what happens? So the  
 9 policy premiums are paid. What happens to it?  
 10 A. What happens to the money?  
 11 Q. Yeah. Who gets it?  
 12 A. Like the accounting function? I don't  
 13 know if that is okay. I mean, I am not trying  
 14 to avoid the question, but I can only speak for  
 15 the particular carriers that are on -- the  
 16 Lloyd's carriers that are on this. So I can't  
 17 really speak to the entire process.  
 18 But so the payment gets remitted through  
 19 the wholesaler to Avondale. Avondale keeps the  
 20 commission that -- the contracted commission.  
 21 And then we send the rest back to the  
 22 carriers as their percentage.  
 23 Q. How much is Avondale's commission?  
 24 A. It varies by risk, and it varies by  
 25 contract. So it might --

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1 THE WITNESS:  
 2 Allen, am I allowed to -- I don't  
 3 know if that is a question --  
 4 MR. MILLER:  
 5 Yeah.  
 6 MR. HOUGHTALING:  
 7 It is not privileged. I mean --  
 8 MR. MILLER:  
 9 I think it is proprietary. There is  
 10 no protective order, so --  
 11 MR. HOUGHTALING:  
 12 I mean, what --  
 13 MR. MILLER:  
 14 Right. I don't think that  
 15 information should be disseminated.  
 16 MR. HOUGHTALING:  
 17 So you won't state how much Avondale  
 18 made?  
 19 MR. MILLER:  
 20 No, we won't.  
 21 MR. HOUGHTALING:  
 22 On what privilege?  
 23 MR. MILLER:  
 24 I said it is proprietary. And if we  
 25 entered into a protective order -- if we entered

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1 into a protective order you could send us an  
 2 interrogatory, and we will put it in. But right  
 3 now we don't have one.  
 4 MR. HOUGHTALING:  
 5 I don't think it is proprietary.  
 6 EXAMINATION BY MR. HOUGHTALING:  
 7 Q. But, in general, what do companies,  
 8 managed companies like yours, make in  
 9 commission, MGAs?  
 10 MR. MILLER:  
 11 Objection to the form of the  
 12 question.  
 13 THE WITNESS:  
 14 Yeah. And, John, the only reason  
 15 I'm kind of hesitating on this is it does vary  
 16 wildly by contract, so --  
 17 EXAMINATION BY MR. HOUGHTALING:  
 18 Q. Give me a range. Give me --  
 19 A. It could be anywhere from five percent  
 20 to 20 percent.  
 21 Q. Okay. Per your contact, could Avondale  
 22 have any liability to the syndicate for not  
 23 including certain endorsements?  
 24 MR. MILLER:  
 25 Objection. You are asking him to

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1 make a legal conclusion.  
 2 MR. HOUGHTALING:  
 3 If you know.  
 4 THE WITNESS:  
 5 I don't know the answer to that.  
 6 MR. HOUGHTALING:  
 7 All right. I have no further  
 8 questions.  
 9 MR. MILLER:  
 10 We don't have any questions.  
 11 MR. HOUGHTALING:  
 12 All right. Thank you.  
 13 MR. MILLER:  
 14 Thanks, Ethan.  
 15 THE WITNESS:  
 16 That is it?  
 17 MR. MILLER:  
 18 Yes. You can sign off.  
 19 (Deposition concluded at 6:26 p.m.)  
 20  
 21  
 22  
 23  
 24  
 25

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1 WITNESS' ATTESTATION  
 2 I have read or have had the foregoing  
 3 testimony read to me, pursuant to Rule 30(e) of  
 4 the Federal Rules of Civil Procedure and/or  
 5 Article 1445 of the Louisiana Code Civil  
 6 Procedure, and hereby attest that, to the best  
 7 of my ability and understanding, it is a true  
 8 and correct transcription of my testimony, with  
 9 the exception of any attached corrections or  
 10 changes, complete with reasons for changes, on  
 11 the Witness' Amendment Pages;  
 12 I have in no way altered the printed  
 13 transcript pages containing testimony herein,  
 14 tampered with the seal on the last numbered page  
 15 herein, or tampered with the security strip on  
 16 the binder hereof. The integrity of this  
 17 certified transcript has been maintained in the  
 18 identical form as it was received by me, with  
 19 the exception of any changes on the Witness'  
 20 Amendment Pages.  
 21  
 22 -----  
 23 Date  
 24  
 25 \_\_\_\_\_  
 ETHAN GOW  
 (Signature)

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1 REPORTER'S PAGE  
 2 I, KAY E. DONNELLY, Certified Court  
 3 Reporter in and for the State of Louisiana, the  
 4 officer, as defined in Rule 28 of the Federal  
 5 Rules of Civil Procedure and/or Article 1434(B)  
 6 of the Louisiana Code of Civil Procedure, before  
 7 whom this proceeding was taken, do hereby state  
 8 on the Record:  
 9 That due to the interaction in the  
 10 spontaneous discourse of this proceeding, dashes  
 11 (--) have been used to indicate pauses, changes  
 12 in thought, and/or talkovers; that same is the  
 13 proper method for a Court Reporter's  
 14 transcription of proceeding, and that the dashes  
 15 (--) do not indicate that words or phrases have  
 16 been left out of this transcript;  
 17 That any words and/or names which could  
 18 not be verified through reference material have  
 19 been denoted with the phrased "(spelled  
 20 phonetically)."  
 21  
 22 \_\_\_\_\_  
 23 KAY E. DONNELLY  
 24 Certified Court Reporter  
 25 State of Louisiana  
 Certificate No. 87008

1 CERTIFICATE

2 This certification is valid only for a  
3 transcript accompanied by my original signature  
4 and original required seal on this page.

5 I, KAY E. DONNELLY, Certified Court  
6 Reporter in and for the State of Louisiana, as  
7 the officer before whom this testimony was  
8 taken, do hereby certify that ETHAN GOW, to whom  
9 oath was administered, after having been duly  
10 sworn by me upon authority of R.S. 37:2554, did  
11 testify as hereinbefore set forth in the  
12 foregoing 108 (108) pages; that this testimony  
13 was reported by me in the stenotype reporting  
14 method, was prepared and transcribed by me or  
15 under my personal direction and supervision, and  
16 is a true and correct transcript to the best of  
17 my ability and understanding; that the  
18 transcript has been prepared in compliance with  
19 transcript format guidelines required by statute  
20 or by rules of the board; and that I am informed  
21 about the complete arrangement, financial or  
22 otherwise, with the person or entity making  
23 arrangements for deposition services; that I  
24 have acted in compliance with the prohibition on  
25 contractual relationships, as defined by  
Louisiana Code of Civil Procedure Article 1434  
and in rules and advisory opinions of the board;  
that I have no actual knowledge of any  
prohibited employment or contractual  
relationship, direct or indirect, between a  
court reporting firm and any party litigant in  
this matter nor is there any such relationship  
between myself and a party litigant in this  
matter. I am not related to counsel or to the  
parties herein, nor am I otherwise interested in  
the outcome of this matter.

22 \_\_\_\_\_  
KAY E. DONNELLY  
23 Certified Court Reporter  
24 State of Louisiana  
25 Certificate No. 87008  
November 11, 2020

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