BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of: RBR Management LLC, dba Community Ambulance Applicant and ABC Ambulance, Maricopa Ambulance, LLC, American Medical Response of Maricopa, LLC, Canyon State Ambulance, Southwest Ambulance and Rescue of Arizona, Life Line Ambulance Service, Southwest Ambulance Maricopa, Rural/Metro Corp - Maricopa, ComTrans Ambulance Service, Inc., Professional Medical Transport, Inc., and American Ambulance Intervenors	Docket No. 2017-EMS-0104-DHS (EMS No. 0283)

At: Phoenix, Arizona

Date: October 26, 2018

REPORTER'S TRANSCRIPT OF PROCEEDINGS

VOLUME 5

(Pages 1128 through 1379)

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BE IT REMEMBERED that the above-entitled and -numbered matter came on regularly to be heard before Office of Administrative Hearings, 1740 West Adams Street, Board Room C, Phoenix, Arizona, commencing at 8:37 a.m. on the 26th day of October, 2018.

BEFORE: Administrative Law Judge Tammy L. Eigenheer

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REPORTER'S TRANSCRIPT OF PROCEEDINGS

ALJ EIGENHEER: Okay. We are back on the record.

It is October 26, 2018, at approximately 8:37 a.m.

Again, my name is Tammy Eigenheer. I am the Administrative Law Judge assigned to this matter. All parties are present and represented.

And I believe we're still on cross.

I'll remind you you are still under oath.

THE WITNESS: Okay.

ROBERT RICHARDSON,

called as a witness on behalf of RBR Management, LLC, herein, having been previously sworn by the Administrative Law Judge to speak the truth and nothing but the truth, was examined and testified as follows:

ALJ EIGENHEER: Please proceed.

MS. HOFMEYR: Thank you, Judge.

CROSS-EXAMINATION (CONTINUED)

BY MS. HOFMEYR:

Q. Good morning, Mr. Richardson. Do you have any

news you would like to have on the record?

A. Is this on?

ALJ EIGENHEER: We are on the record, though.

THE WITNESS: Yes, we did have a grandson yesterday. Because of the prior incident that she had, they're doing some testing with the baby today. So it's still an exciting thing that this one came out and she was able to have a lovely living baby, so it's good.

MS. HOFMEYR: Congratulations.

THE WITNESS: Thank you.

BY MS. HOFMEYR:

Q. I'm going to dive right in, if it's all right, right where we left off yesterday.

MS. HOFMEYR: Judge, can we go to ADHS-1, page 150. How did you do that without scrolling?

ALJ EIGENHEER: Amazing. I'm learning as you go.

MS. FICKBOHM: You learned a new trick last night. That's great.

BY MS. HOFMEYR:

Q. So, Mr. Richardson, ADHS-1 is the initial application that was submitted by RBR. This is way near the back. It's a heading -- It's information that the Department asks from an applicant. It's called "Statement

and Source of Funding." Can you see that?

A. Yes, ma'am.

Q. The answer that was provided by RBR was "Ambulance Management Group . . . and Dignity Health through a joint venture agreement will provide lease purchase agreements for all capitol acquisitions for Community Ambulance." Is that right?

A. That's what it says.

Q. In response to that, there was a letter that came to you from the Department that asked for clarification on this subject. We don't need to pull it up. For the record, it's ADHS-3 at page 2.

This is what the Department wrote back to you. Community Ambulance indicates that they're going to do this through a joint venture agreement and they'll provide lease-purchase agreements. And the Department asked from you, "Please provide documents indicating the amount of funds available, by whom; if borrowed, at what percentage is the interest rate and letters from the entities supporting Community Ambulance's statements."

My questions relate particularly to the joint venture agreement. The Department was asking for a joint venture agreement from RBR. Are we all agreed there's no such thing? Right?

A. I think for clarity, it would be this is the -- I

think there's been -- I don't know if you want to say misuse of the word "joint venture," but it's the organization of the members from Dignity Health and AMG. RBR/Community Ambulance will be the one who will be buying these ambulances.

Q. So the use of "joint venture" has been fairly loosely -- loosely used, I understand. But using the word "agreement," there is no technical written agreement that is a joint venture agreement. Is that right?

A. No. It would just be the operating and management agreement that we saw.

Q. So really, what you're saying here -- when you say AMG and Dignity Health through a joint venture, is that RBR?

A. Yes.

Q. Are you saying RBR will provide lease-purchase agreements to Community Ambulance?

A. No. It's -- I think, again, this is a loose -- the phraseology is just meant to be that the joint -- the entity RBR/Community Ambulance, whose members are -- owners are Dignity Health and AMG, will be the ones that will be supporting this -- this joint venture -- or, this entity, but the entity would be the one buying the ambulances.

Q. Okay. So is that really saying AMG will provide

these purchase agreements, or Dignity Health will provide these purchase agreements?

A. What it says is that Ambulance Management Group and Dignity Health, through the joint venture agreement, will provide lease-purchase agreements for all capital acquisitions. Probably, to be clear, is just that RBR, through Community Ambulance, will be having purchase agreements for these ambulances.

Q. With whom?

A. With whatever banks or whatever. We'll be buying these ambulances for the joint venture -- for the entity -- I'm sorry -- for RBR Management.

Q. Okay. So -- but we do know yesterday -- from testimony yesterday that AMG does own some of the ambulances. Was this a roundabout way of saying that AMG is really going to provide lease-purchase agreements to RBR or not?

A. It's -- So the way it goes is that RBR bought all the --

Q. If you can just answer the question the way I asked it. Yes or no? Is this a roundabout way of -- of saying that AMG was going to provide lease-purchase agreements to RBR for the purchase of ambulances?

A. On some.

Q. Okay. Thank you.

A. Sorry.
Q. So you agreed on some of the ambulances?
A. Yes, ma'am.
MS. HOFMEYR: So my next few questions we're just going to go through the ARCRs. Unfortunately, it's a little bit backwardsing and forwardsing between one and two. But if we can go to -- We're on the correct one, ADHS-1. And it's page 1 of the ARCRs. I don't recall how far into the document that was. I think it's somewhere around the 70s. I can give you a page number, Judge. Let me just get there. 69.
BY MS. HOFMEYR:
Q. So again, Mr. Richardson, we're in the same document. This is the initial application that went in. We've got a number of billable transports, ALS, BLS. Can you see that?
A. Yes.
Q. And then the -- the row underneath that is Number of Loaded Billable Miles. The figure is 90,520. Do you see that?
A. Yes.
Q. Do you know how that 90,520 was calculated?
A. Those are just estimations on the total number of transports and just an average per mile per transport.
Q. And where did you get those numbers from?

A. I think it was just through analysis that we did with EMS Advisors to come up with the right number of what a non-911 transport, on average, between the different facilities, different locations, what would be a good average number, and we went with that number.

Q. So would you say that if you were looking at the miles, it was based on the location of the facilities?

A. We would have it either between the facilities or be having different parts of Maricopa coming in, what would be kind of -- If we wanted to come up with a good average number, what would that number be? Because we know 911, generally they go to the closest facility. But non-911, you can transport anywhere around. And so we did -- we were trying to come up with a good number that would be fair and equitable and accurate to be able to put in there.

Q. And was that -- Did you use the location of Dignity facilities in that calculation? Do you recall?

A. We would for some of them, yes.

Q. Would you say it was the same methodology used for the second ARCR that you submitted?

A. Yes, ma'am.

MS. HOFMEYR: If we can go to page 2, Judge.

BY MS. HOFMEYR:

Q. Let me ask you this. Maybe you know offhand and

we don't need to go backwards and forwards between the documents.

Do you recall that your annual revenue goes up between ARCR 1 and ARCR 2, if I can call them that, the first one and the amended one?

A. Yes, they do.

Q. And do you -- do you agree with me that the revenue that you put in ARCR 1 was 5.5 million and the revenue in ARCR 2 was about 7.1 million? Do those numbers sound right to you?

A. Without looking at it, I know there was a difference.

Q. Okay. And it's net revenue we're talking about.

Okay. So we've got 5.5 going up to 7.1. So that's one and a half million -- right? -- that your revenue goes up from ARCR 1 to ARCR 2?

A. Yes.

Q. So you may have to take me at my word for this, but that's around 29 percent.

A. Okay.

Q. Does that sound right?

Do you agree?

A. It sounds right.

Q. Okay.

A. I'll take your word on it.

Q. So do -- do you agree that if annual revenue projections go up to that degree, that your accounts receivable should go up as well, in principle?

A. In principle, if you've generated more revenue, then you should go up in revenue.

Q. Your accounts receivables should up?

A. Accounts receivable should go up, yes.

Q. And do you agree they should go up by the same percent?

A. I would have to look at the total sheet to make that statement.

Q. So again, without going backwards and forwards between the documents, I'm going to represent to you that your accounts receivable in your ARCR 1 is 7.2 million and in your ARCR 2, it's 7.4 million, which means it went up $180,000, which -- you may have to take my word for this -- is 2 percent.

A. Okay.

Q. Does that sound right? Do those numbers sound right? The accounts receivable in the first one and the accounts receivable in the second one?

A. Without looking at it, but if that's what they say, then that's what they say.

Q. And would you agree -- agree that if your accounts receivable are going up 2 percent but your

revenues are going up 28 percent, there's an anomaly there?

A. Well, not necessarily. That's why we have to look at the sheets. There may are other revenues or declining revenue, and so you can't make that a straight-across-the-board percentage increase.

Q. Do you agree 29 percent and 2 percent are pretty far off?

A. They would be, yes.

MS. HOFMEYR: So, Judge, I would like to go to ADHS-12, now, which is the second ARCR, page 9 of the exhibit. And it's page 4 of the ARCRs.

BY MS. HOFMEYR:

Q. So this is going to talk about staffing. Are any of your people in Nevada going to be -- meaning fleet, payroll, accounting -- any of your Nevada employees going to be assisting operations in Arizona in the first year?

A. AMG will be the ones providing oversight. If there's anything we need to have done, we'll be hiring people down here.

Q. So AMG has two employees, right?

A. The doctors, yes.

Q. Any of the employees of RBR -- who I think you've testified everybody else is employed by RBR in Nevada. Is that correct?

A. That's correct.
Q. Are any of the RBR employees going to be assisting the operations in Arizona in the first year?
A. When you say "assisting," we'll probably go back and have them review things for us and everything else, but they'll be doing their full jobs up in Mr. Nevada.
Q. So, for example, are you anticipating having an HR function in Arizona in the first year?
A. Arizona function? We'd like to hire positions as we've outlined in the document, so we've got three management positions to be able to hire people in.
Q. And do you anticipate one of those people would be an HR function?
A. We would prefer that, yes.
Q. Within the first year in Arizona?
A. Have to go and talk about it to see what the right sequence is, but a director -- operations manager would be first, then subsequently, from there, we would hire other staff.
Q. And do you know if such a position is reflected in your ARCRs?
A. I think we just put them as three management positions.
Q. But that would not include an HR position, right?
A. Well, an HR position could be a management

position.

Q. So yesterday you described something that you sounded quite excited about. It was an undertaking that the company is planning, first in the country. And I think it was relating to papers integration with the hospitals, right?

A. That's correct.

Q. So how -- how are you envisaging that's going to happen in Arizona? Are you going to have staff -- internal staff that are going to manage that, or are you going to outsource it but still have someone internally to oversee a massive undertaking like that?

MR. MURPHY: Objection. Characterization of "massive undertaking," misleading.

MS. HOFMEYR: Judge, did you understand which testimony I'm referring to from yesterday?

THE WITNESS: Yes, I . . .

ALJ EIGENHEER: Overruled.

You may answer the question.

THE WITNESS: We're really excited about that. I mean, it's -- it's -- We're basically working with Dignity Health, being -- as our client. It's to be able to work with them. When we've had the meetings, it's all been with Dignity Health employers -- or, employees, and they're outsourcing, whatever it is. I'm not sure

exactly what players they have. In all the meetings, we've been able to talk through -- some of the things we talked about, this is where we're at, this is where we would like to get to.

BY MS. HOFMEYR:

Q. If I can stop you there. I'm trying to get a feel for the staffing of RBR in Arizona. So are you -- are you suggesting that Dignity Health is going to carry the cost of that undertaking?

A. We haven't thought about that, but more likely. We don't have anything budgeted for that.

Q. So do you have anything budgeted for an IP person in -- an IT person in Arizona?

A. No, we don't.

MS. HOFMEYR: See if we can scroll down a little bit, Judge, on that page.

BY MS. HOFMEYR:

Q. Would you agree that the only positions you've got here -- you've got three under Management. At the top of what's on the screen right now, you can see it says "Management," and then line item 5, "Gross Wages," you've got 3, correct?

A. This is three management, yes.

Q. Okay. And then if you come down to line item 17, "Office and Clerical," you've got another 3, right?

A. That's correct.

Q. So is this what you're representing to the Department this is how you're going to staff the Arizona operations in the first year?

A. Yeah, just as a pro forma, initially getting going, this is what we anticipate starting with.

Q. Do you think -- In reality, you said it's a pro forma, so are you saying -- What do you think the relevance is of you using the word "pro forma" there?

A. It's just that you take your best assumptions and put it in the document, but like anything it's variable, when you get going with these things, you're going to find things that need to change, move around, different spots, so then you make changes in your company. And this is what we anticipate doing in the first year. But you always have to be able to be dynamic and be able to -- make changes you need to.

Q. Okay. But what you're saying here is that you think you're going to do it with three management positions and three office/clerical positions. Is that right?

A. That's right.

MR. MURPHY: Objection.

ALJ EIGENHEER: On what basis?

MR. MURPHY: Representing that there are

only six employees identified on the ARCR. There are additional employees that are going to help with the operations, ambulance.

MS. HOFMEYR: I'm specifically not addressing ambulance personnel. I'm trying to assess their staffing levels from an administrative perspective, not from paramedics and EMTs and nurses.

MR. MURPHY: With that clarification, I'll withdraw my objection, Your Honor.

ALJ EIGENHEER: Proceed.

MS. FICKBOHM: Was there an answer?

MS. HOFMEYR: I don't think there was a question.

MS. FICKBOHM: The question, objection, ruling.

MR. MURPHY: I'll withdraw. We'll withdraw. Give me some credit.

MS. FICKBOHM: Withdrawal, right. Thank you.

MS. HOFMEYR: Can the court reporter look back and see the question?

(The record was read by the court reporter as follows:

QUESTION: But what you're saying here is that you think you're going to do it with three

management positions and three office/clerical positions. Is that right?

ANSWER: That's right.)

MS. HOFMEYR: So it has been answered.

MS. FICKBOHM: I wasn't sure there was an answer on the record.

BY MS. HOFMEYR:

Q. I think you testified yesterday -- or, maybe the day before by now, that when it comes to training of employees, that you're anticipating doing five days of training for employees. Does that sound right?

A. Yes, a week long, in general, is what we do.

Q. And who's going to be doing that training?

A. Myself or Brian Rogers.

Q. Okay. And is that going to be paid time for the employees that are in training?

A. Usually when the you get them up and going, they'll be paid during that training time.

MS. HOFMEYR: Okay. So go to page 6 of the ARCRs. Towards the lower part.

BY MS. HOFMEYR:

Q. Would you agree that your ARCR have only allocated $9,900 to education/training?

A. Okay.

Q. Does that sound about right to you?

A. That's what's on there.
Q. Are you standing by that number now?
A. I would have to see how the budget comes out. But their training hours would not go towards -- Those are more like continuing education, training, things like that. The other would be off their salaries if they're working on the street.
MS. HOFMEYR: Judge, if we can go to page 12.
BY MS. HOFMEYR:
Q. So my understanding --
MS. HOFMEYR: If we can get that. It's a sideways one. Thank you, Judge.
BY MS. HOFMEYR:
Q. My understanding from your testimony yesterday is that the six ambulances on here are not the six that you're going to actually be using. Is that right?
A. Three of them --
Q. Just yes or no. Is that right? Those six do not reflect the six that are going to be used, correct?
A. Half of them are.
Q. And you testified that half of them, the 2009s, are going to be replaced with new ones. Is that correct?
A. That's correct.
Q. Do you know what the purchase price of those new

ones will be?

A. The average -- what we put on here for the price on average.

Q. Can you be more specific as to the -- the pricing?

A. They run -- they run approximately about $80,000 each.

Q. So -- so the two-year-old ones are 107,000. Are you saying the brand-new ones you propose to buy are cheaper models?

A. I give you the base price, then you put the equipment in them and stock them up and things like that.

Q. Is that not what the -- the lower part of this document shows? The line items 9 to 18, is that not the equipment? That's a separate price?

A. So that's for the bigger equipment. That's for the gurneys, the power loaders, the heart monitors. The other ones could be restocking the ambulances --

Q. Okay.

A. I'm sorry.

Q. So is it your testimony that the prices that are next to the ambulances in line items 1 to 6, those are fully stocked ambulances at that price?

A. Without certain equipment.

Q. Okay. So -- so let me just clarify. Line items

4 to 6 are the ambulances that are incorrectly on this form, correct?

A. That's correct.

Q. What is the correct number under Column C that we should use -- or, the Department should use as to -- where it says "Cost or Other Basis," what is the number that should go there? And If you don't know it, that's fine.

A. So the three brand-new ones would be Numbers 4, 5, and 6. The 1, 2, and 3, what we have -- If you notice on 1, 2, 3, the price is a little bit higher because if you look at Number 10 -- look at Number 10, for example, on the autoloaders, there's only three of them being purchased because 1, 2, and 3 already have autoloaders on them. But the new ones that will be going in -- 4, 5, and 6 -- would have to have autoloaders purchased for them. So you buy -- That's what the base rate. And those would be -- the autoloaders would go in those to make the equipment -- to have them have that same equipment. So that's -- that's why you see some discrepancies, some numbers being 3, but the price number there would be different on that base for what we're paying for equipment. I don't know if that made sense, but . . .

Q. Okay. But it didn't answer my question what that number should be -- what's the number should be in that column at line item 4 to 6.

A. So then those would be right around 80, 85,000 right through there.

MS. HOFMEYR: Judge, could we put up ABC-63? I believe it was admitted into evidence yesterday.

BY MS. HOFMEYR:

Q. Have you seen this document before, Mr. Richardson?

A. I don't recall seeing this document.

Q. If you look in that paragraph 2, can you see there's written in red -- it says, "Rob will gather and send"? Is that you? When this document refers to "Rob," is that you?

A. I assuming they're talking about me, yes.

Q. If you can just read that first paragraph. Can you try and take a guess as to who's writing to whom here? Who's in the blue, who's in the red, who's in the green?

A. So Number 2, "Any lease agreements, purchase agreements, et cetera, for the ambulance and stations (if any). If no stations, I need to know that. Rob will gather and send - I loaded the 5,000 per month Central Station."

To be honest with you, I'd be guessing. It's the transition. But it's obviously between our group of answering and asking questions to ascertain information.

Q. So the title of document which we got from your attorneys is "Dean 5-21-16." So is -- what I read as blue -- someone else might see it as black or purple -- Is that Dean Taylor asking a question or somebody else?

A. I have no idea who's asking these questions.

Q. Is it likely to be Dean Taylor?

A. I mean, it could be because he's needing to have information. But I can't answer certain who it was.

MR. BELANGER: Can I get some foundation on the response "It could be conversations with our group of advisors"? Are you talking about EMS?

THE WITNESS: Yes. EMS Advisors, ourselves, between Brian Rogers and myself. And when we come down and meet, we would meet and --

MR. BELANGER: All I needed to know whether it was EMS. Thank you.

THE WITNESS: Yes, sir.

MS. HOFMEYR: Judge, if we could go to page 2 of that document. There's a paragraph 10.

BY MS. HOFMEYR:

Q. About halfway down there's a -- there's a comment from somebody and one of your advisors that say, "No wages are shown for Officers/Owners." Can you see that?

A. Yes.

Q. The response was, "Like Hellsgate, they do not

want to show . . . ." Can you see that?

A. What number again? I'm sorry. Oh, I see it now.

Q. And then comma, then it says, "the owners do not get a wage." Do you see that comment in the document?

A. Yes, I do.

Q. And then the answer at the end of that -- someone just responded with "OK." Is that right?

A. I see that, right.

MS. HOFMEYR: If you go to paragraph 14, Judge, which is below that.

BY MS. HOFMEYR:

Q. The question was asked, in dark blue, "Who is doing the feet service" -- I assume that's a "fleet service" -- "in that there are no FTEs for fleet? Do you know what the cost run may be -- what the cost may run?" And then there's a long answer in red. And then can you see in the green, the question was posed, "Why are we not loading what we expect to do in the ARCR?" Do you see that?

A. Yes, I see that.

Q. And you don't know who -- who the individuals are who are asking and answering these questions. Is that right?

A. I can't tell you who's asking or answering questions.

Q. It would appear that one of your financial advisers -- or your advisers -- maybe not a financial adviser -- is questioning why the ARCRs are not reflecting what you plan to do.

A. I can see what questions are being posed so we can get answers to them to see if they're in there or if they're out or what we need to do with them.

MS. HOFMEYR: Okay. Judge, could you pull up ABC-82? And if we could go to page 14 of that document. So this document's already in evidence. It came to us in response to a subpoena.

BY MS. HOFMEYR:

Q. Can you take a look at it and see if you know what it is?

MS. HOFMEYR: Judge, you might need to expand it for Mr. Richardson so he can see the top -- top left.

THE WITNESS: I don't know why this was submitted. This is -- has nothing to do with Arizona. This is a cash flow. My finance department manager will every once in a while do cash flow projections. This is during the time period when we were doing the expansion into 911 into county, so I always wanted to make sure I saw what my cash flow was going to when we were doing the expansion into Clark County.

BY MS. HOFMEYR:

Q. Okay. If I could just -- if you go halfway down the document, in the very first column, at the top it says January 16 but fairly near the bottom is a number of 148,000.

MS. HOFMEYR: A little bit above your cursor, Judge, there.

BY MS. HOFMEYR:

Q. If you follow that all the way across to the right-hand side, that row, there's a reference to EMS Advisors. Can you see that?

A. Yes.

Q. That may be why it is included, that it related to Arizona.

A. That's -- that's probably why, then. This is just the cash flow of -- during that time period. The expansion, as you can see, where we were going through our cash, and that was just I wanted to make sure -- And you see on the far right where the financial manager was putting in descriptions of what they are. What's missing is the titles along on the left-hand side, but . . .

Q. Okay. Thank you.

But it's an RBR document. Is that right?

A. Yes.

Q. So you testified, I think, two days -- two days

ago now. I recorded that you -- you said in a remark that there was 38 million in revenue in RBR Nevada last year. Is that right?

A. Rough estimated, about 38 million in gross billable.

Q. So if -- if there's a 3.5 management fee on that of gross revenue, is that about 1.3 million in management fees that was paid to AMG last year?

A. Yes.

Q. And you've testified that the plan in Arizona is to -- originally, you used the word "waived" -- if the record can reflect I'm using my fingers to say "waived" -- the management fee for Arizona. Then you said, "Oh, we're still negotiating a fee in Arizona. Is that right?

A. Yes, ma'am.

Q. Who are the parties that are negotiating the management fee?

A. It would have to go back to the board. And for the management company, it will go back to the board to discuss what we're going to do for Arizona for management, if it's going to be separate agreements, how we're going to do that. Percentage stays the same. All the expectations -- I think I testified earlier was -- was there was a lot of lifting, if you will, at the beginning.

Q. If I can stop you there, literally I would like

to know who the people are that are negotiating the management fee for Arizona.

A. So that would be -- The board would be -- Eugene Bassett, Melissa Walker, Jeff O'Malley is the Dignity Health side. And then Brian Rogers and myself are on the AMG side on the board.

Q. But the management fee is payable to AMG, correct?

A. From RBR, yes.

Q. So you would not be -- at those negotiations, you wouldn't be sitting as a board member. You would be sitting -- you would be negotiating as AMG, right?

A. Well, the board still has to approve those -- that management agreement for that, so I guess, if you will, we will have a couple different hats on.

Q. Have there been any negotiations yet?

A. There have been some discussions, yes.

Q. Okay. And those would be reflected in board minutes?

A. Yes.

Q. Have there been any emails backwards and forwards as to a number that you anticipate what in year two the management fee would be?

A. No. We didn't -- I don't think we've got that far along. We've just had some discussions that we need

to discuss this and look at it and see how things go.

Q. Are you anticipating a management fee in year two?

A. Yes.

Q. Just a few more questions.

Does it sound about right -- and I know that I've seen a document to this effect -- that in 2015, the net revenues of RBR from Dignity Health only are just over 3 million?

A. I would have to look at the document.

Q. Can you -- do you have any recollection of revenue generated from Dignity transports that Dignity was the payor in 2015 to be just over 3 million?

A. I'd have to look at that, but that's -- with the number of transports and the portions that they paid, that's probably about right for their payment.

Q. Okay. And that's -- Dignity Health is the payor, correct?

A. Yes.

Q. But your ARCRs in Arizona are showing no discounts to Dignity. Is that right?

A. No, it does. In the transport area, we have a 30 percent discount.

Q. But the ARCRs show no discount?

A. ARCR doesn't show that.

Q. Mr. Richardson, is it your anticipation that you're going to have the same amount of revenue from Dignity where Dignity's the payor in Arizona as you've had in Nevada?

A. Not at all.

Q. Okay. So my last questions really are not questions at all. I just want to show you -- to admit some exhibits.

MS. HOFMEYR: Judge, if you could put up ABC-5, I'd like to see what that is and -- and admit it into evidence.

BY MS. HOFMEYR:

Q. This is a SurveyMonkey of Community Ambulance employees. Can you see that? It was provided to us by your attorneys.

A. Yes, ma'am.

MS. HOFMEYR: I would like to admit that into evidence, Judge.

ALJ EIGENHEER: Any objections?

MR. BELANGER: It's ABC-5? No objections, Your Honor.

MS. FICKBOHM: None here.

ALJ EIGENHEER: ABC-5 is admitted.

MS. HOFMEYR: Judge, can we put up ABC-37?

BY MS. HOFMEYR:

Q. This is a document entitled "Community Ambulance Vehicle List." Can you see that?

A. Yes.

Q. Have you seen this document before?

A. Yes.

Q. Have you any idea what the date associated with it is, even just the year? 2018?

A. I don't know. Well, let's see what the last ambulance is. Sometime after 2017.

MS. HOFMEYR: Judge, can we admit ABC-37?

ALJ EIGENHEER: Any objections?

MS. FICKBOHM: None here.

MR. MURPHY: No, Your Honor.

ALJ EIGENHEER: ABC-37 is admitted.

BY MS. HOFMEYR:

Q. While we're on that, while you're sitting here today, are you able to go through this list and let us know which ones of these AMG owns and which ones RBR owns?

A. This isn't a complete list of all of our ambulances. So these are all RBR-owned.

MS. HOFMEYR: Judge, can we put up ABC-62?

BY MS. HOFMEYR:

Q. Have you ever seen this document before, Mr. Richardson?

A. I -- I don't recall.
Q. It came to us from your attorneys.
A. Okay.
MS. HOFMEYR: Judge, can we admit ABC-62, please?
ALJ EIGENHEER: Any objections?
MS. FICKBOHM: None here.
MS. HOFMEYR: Thank you, Judge. I'm done.
ALJ EIGENHEER: ABC-62 is admitted.
Cross?
MR. RAY: Yes, thank you.

CROSS-EXAMINATION

BY MR. RAY:
Q. Good morning, Mr. Richardson.
A. Good morning.
Q. I'm Kevin Ray. I represent the Bureau of EMS and Trauma Systems. They are the Bureau within ADHS that regulates ambulance services, among other things. Do you understand that?
A. Yes, sir.
Q. Okay. Now, your original application was filed in June of 2016, correct?
A. That is correct.
Q. So a little over two years ago. And we're

finally here, and this is your opportunity -- you being the CEO of the applicant -- to testify, to the best of your ability, on how you envision this ambulance service to work. Is that fair?

A. That's fair.

Q. Okay. What I'd like to do is walk through a little bit of the application. And -- and I apologize up front if I'm going to be doing some duplicative questioning. I hope -- I hope I don't. But let's start with ADHS-1, page -- all righty -- page 8. And who is the applicant for purposes of this application?

A. It's RBR Management dba Community Ambulance.

Q. Okay. So it's RBR Management, LLC, dba Community Ambulance?

A. That is correct.

Q. And I think we understand that RBR Management, LLC, is owned by AMG, your consulting business, your management business?

A. That is correct.

Q. And Dignity?

A. That is correct.

Q. Okay. What is the legal address represented there -- 3030 North Central Avenue?

A. That was an address we had here locally in the interim while we were doing the application process until

we established our -- our fixed location once we were able to receive a CON.

Q. Okay. Are you still using that address?

A. Yes.

MR. RAY: Judge, would you pull up Community Ambulance Exhibit 14?

BY MR. RAY:

Q. Do you know what this document is?

A. I'm not sure what it is.

Q. Okay. If you would look at the top, it looks like it's a printout from the Corporation Commission -- the Arizona Corporation Commission. And it identifies a corporation name of Community Ambulance, LLC.

A. Okay.

Q. Is that a different corporation than the applicant in this case?

A. So this is what -- the LLC that we're using in Arizona to be able to do business here in Arizona, if I'm saying that correct.

MR. RAY: Okay. Let's scroll down a little bit.

BY MR. RAY:

Q. Okay. And it shows a foreign address in Henderson, Nevada. Is that RBR Management, LLC's, address?

A. Yes, it is in Henderson, Nevada.

Q. Okay. So the applicant uses Community Ambulance as a dba, but it sounds to me like you've then incorporated -- you've created a second corporation under Community Ambulance, LLC?

A. In Arizona. So my understanding is we had the -- the LLC in -- in Nevada, which was RBR Management, LLC, doing business as Community Ambulance, and in order to be able to work in Arizona, we needed to have a fictitious -- have a business license here. We tried to get RBR Management here, but they -- the name was already taken, so we went ahead under Community Ambulance here in Nevada -- Arizona.

Q. Okay. Do you know when that was done, when that corporation was created?

A. I'd have to look at the date, but it was -- it was a little while back.

Q. It was after you filed the application?

A. Yes, it was.

Q. So then help me here. We have two separate corporations that are -- So we have Community Ambulance, LLC, which is not a dba of RBR Management, LLC. At least it doesn't show that here. Would you agree?

A. Can you repeat the question, please, sir?

Q. Okay. The applicant is RBR Management, LLC,

doing business as Community Ambulance.

A. That's correct.

Q. And what Community Ambulance 14 is is a corporate document from the Arizona Corporation Commission showing that Community Ambulance, LLC, has been a separately created corporation. Would you agree with that?

A. I don't know if that was characterized by the attorneys to be that way. It was supposed to be -- I think they used the word "fictitious" to be able to do business here so our entity in Nevada -- able to do business in Arizona.

Q. Okay. So is the applicant then going to be Community Ambulance, LLC, or is it going to be RBR?

A. That's a question I'd have to talk to the attorneys. Whatever we need to do to be proper, we will do that.

MR. RAY: All right. Page 11 on ADHS-1, Judge.

BY MR. RAY:

Q. Mr. Richardson, that -- I'm sure you've acknowledged that's your signature.

A. Yes, sir.

Q. Correct me if I'm wrong that you're testifying as the CEO of the applicant.

A. That's correct.

Q. Okay. And the purpose of your testimony, in large part, is to demonstrate fit and proper as a factor for consideration. Is that correct?

A. That is correct, sir.

Q. Are you testifying in your time on the stand in any way on the issue of public need -- public necessity?

A. I'm willing to testify in any capacity that they need to in order to satisfy the requirements.

Q. Okay. That's not really what I asked. Let me ask you a different question.

You sat through the first part of the hearing with Dignity witnesses that testified in the hearing, correct?

A. Yes, sir.

Q. Is it your understanding that those Dignity witnesses were testifying on the issue of public necessity?

A. They were testifying of their -- their need, yes, sir.

Q. Okay. So have you testified anything to date on the issue of public necessity?

A. I have not.

Q. Okay. So it's clear you operate an ambulance service in Nevada, in Clark County.

A. Yes, sir.

Q. Does it operate outside of Clark County?
A. No, sir.
Q. Okay. Do you have any other ambulance operations outside of Clark County that are currently in operation?
A. No, sir.
Q. And as I understand your testimony, you and Mr. Rogers own AMG.
A. That's correct.
Q. And you would be absentee managers for RBR or Community Ambulance or whoever the applicant is? You would remain in Nevada and you would hire managers in Arizona for the Arizona operation?
A. The anticipation is I would be spending a lot of time down here for the operations to -- for the start-up and the oversight until we get people into position. So as a management group, that's what we would provide is the oversight to different operations. So we would do that here just like we would in Nevada.
Q. Okay. But you would agree with me that you have no experience overseeing another ambulance operation other than your Nevada operation?
A. I currently do not do that right now.
Q. How familiar are you, Mr. Richardson, with the statutes and rules governing ambulance operations in Arizona?

A. I've read through the documents and I've got experts -- local experts to help me understand, so I think we put a good team together to be able to identify it. I'm not perfect with it, but I think I have a good, clear understanding.

Q. And -- and I do not intend to trick you with my questioning. I see my role as really exploring your qualifications for fit and proper here in Arizona. Okay?

A. Okay, sir.

Q. And -- and my comment was you clearly have the ability and the experience to operate in Nevada. The question here for the ALJ and the Director is do you have the requisite fit and proper characteristics to operate one here. Do you understand that?

A. Yes, sir.

Q. Okay. So I would not expect you to know every statute and rule off the top of your head, but as the applicant, I think there's an expectation that you understand how to operate an ambulance service in Arizona and to stay in compliance with our statutes and rules. Is that a fair expectation?

A. I would agree with that.

Q. Okay. Are you familiar with the term a "stretcher van" as that term is used in Arizona?

A. If you're considering a stretcher van a

wheelchair van?

Q. Or a wheelchair van?

A. I've -- I've heard that terminology before, yes.

Q. Okay. Do you know if those are defined terms of art in Arizona?

A. I do not know.

Q. Okay. Do you remember Mr. O'Malley's testimony about interfacility transports and convalescent transports?

A. Yes, sir.

Q. And the application requests the ability to do interfacility and convalescent, correct?

A. That's correct.

Q. And as I recall Mr. O'Malley's testimony, his testimony was a convalescent transport was a transport at a level below the interfacility transports. Do you recall that?

A. I remember something to that effect, yes, sir.

Q. Okay. Would you agree with that statement?

A. No, sir.

Q. On further questioning, Mr. O'Malley said that his understanding of a convalescent transport was that they are nonambulance transports. Do you recall that testimony?

A. Yes, sir.

Q. Is that an accurate statement?

A. No, sir. I think there was some confusion. I think I even got a little confused in some of the questioning that referred to a wheelchair van or a stretcher van, but my clear understanding is -- if I may, is -- an interfacility transport is -- or, a transport of an ambulance between facilities, and a convalescent is just everything else but. But they're both ambulance transfers.

Q. What about stretcher vans and wheelchair vans? Are those ambulance transports?

A. My understanding, what I've been advised, they can do those but that they're not generally -- they're not ambulance transports.

Q. So can you explain that comment if they're not -- if you don't believe they're ambulance transports, how do they -- how can they do those transports? What does that mean?

A. And that was a little confusing for me too. And my experience is that different vans are set up with different capabilities.

Q. Let me -- let me stop you right there. Just for clarification, when you're talking about "vans," are you talking about ambulance -- ambulance vehicles or are you using the term "vans" to refer to stretcher vans,

wheelchair vans?

A. Thank you. What I'm talking about is -- Vans would be those designed stretcher vans, wheelchair vans, not ambulances. Ambulances are more set up for medical observation, medical care, medical direction, carry oxygen, different drugs. Wheelchair vans and -- my experience, wheelchairs and some stretcher ones that are just vans, they -- they may have some -- help the patient's oxygen, but they do not get any treatment in the back of those. They're two completely separate designed and capable ambulances -- or, I mean, vehicles.

Q. Okay. So is it your understanding that wheelchair vans and stretcher vans carry oxygen for patients?

A. I'm not sure about Arizona. I know they -- when they load up the patient, they can have those for the patient, if they are on oxygen, so they can continue on their own oxygen but not to administer it for a treatment or medical care.

Q. Do you operate what would be the equivalent of a stretcher van/wheelchair van company in Nevada?

A. No, sir.

Q. So you don't do any -- You don't have any experience in doing those kind of transports?

A. No, sir. When we get calls for those, we have

relationships with other entities that we would refer those calls to them.

Q. Is it your expectation that the applicant would be providing those kind of transports in Arizona if you're awarded a CON?

A. No, sir. We would be transferring those calls as well.

Q. Okay. I believe your testimony -- We got some previous testimony on rates -- the rates charged for interfacility and convalescent transports. Can you explain to me what the difference in those rate structures would be as part of the applicant's file?

A. This is where I got some confusion on -- where the line of question went towards thinking it was more of a wheelchair/stretcher-capable not an ambulance, so I said the rates would be different. My understanding is for a convalescent or interfacility, it would be the same exact rate.

Q. Would you agree with me, Mr. Richardson, that this is a somewhat unique ambulance application?

A. I'm not familiar with all the other applications that come through here, but from looking around and hearing that, I think this has been a unique one, yes.

Q. Okay. I was confused in reviewing the application file. I assumed the application was to be a

ground ambulance provider for Dignity Health, its patients, and facilities. And it was rather late in the game where I -- I understood that it was broader than that. Would you agree you're seeking a CON to -- that would allow you to serve other than Dignity patients and Dignity facilities?

A. Yes. And I -- If I may expand on that a little bit?

Q. Sure.

A. Is -- I do appreciate that -- the information that was requested and for us to be able to make that clarification, because looking back at it, I definitely can see where it was looking at -- and we were expressing our -- our desire to be able to take care of our -- our contracted partner that we would have down here, but to make it very clear, yes, we would be wanting to help the whole system and not just Dignity Health but to help the whole Maricopa County.

Q. Okay. Thank you.

If you are successful in obtaining a CON, you understand that that comes with certain duties and responsibilities as a certificated ambulance provider.

A. Yes, sir.

Q. Okay. If you are seeking a CON to serve other persons and facilities not Dignity-related, how would

you -- what is your plan to service that population that is non-Dignity-related in your first year of operation?

A. The way we look at it is we would only have one contract with -- as of right now is Dignity; that's our contracted partner -- is we would put the emphasis and everything to take care of them. If another facility, another agency calls and says, "I need some assistance; I need some help. Can you come over here and take this transport?" and -- and we look at it and we -- we can be able to do -- provide that service, by all means, we'd go and help that -- take that transport out and help that entity or facility out. So we would be that backup, if you will, or that option for other -- other people. And truly, we would be -- if somebody needed -- felt that they were being underserved and were requesting for us to be a provider for them, we would -- we would entertain that, by all means.

Q. Okay. Do you understand that once you receive a certificate of necessity, the department's expectation would be that you would be able to serve the population covered by your certificate of need?

A. Yes, sir.

Q. Okay. So let me try again with what your plan would be to serving non-Dignity patients and non-Dignity facilities in year one. How would you do that?

A. Again, our emphasis would be our client Dignity Health, but we would help assist anybody in the -- Maricopa County for assistance if they needed transport services.

Q. Okay. The number of transports referenced on the ARCR is a reflection only of Dignity-related transports. Is that fair?

A. That's fair.

Q. And I think there's been an abundant amount of testimony from Mr. O'Malley, and I believe even you, that your expectation is in year one to serve as much of the Dignity-related population as you can handle.

A. That's correct.

Q. And so that raises the question of what resources and what abilities will you have to serve non-Dignity patients and facilities?

A. Well, the anticipation in year one is to take care of that 11,315. So if I could use an example, if a call comes in, we are performing as we planned, and somebody calls up and says "I've got a patient that's been waiting for six hours that needs to go now, I have no ambulance transport," we would go and take that transport and help the community with the resources that we currently have. We will look and expand as we need to as -- if that is what the demand requires, but our

emphasis and our focus would be on our client that we have, is Dignity Health.

Q. All right. Mr. Richardson, why wasn't the CON application limited -- as I thought it was initially -- to Dignity patients and Dignity facilities?

A. Okay. You know, we talked about earlier is -- I think there got to be too much of a focus on facilities, and it's not just the facilities. I know we -- we put our base stations there. We talked about transporting to Dignity Health, all that, but when you look at it, the population of Dignity Health patients are all over Maricopa County. I think the best phrase was they're in every zip code in Maricopa. And so if we were to limit any of those zip codes, if a patient happened to be in there, we wouldn't be able to take care of that patient.

Q. Okay. Let me -- let me make sure you understand my question.

A. I'm sorry.

Q. My question isn't related to service area, which would include zip codes. My question is related to why not seek a CON limited to serving Dignity patients and Dignity facilities if your focus -- admitted focus, in year one at least, is to serve that client, that customer?

A. And I think to -- to answer that would be year one, that is our focus, but to be able to -- We want to

be a good partner for the community. We want to be a backup. There's -- I think it's a great idea to be able to have another layer, another backup to be able to help out in all of Maricopa County that is not Dignity Health, maybe another facility, and not be handcuffed and not be able to help out in those other areas and help other services that are underserved.

Q. Okay. I can appreciate that.

So you wanted to be available as an overflow or a backup provider for other CON holders that are transporting the non-Dignity patient, non-Dignity-facility universe within Maricopa County?

A. We wanted to be able to take care of all those. In EMS, it's crazy, and you can go from low transports one day to high transports, especially the 911 system, and so your units available for non-911 can be depleted rather quickly. And that's where -- I want to be able to do that, be the backup, be that support, because the system is crazy.

Q. That was helpful. Thank you.

A. Yes, sir.

MR. RAY: Judge, can you pull up the guidance document, which, I believe, is DHS-15?

BY MR. RAY:

Q. And, Mr. Richardson, you did not apply for

arrival times for compliance purposes doing interfacility and convalescent calls. Is that correct?

A. We did not apply for that. I don't know if that was a revision afterwards, but we -- I don't know, but we did not apply for that at the beginning, yes, sir.

Q. Okay. And it's your intention, I -- I believe, that if awarded a CON, you would execute a contract, submit that contract to the Department for review and approval, and in that contract, you would have agreed-upon -- I will call them arrival times for compliance purposes between the applicant and Dignity. Is that correct?

A. That is correct.

Q. Okay. There's been a lot of questions asked and a lot of testimony relating to the guidance document.

MR. RAY: And if we can -- if we can turn to -- it's page 3 of the -- of the Bates stamp.

BY MR. RAY:

Q. And these are the factors that the Department wants to see addressed with ambulance companies -- ground ambulance companies. Do you understand that to be the case?

A. Yes, sir.

Q. Okay. And I think your counsel addressed several of those.

And the very first bullet point, hopefully you can read it, says on this page, "A plan to ensure that ambulance service will be maintained and improved for rural communities and county islands."

That would mean within your requested service area, correct?

A. Yes, sir.

Q. Okay. And there has been a lot of testimony, I believe, on that factor, and is that the factor that you've testified to regarding the Wickenburg example?

A. Yes, sir.

Q. Okay. So I want to focus on that. So the applicant's plan to address rural communities and county islands within its full Maricopa County service area, explain how you're going to do that.

A. So anything that's declared a rural area -- and that's what our concern would be, the rural area within that Maricopa County, and to be honest with you, I guess there's -- there's some difficulty of defining what "rural" is. I know there's a definition but -- to what territory, what that is. We are sensitive and we do not want to disrupt or cause any problems in those areas, and so our plan to protect that is that if there's an entity, a CON, that is providing 911 services in that area that depend on those non-911 calls, that they would continue to

take all those calls. Dignity Health patient or not, they would take those calls. And then we would be that, again, a backup if they do need us, or if there's extremely long ETAs, eight hours a patient's waiting there, that we would have the capability. We acknowledge and recognize that they need those transports in order to fortify the 911 system in that rural area.

Q. Okay. So let me break that answer down a little bit.

So it would be contingent on a provider being part of the 911 system in Maricopa County?

A. In -- in that example was a 911 system, yes.

Q. Well, I'm asking you what your plan is. And I recognize Wickenburg was an example, but I want to focus on what your plan is, because that was not part of your application. So I think I need to understand how you are going to meet that need.

A. Yes, sir. We could just make it very simple. Anything that's in a declared rural area, the current CON holder would get all those calls, that they would keep doing what their doing.

Q. 911 provider or otherwise?

A. That's correct.

Q. Okay. That was excellent clarification, Mr. Richardson. Thank you.

So then let's move to the next question. How do -- how would the Department or other providers or the applicant identify when that situation's triggered that you would expect and dispatch would expect other providers to handle those calls?

A. So in our computer-aided dispatch that we have now, we are -- we have the capability of identifying -- once we identify what would be rural and not rural, that any address location pickup from that area would fall underneath that criteria, then it would prompt our dispatcher or whatever mechanisms we put in place to know that that is their call and to make sure they do get that call. So if a call does inadvertently does come to us, we can put it right back in to that provider.

Q. So how -- What would be those criteria that your dispatchers would rely on as designations of rural or county islands?

A. And I believe that's what -- We would work with either the Bureau or whoever to identify exactly what would be considered rural. Because again, I think there's some confusion on what that territory would be. We respect that. We want to work with the Bureau, make sure that we do understand what areas those would be.

Q. Okay. And I assume that applies with county islands as well simply because that's part of the bullet

point.

A. My understanding, yes.

Q. Okay. You're -- you're committing to that for the applicant?

A. Yes, sir.

Q. Okay. Would you read the third bullet point down?

A. "Assessment" --

Q. I apologize.

A. "Assessment of the impact of a successful application on individuals living within and in a rural and wilderness areas adjacent to the service area requested and Applicant's plan to address that impact."

Q. Have you addressed this -- this bullet point in the -- in your prior testimony? And if you have, I apologize. I didn't pick it up.

A. I think how we addressed it was just that we're sensitive to the rural areas' concerns and their needs, if that's . . .

Q. So would the -- would your plan identified in Bullet Point 1 be the response that you would give to Bullet Point 3? Is that what you're saying?

A. I believe, yes, sir.

Q. Okay. And how about Bullet Point 4? Would you have -- Would that be the same answer?

A. That would be the same answer, sir.
Q. How about Bullet Point 5?
A. That would be the same.
Q. Mr. Richardson, when we talked about the contract between RBR and Dignity, that included compliance times for interfacility and convalescent transports. Is it accurate to say that those are the times and the terms that will be submitted to the Bureau if you are successful in getting a CON, or are those terms going to be renegotiated?
A. I can commit to this -- is that they will not -- they will be those or even more stringent as what we turned in. And would also -- the change of language to be more in line with the Bureau's terminology and language.
Q. Okay. All right. I'm sorry. I'm just trying to make sure I don't ask questions that have already been handled.
MR. RAY: All right. I don't have any further questions. Thank you, sir.
THE WITNESS: Thank you, sir.
ALJ EIGENHEER: Redirect?
MR. MURPHY: I just have one issue to just clean up. The first is just an exhibit that I realize that I didn't show Mr. Richardson, and that is CA-147.

REDIRECT EXAMINATION

BY MR. MURPHY:

Q. Rob, do you recall receiving this letter from Bank of Nevada?

A. Yeah, this is a letter from Bank of Nevada confirming our $1 million line of credit.

Q. You testified to this $1 million line of credit, I think, on Wednesday. Is that correct?

A. That's correct.

MR. MURPHY: Move to admit 147, Your Honor.

MS. FICKBOHM: No objection.

ALJ EIGENHEER: 147 is admitted.

MR. MURPHY: That's all, Your Honor.

MR. RAY: Your Honor, I don't believe I moved for CA-14 to be admitted. I would do so now.

MS. FICKBOHM: What about 15? Do we have that one in?

ALJ EIGENHEER: CA- --

MR. MURPHY: Good standing certificate.

ALJ EIGENHEER: CA-15 wasn't --

MR. RAY: Did I say 15?

ALJ EIGENHEER: No.

MR. McGOLDRICK: No. I would like 15 in. So I formally move CA-15 in. It's a sister document to 14.

ALJ EIGENHEER: Okay. Any objections to 15 or 14?

MR. BELANGER: Could we see -- could I please see 15, Judge? I don't have any exhibits. I just want to make sure.

Yeah, that's fine.

ALJ EIGENHEER: Okay. CA-14 and CA-15 are admitted.

MR. MURPHY: Your Honor, there is an update that -- that happened. I'm not sure when the Corporation Commission record -- An update to CA-14, I understand. There's an address change that I believe addresses the issue that Mr. Ray raised during his cross of Mr. Richardson. I'm wondering if there's an objection to submitting that document to counsel.

MR. RAY: You mean the business address?

MR. MURPHY: Yeah, I think it's -- I think it's been updated.

MS. FICKBOHM: And I actually had just two quick areas of inquiry to clear up some confusion I had from what Mr. Ray asked. And maybe it might relate to that. But do you have something to share with us? Is that what you're talking about?

MR. MURPHY: Jeff?

MR. MEYERSON: Yeah, so as far as the -- the

registering to do business in Arizona, I don't know if it's okay if I address what happened. I think from a corporate perspective --

MS. FICKBOHM: Are you going to be a witness?

MR. MEYERSON: I don't know if he knows is the problem.

ALJ EIGENHEER: Okay. One at a time.

MR. MEYERSON: I can clarify with counsel off the record, if all of you would like, about the registering to do business. I don't think I can ask Rob. From his answers to Rob's [sic] questions, I don't think that Rob fully understands what happened. So however -- however other counsel want to do it.

MR. McGOLDRICK: Why don't we discuss off the record with a stipulation or something?

MR. MURPHY: Well, Rob -- Rob wants to get home, for the obvious reasons. So maybe we can go off the record, and we can either step aside and not be part of the witness. In that case, if you want to clean it up, we can do it right now.

If that's okay, Your Honor.

MS. FICKBOHM: I did have two follow-up questions for this witness.

ALJ EIGENHEER: Proceed.

RECROSS-EXAMINATION

BY MS. FICKBOHM:

Q. Just for my clarification, the -- the RBR Management address that we referred to in ADHS-1 that you listed, the 3030 North Central, Number 501, address --

A. Yes.

Q. -- who else is at that address?

A. That's the offices that we -- it's an address that we used with Dignity Health.

Q. So that's a Dignity Health address?

A. It's an office space that they have that we take -- we're using.

Q. Okay. Because I thought I knew where that was on Central, which is -- Dignity Health has a big building there on Central.

A. Yes, ma'am.

Q. Okay. And then you testified, when Mr. Ray asked you questions, about familiarity with statutes and rules governing Arizona ambulance services. You testified you've read them and you have experts helping him [sic] understand them. Your understanding is through a good team, so I just wanted some clarification about who your understanding is through, who's your good team that's helping you understand the --

A. So we have attorneys and then EMS Advisors and

Brian Rogers and myself.

MS. FICKBOHM: Thank you. Those are my questions.

ALJ EIGENHEER: Okay. So we will go off the record at this time.

(A recess ensued from 9:59 a.m. to 10:14 a.m.)

ALJ EIGENHEER: Okay. We are back on the record.

Did we have anything to talk about?

MR. MEYERSON: Not right now.

MR. MURPHY: Not right now.

ALJ EIGENHEER: Okay. Then you may be excused.

THE WITNESS: Thank you very much.

ALJ EIGENHEER: Your next witness?

MR. MURPHY: Your Honor, Dr. David Argue, please.

And if I may, we spoke with counsel before the hearing began this morning. Dr. Argue was provided with a number of documents to review. He didn't bring them with him today. They were provided to intervenors' counsel and Mr. Ray on October 12th, I believe, through a Dropbox folder. And we were trying to determine how to get those documents in to establish what he's reviewed for

purposes of his attending today, and everyone agreed that I could read the list and ask Dr. Argue if he reviewed those documents and then deal with them in that way.

Is that still everyone's -- everyone okay with that? So it may get tedious. And I apologize.

MR. McGOLDRICK: Or you could make a photocopy and just submit it.

MR. MURPHY: Yeah. And what I also did anticipating this issue is -- I did this, just a copy of the Windows Explorer documents that were provided to him. I can also just photocopy them -- photocopy this somehow and provide it to everyone.

MS. FICKBOHM: That will save time and expense on the record, so I vote for that.

MR. MURPHY: I agree with that.

But there are some documents that aren't pertinent [sic] in the record that I would like to have moved into the record. We can agree to do that even after Dr. Argue's testimony. Is that something you would agree to?

MR. McGOLDRICK: Yes.

MR. MURPHY: Adriane?

MS. HOFMEYR: That's fine.

MR. MURPHY: Okay. Thanks, everybody.

MS. HOFMEYR: Judge, before we begin with

this witness, I -- I know we've already had a general objection, but I would like -- from ABC's perspective, I'd like to repeat our objection pending this witness. Just to get it on the record, number one, he's destined to testify about the benefits of competition and the way customers have a choice, and that is completely irrelevant to these proceedings. Number one, this applicant is not looking for competition. They've said it again and again; all they want is control.

Number 2, competition is irrelevant to the regulations. That debate was done in 1982 when it went to the general population to vote on whether this should be regulated. And so for the record, we object to having this witness at all or, to the extent he testifies, to anything at all related to the benefits of competition.

MS. FICKBOHM: Join.

MR. BELANGER: Join.

ALJ EIGENHEER: Any response?

MR. MURPHY: Yes, Your Honor. At least each of these -- I think all three of these intervenors, when they sought their CONs in this -- this process, all made arguments about competition, particularly in a county as large as Maricopa County and as populous as Maricopa County, and that competition would be beneficial to the system and would benefit -- is a public benefit. And one

of the documents that we are going to discuss is the findings of fact and conclusions of law, Your Honor, in the Maricopa Ambulance case. Dr. Argue testified in that case on behalf of Maricopa Ambulance, LLC, provided an opinion similar but a bit different to the one that we're dealing with here today. It was a different issue that he's addressing than the one in Maricopa Ambulance. And in that -- I apologize, I don't have it right in front of me. I did not know that there was an objection to this witness, unless I missed it at some point. If anybody knows?

ALJ EIGENHEER: CA-82.

MR. MURPHY: Yes. If you could pull that up, Your Honor, I would appreciate it.

If we can go to page 25 of that PDF. It's the Conclusions of Law section. This -- this is part of what Dr. Argue's going to talk about, how the CON process does contemplate competition, particularly in this setting, which is a highly populous, large county like Maricopa County. The guidance --

And if we also have the guidance document up, Your Honor. I'm sorry. ADHS-15.

The guidance document clearly discusses -- that everyone's read -- that the CON principles are not primarily about protecting the territory or property

rights of the current provider. And if you look at page 25, paragraph 20, of the findings, that is echoed in that document: ". . . protecting the current provider's monopoly is not determinative or even a substantial factor in the aforementioned regulatory model."

Certainly the impact on the incumbent -- the impact on the existing CON holders is a factor to consider. There's no question about that. And as the rural -- rural plan that Mr. Richardson discussed, this application embraces and appreciates the impact on CON holders that may cover a portion of Maricopa County but also provide 911 service or IFT or both in a county that's rural, and -- but in Maricopa County, protecting the intervenors' interest in -- is not determinative.

If you go to paragraph 17, Your Honor, of that CA-82, these findings that Maricopa Ambulance received in their case confirmed that the market for ambulance transport in Maricopa County is large enough to sustain multiple providers. Dr. Argue -- his opinions and testimony about these issues will support that finding and help the judge to understand the context of Community Ambulance's application, why competition is still an important issue and actually is a public necessity.

And to that point, if you would turn to paragraph 19, Your Honor, of CA-82, Maricopa Ambulance was

lucky enough to have a finding that competition among private providers of ambulance service in a large market, which the finding says is like Maricopa County, serves the public necessity. And so to the extent that we are in Maricopa County, this application is geared towards the service area of Maricopa County. And previous courts considering Dr. Argue's testimony and arguments by intervenors AMR in 2015, '14, Maricopa Ambulance and ABC making arguments about competition, there's no doubt that public necessity is -- is a part of the CON regulation and something that Community Ambulance has to establish, at least some of the factors, if not most of the factors, and competition is one of those factors based on this finding when you're in a large, highly populated community like Maricopa County.

And so for those reasons, I would suggest that the Court would benefit from the testimony of Dr. Argue on these issues and others in considering the CON application.

MS. HOFMEYR: Judge, may I respond?

ALJ EIGENHEER: Yes.

MS. HOFMEYR: All those issues may be so, and I don't concede any of them, but they're completely moot in this hearing. This is an applicant that doesn't propose to compete at all. They've got a captive market,

they've got one customer, and so the whole issue of competition is completely irrelevant to this -- this applicant. They bandied it about because it's been used in prior applications, but it is irrelevant to this particular application.

MS. FICKBOHM: And --

MR. MURPHY: Can I respond one at a time, though?

MS. FICKBOHM: Can we go in order?

MR. MURPHY: Well --

MS. FICKBOHM: Aren't we --

MR. MURPHY: It's going to be hard for me to collect up. If I could address them as we go, I would appreciate that.

ALJ EIGENHEER: Go ahead.

MR. MURPHY: I don't -- I don't think it's right to say -- and Dr. Argue is going to try to address that question about whether or not there's competition. There's competition at the ambulance service provider level. And, as Mr. Richardson testified, the service area is Maricopa County, and Dignity Health is the first-year transports that Community Ambulance is focused on, and I believe that Maricopa Ambulance had a similar situation in their -- in their case where they had some urgent cares. I'm not sure if it was their parent company or not, but

they were focused on -- on business that they had established before they had their CON, and they were focused on those transports that they put into their application. Same case here.

There's an integration. There's a lot of evidence, we know, about the integration of Dignity Health and Community Ambulance. But Mr. Richardson testified if -- if there is a call that comes in from a non-Dignity patient, health system, that says, "We have a patient that needs to go urgently. Can you pick that patient up?" he said, "We would be available to do that." So that in and of itself creates a competitive -- is a competitive situation. If the three intervenors sitting here today wouldn't be able to take care of that call, Community Ambulance would be able to take that call.

And then Dr. Argue is also going to testify about how the hospital system is in a competitive market and how ambulance service is part of that system. And unlike 911, where it is an ambulance service providing 911 to a patient unrelated to a hospital, when you have an interfacility transport, patients associate that transport and their experience on that transport not with necessarily -- not with the ambulance service, although they do, but with the hospital that -- and the provider that provides that transport or that indicates to them,

"You need to go to another facility, and an ambulance is coming for you." If they have a terrible experience, it reflects poorly on the hospital system, and the hospital system is in competition in the market as well, so it's a two-level competitive argument.

And again, there have been findings and discussions in previous hearings that I understand why intervenors, sitting where they're sitting now, would like to say, "Well, enough's enough. No more competition. Thank you, but we're done with competition. We've -- Let's close the door on that." But in Maricopa County, it seems that this office has said, "No, that's not how it works. It's a different market than if you're in a rural area."

MR. RAY: And, Judge, I didn't -- The only point I would like to make is that the reference to CA-82 is from the ALJ's recommended decision.

MR. MURPHY: My apologies, Your Honor.

MR. RAY: No, that's fine.

And I quickly took a look -- I don't see a final decision on the exhibit list, and I do not know whether paragraph -- finding of fact -- I believe it is 19 -- became part of the final agency decision.

There's no doubt Mr. Argue has been allowed to testify in prior hearings.

ALJ EIGENHEER: Okay. Looking at the final decision issued by the Department, it doesn't look like there were any changes made to finding of fact -- Wait. Is that what that was?

MR. RAY: I believe we were focused on 19, Judge.

ALJ EIGENHEER: Yeah, 19. Sorry. I was trying to figure out if it was a finding of fact or conclusion of law.

It does not appear there were any changes made when the Department accepted the decision.

MS. HOFMEYR: Judge, for purposes of the record here and to the extent that you rely only on this one particular finding of one CON application, there are multiple others that have different findings. And so to preserve the record, I would incorporate any other finding that's on the OAH record and is a public document.

MS. FICKBOHM: And -- and just a point of clarification, and I won't belabor the point since you were there and you entered the decision. The AMR Maricopa process was not based upon a need for competition in Maricopa County. It was based upon the existence of a failing provider and the county being at risk and AMR Maricopa wanting to become the safety net. It wasn't AMR Maricopa coming in and saying, "Competition is good and we

should be allowed to compete."

And I'll also point out that Mr. Murphy's example offered just now in argument is not a competition example. That's a "We want to be available to be a backup provider." It's not a competition model.

That's all I have to say.

ALJ EIGENHEER: All right.

MR. MURPHY: Your Honor, just a point of clarification.

ALJ EIGENHEER: Yes.

MR. MURPHY: And I do acknowledge that Rural/Metro was a large and failing and ultimately failed ambulance service and that AMR stepped in, and AMR has now -- has a number of CONs in this state, and there are smaller providers that are providing ambulance service and trying hard to compete in that market. Community Ambulance has not said that it is only in it for backup agreements. It's saying, "I'm here. We are available if the other providers don't provide a level of service that's appropriate for the healthcare system or the patient." So that's competition, and I tend to disagree with Ms. Fickbohm. I want to make that point for the record.

The only other point I want to make for the record is to the extent that there are findings of fact

and conclusions of law and decisions that have adopted the position that ABC's counsel is promoting, before the -- the whole record of CON decisions are put into this record, if we could identify some of those, I would appreciate that.

ALJ EIGENHEER: I will say that while they do come out of my office, they are also not binding precedent. I'm not held captive to what any other judge or what I said in a prior proceeding, for that matter. So for the limited purpose of -- of shedding light on prior arguments and how they may have been interpreted, I'll accept them as relevant. And with the objection noted, I will go ahead and allow the testimony as relevant. And we'll proceed from there.

So if you'll please raise your right hand.

DAVID ARGUE, Ph.D.,

called as a witness on behalf of RBR Management, LLC, herein, having been first duly sworn by the Administrative Law Judge to speak the truth and nothing but the truth, was examined and testified as follows:

ALJ EIGENHEER: Would you please state your name, spelling it for the record.

THE WITNESS: My name is David Argue. Last

name is A-r-g-u-e, just like it sounds.

ALJ EIGENHEER: Okay. And that microphone, you're going to have to get right up close to it.

THE WITNESS: Okay.

ALJ EIGENHEER: Okay. Please proceed.

MR. MURPHY: Your Honor, while we were having this discussion, I probably should have asked you to pull up David Argue's resume. It's CA-129.

DIRECT EXAMINATION

BY MR. MURPHY:

Q. Dr. Argue, good morning.

A. Good morning.

Q. Thank you for being here.

The judge has put on the screen a document. Can you tell me what that document is?

A. That's a current version of my CV.

Q. Okay. And you provided it to Community Ambulance -- to me to produce in this case?

A. Yes.

MR. MURPHY: Move for the admission of Dr. Argue's resume, CV.

MR. McGOLDRICK: No objection.

ALJ EIGENHEER: CA-129 is admitted.

BY MR. MURPHY:

Q. Dr. Argue, can you tell -- tell the judge what it is you do for a living?

A. I work for a -- I provide economic consulting services on various regulatory and litigation issues in -- largely in a healthcare context. I have a firm named Economists, Incorporated, and we provide these services more generally to different clients around the country.

MR. MURPHY: Your Honor, if you could scroll down a little bit to -- I want his educational background.

BY MR. MURPHY:

Q. Dr. Argue, could you tell the judge a little bit about your educational background, please?

A. Certainly. I received my Ph.D. in economics in 1990 from the University of Virginia. My concentration was in industrial organization. Industrial organization is just the study of how markets work, how firms operate, how they make their decisions. And a lot of my focus then and subsequently has been on antitrust issues and competition. And since I have gotten out of grad school, I have focused almost exclusively on the healthcare industry in my consulting work.

Q. And can you then talk a little bit about your work as an economist over -- over the past 25 years?

A. Sure. I've been EI since -- for, I guess, just

about 28 years now. And in the last 25 years, as I mentioned, it's been almost exclusively working on healthcare matters. And these would be mergers and acquisitions litigation matters, studies, presentations on regulatory issues for hospitals, for ambulatory surgery centers, physicians, insurance companies. I've done -- I've worked on three -- I guess three or four matters involving ground ambulances and three or four involving air ambulances and testified a number of times in various hearings.

Q. Have you also -- it shows on your resume --

MR. MURPHY: Your Honor, if you could go down a little bit, please? Yeah, next page, sorry. Thank you. Where am I? Yeah. Testimony.

BY MR. MURPHY:

Q. Why don't you talk about if you have a teaching background?

A. Certainly. In the course of my career at Economists, Incorporated, I was asked to teach health economics at Johns Hopkins University, which I did for three years in their graduate business program. It was a course on basic economics and then how they are applied in the healthcare sector.

Q. And have you been published?

A. Yes. I've published a number of times -- they

are listed way down at the bottom of the CV -- in matters involving healthcare, the healthcare industry, again, the economic issues surrounding various transactions or litigation matters or analyses that are current in the antitrust -- or, sorry -- in the healthcare world. Many of these publications have been in -- I call them trade press. They're intended to appeal to attorneys and the potential clients that I have. Some of them have been through the American Health Lawyers Association, where I was a -- held a position -- held leadership for several years.

Q. You mentioned that you've testified and done work in the healthcare industry over the years. Any of that work in Maricopa County or in Arizona?

A. Yes. I've worked in Arizona -- I've had probably six or seven engagements in Arizona. I was consulting with Lutheran Health and Samaritan Health in their merger however many years ago they formed Banner. I subsequently was retained to assist Banner in its acquisition of Sun Health. I've had a couple of litigated matters: one in the East Valley on -- it was a cardio -- cardiac catheterization lab, another involving a cardiologist in Verde Valley Medical Center, another one an ambulatory surgery center in Havasu. And then just last year -- or, sorry -- three years ago testified and did the analysis on

the Maricopa Ambulance certificate of need process.

Q. Now, you brought a document up with you.

A. Yes.

Q. Can you identify what you brought with you, please?

A. This is the Administrative Law Judge decision in the matter of Maricopa Ambulance, LLC.

Q. Okay. Have you made any notes on that document or --

A. I have flagged one page. It was page 25. That will be seen on the screen. And put some numbers on it of various topics on there that I thought were relevant to the discussions today.

Q. Do -- do you have any other documents with you?

A. No.

Q. Okay. And you, of course, will share that document after you testify or during cross-examination with intervenors' counsel, right?

A. If requested, certainly.

Q. Okay. We -- Before we were on the record with you, Dr. Argue, we talked about documents that you reviewed, and we're not going to go through all the documents and list them all to have you say "Yes, I received that document." We're going to do that between counsel and later admit that. But I just wanted to

establish that you did review documents that relate to this matter in the preparation of your opinions?

A. Yes, I -- I reviewed a great many documents. I obviously don't -- haven't gotten them memorized, but it was the filings, the CON request and responses of the intervenors, some ARCRs, this -- this document that I've got here, my past testimony in that case, several other documents. I don't remember specifically what they were, but it was a fairly broad selection. There were some letters of support by some fire departments and facilities.

Q. And we'll -- Thank you.

MR. BELANGER: Before we go any further, is the witness going to refer to his notes on the exhibit for purposes of testifying on direct examination?

MR. MURPHY: I don't know, Mr. Belanger, because I didn't know that he was going to bring that document. I didn't know that he was going to have notes on it.

MR. BELANGER: I'd like to see them before --

MR. MURPHY: You're more than welcome to see them.

MR. BELANGER: -- before he testifies.

MR. MURPHY: Can -- can we have him do that

now?

ALJ EIGENHEER: Yes. We'll take a short recess, go off the record.

(A recess ensued from 10:41 a.m. to 10:48 a.m.)

(An off-the-record discussion ensued.)

ALJ EIGENHEER: Okay. So we're back on the record.

Please proceed.

BY MR. MURPHY:

Q. Dr. Argue, so we talked about your notes; opposing counsel's had an opportunity to review those notes, right?

A. Yes.

Q. And can you talk a little bit about the task that you were retained for by Community Ambulance, the issues you were asked to look at?

A. I was asked by Mr. Murphy to consider the market for ambulance services in Maricopa County and specifically with regard to the interfacility transports and evaluate whether the extent to which granting or failing to grant Community Ambulance a certificate of need would affect the provision of those services and how they would affect the health care providers, meaning the hospital facilities and the patients in the area.

Q. And have you reached some conclusions about those issues?

A. Yes, I have.

Q. At a high level, what are those conclusions?

A. The first conclusion is -- is about -- is about competition and the benefits that competition brings. Even in healthcare markets, there's -- competition is generally helpful in healthcare markets. It's been shown to result in better quality and lower prices of services. I know here we're not really talking about the price piece but about the quality piece. And the -- the quality that I'm referring to in this context is the provision of the ambulance services, the scope of the services, the equipment, the facility -- the vehicle themselves, the promises for on-time arrivals, communication with the hospitals, and so forth.

So in the healthcare piece, as it relates to ambulance services, competition can more -- and can work even within the CON context. I'm not suggesting at all that the CON needs to be eliminated or ignored or anything else. But even within the CON framework, competition can be very helpful.

Q. So can you talk a little bit about why competition in healthcare and the ambulance service is a good thing for healthcare systems and patients?

A. It really comes down to the ability of purchasers. And I have to stop there for just a second and say I'm not talking so much about the actual purchaser, the money exchanging, but the fact that the hospitals arrange these services and make contractual agreements with providers to bring these services to their patients. So it's really the ability of hospitals to have alternative ambulance service providers to which they can turn for the services. If one ambulance services company is not doing a good job, it's incumbent upon the hospitals to find somebody who can, and they need to have alternatives available in the market that already have their CONs so that these options are available and the hospitals can actually choose another provider or can just threaten to choose another provider, and that will provide the motivation for everyone to provide -- all the ambulance companies to provide the -- the quality demanded by that entity.

Q. Well, is it -- is it an issue or does it matter if that ambulance company's a joint venture with a hospital system -- or, healthcare system? And by "joint venture," I guess I mean in this case a limited liability company with co-ownership.

A. Right. At the core of the question is -- is the -- the ability of hospitals to have alternatives to

choose from. And it doesn't matter from a competition standpoint, from a patient benefit standpoint whether that provider is a contract -- there's a contractual arrangement between a hospital and an independent ambulance company or whether the hospital has a joint venture, like we have here, and one of the joint venture partners is providing it. It still is important for the hospital to have the alternatives available and for the ambulance company to recognize that the hospital has a choice and, therefore, it needs to perform -- needs to perform at the quality demanded by the hospital in order to retain that business.

Q. So you mentioned contracts as part of this discussion. How do the contracts themselves -- How does competition affect contract terms between hospitals and providers?

A. I think -- I think the way to think about that is -- is the terms under which the contracts -- the arrangements were made -- that's what I was just referring to -- the independent as opposed to the JV, that doesn't affect the significance of competition, that it still plays out, the competitive forces are still there, whether -- regardless of how these things are set up. And -- and the reason is because the hospital has the option or has the threat that it can always pull away from

any JV arrangement that it's got, much like it does -- it can pull away from any independent contractual arrangement it has.

Q. And I want to ask you if you've reviewed the -- the application that was filed by the applicant in this case.

A. Yes, I have.

Q. And in your work with Maricopa Ambulance, that CON application included both 911 and IFT?

A. Yes, it did.

Q. And your understanding is what about this application?

A. It's -- it's is strictly for IFTs. It does not include 911.

Q. Okay. And can you -- so can we just talk about the issues that relate to the 911 service competition for how IFT service is different than 911 service in a competitive market?

A. Yeah. It turns out that makes a big difference. And the easiest way to think about this, I think, is to just think about what a 911 call is. The patient is receiving the transportation by the ambulance company, and that's the only provider involved in a 911 call -- is the ambulance. Go off to a hospital, they're dropped off, and everything goes forward. So the interaction between a

provider and patient is with the ambulance company in a 911. But that's not true with an IFT call. It's very different because it brings the hospital, as a second provider, into it. You have the hospital as a provider. They're contracted or -- or JV or partner ambulance company and the patient. So anything that the ambulance company does in terms of its provision of services affects the hospital as well. The hospital brought its ambulance company into the picture and is going to have to take on responsibility for whatever quality of care is being provided by that ambulance company.

Q. How does it -- how does it affect the hospital and the perception of the hospital?

A. Well, it -- much like -- it affects -- certainly affects the patient's perception of the quality of services provided by the hospital. Hospitals do this all the time. They contract for services -- They provide some on their own. They contract for others, whether it's emergency room physicians or it's supplies or it's their -- their billing service or their laundry. They're always doing contracting as well as providing certain services of their own. And this is another case. With the ambulance being the IFT provider, a hospital can contract for that or they can provide it on their own, but it becomes part of the overall package of hospital

services. And Dignity, as every other hospital in this area, is competing for -- against other hospital systems for overall hospital services. If they fail to put together a good package of services for patients, they're going to lose out in that overall hospital services competition. It's -- The stakes have gone up a lot when you look at the ambulance service in the IFT context as opposed to just the 911 context, because it brings in the hospital and it brings in their reputation and their ability to compete in the broader market for the overall services.

Q. So how does a -- how does a hospital system like Dignity use the preferred provider agreement or contract with an ambulance service to obtain or motivate that company to provide the levels of care the health system needs?

A. The preferred provider contract is an important tool that hospitals use for this kind of service. I've seen this in -- Obviously, we saw it in the Maricopa Ambulance matter. I've seen it in an ambulance matter in Sheboygan, Wisconsin, 20 years ago. I've seen it in the air ambulance matters that I've worked on. It's very common to have preferred provider agreements. And they're common because they work. And the reason they work is because it assures the provider of some level of volume.

It's not an exact science. You know, they don't know exactly how many because it depends on availability and so forth. But in essence, the preferred provider agreement tells Maricopa Ambulance or it tells, you know, whoever it is that they've got a certain volume that they can count on. And what that does is it motivates the ambulance company or -- it motivates the ambulance company to dedicate some resources to serving that provider, that hospital system. And it -- They -- they recognize that there is this -- this level of demand that they -- that they can expect to get, so it's worthwhile for them to put the time and money into serving that. And if they -- A side effect of that is it's a signal to other ambulance companies to don't bother, don't try to double up -- doubling up on everything that the preferred provider has, because you're not going to get a lot of that business anyway. So it has an effect of limiting overinvestments that might occur otherwise.

Q. Can you describe the IFT preferred provider contracting process?

A. The -- the process itself, it can be a little bit informal. It isn't necessarily RFPs that are issued, but certainly the hospital reaches out to the ambulance providers, the IFT, to try to find out what they're willing to commit to, what sort of equipment they have and

training and communication capabilities, and where they're going to locate their ambulances and -- and whether they would be willing to commit to arrival time guarantees and so forth. So the hospital will understand, learn what each of these companies will do and then choose one. They can't have multiple preferred providers, so it chooses one preferred provider. And it can be a formal RFP, but it can also be an informal process where they go through the same steps and end up with a provider, an ambulance company that's going to give them the services that they expect.

Q. So how does that work, though, if the hospital has a JV partner that's an ambulance service or is co-members in an entity that's an ambulance service?

A. It -- it doesn't really change things. What the -- what's happened here -- or, what happens in that context is that the hospital -- as I said before, they can make their own services or they can buy these services, and they do it from various things that they provide. So one of the things that's in the back of the mind of a hospital system as they're evaluating whether to go out and contract with an independent entity or to do it themselves is "What can we do? How can we do this ourselves? Does it make more sense for us to do it internally? And do we have experience in this? Do we

have a good JV partner we could work with?" If they feel -- the hospital feels they can do it themselves, that's an alternative available. They don't have to contract independently. Not every hospital system does that, as we know. There's -- there's -- As far as I know, there's only one in -- in Maricopa County -- or, one would be in Maricopa County if this actually gets -- if the CON gets approved.

Q. So what would happen if the JV failed to improve the service for the hospital system?

A. Well, at a -- at a high level -- and it may depend -- it may vary depending on the particular parties involved, but at a high level, the -- the hospital's always got the option of saying -- to leaning, putting some pressure on that JV partner, "Shape up. You're not giving us what we need." And they're in a good position to do that.

They also could steer some of their -- or, use some other ambulance company. This is a preferred provider, but it's not an exclusive. There's no reason that the other -- another ambulance company couldn't be brought in also to provide some pressure on the -- their JV partner, or they could just terminate the whole thing and say, "Forget it. It worked well in one city; it's not working well here. We're going to go with contracting

with independent providers." So they've got -- they've got options.

Q. So you, having testified at previous -- at least one previous certificate of necessity setting, can you talk about how the CON regulations intend to -- intend to accomplish a competitive relationship amongst the ambulance services and the hospital systems?

A. Yes. The -- the CON --

Q. I'm sorry to interrupt you.

MR. MURPHY: But if we could maybe pull back up ADHS-15; findings of fact, CA-82, please, Your Honor.

THE WITNESS: The -- Let me talk broadly first about some of the principles, as I understand them, in the CON regulations here. This is partly from my previous experience here, but also it's just a general understanding of what CON laws are intended to do.

One is to set a standard -- set a standard of care, of access, of performance, of quality. That can vary from area to area or from time to time. But that's -- An intent of that is to make sure that the providers that are coming in are capable -- or, know what they're supposed to do.

The second one is the financial viability or -- or strength of the applicant. The -- the CON regulations routinely look at that. They want to make

sure if somebody is coming in to promise all these great things, that they have the resources to do that, they're capable of pulling together the -- the service -- the provision of the service.

And the third one -- we hear about this a lot -- is to prevent -- I'm not sure of the terminology, segmentation of the market or splintering of the market. Really, I'm talking about where you have too many providers coming in so that they're not able to be financially stable, financially viable if you spread that demand over too many -- too many suppliers.

So those are kind of a high-level view of what the CONs intend to accomplish here and, I think, other areas as well.

MR. MURPHY: If we could have ADHS-15 on the screen, Your Honor, for Dr. Argue.

BY MR. MURPHY:

Q. Could you talk a little bit about how those economic principles are brought to bear on the Arizona CON process?

A. I -- I think they're -- some of them are indicated in here.

MR. MURPHY: If you could scroll up a little bit, Your Honor. No, we're at the top. Okay.

What, I think, is actually going to be

better is if we go to that other document.

BY MR. MURPHY:

Q. The findings?

A. The findings, right.

This is -- this is the one that has my extensive notes. And the reason I put these notes on there -- it's just four numbers on this page, and -- because there are four points I wanted to bring out. And they all are on this one page. And -- and one of them is in paragraph 20 right there. It says -- and it talks about the -- that last sentence, ". . . protecting a current provider's monopoly is not determinative or even a substantial factor under the regulatory model." There's some language kind of like that in the -- in the guidance document. But that's -- that's certainly one that is reflective of how the CON laws have been applied here in Arizona.

And in that same paragraph right above it, there's a reference to the extent of financial impact. And I think that's referenced elsewhere in this document. But it's to say, "Yeah, we're not here to protect the incumbent, but we're also not going to ignore the incumbent and the impact that it has on them. And we'll evaluate that and see whether it's going to make a difference in the incumbent's ability to continue to

provide services and whether that -- that is, the existence of the incumbent -- is going to have an impact on the quality of care provided to patients and made available to hospitals."

So the third one, if you could scroll up to paragraph 17, please, Your Honor.

Here the -- was this reference to a large community being able to sustain multiple private providers and specifically referring to Maricopa County. We already have some references to the hundreds of thousands of transports that are made each year in Maricopa County and thousands of facilities that need that, so here there's a reference to -- In this first sentence, it says, "The market for ambulance transport in Maricopa County is large enough to sustain multiple providers." So there's an indication that the way the CON's going to apply here recognizes the ability of large areas to sustain multiple providers.

And then the last one is in paragraph 19, just at the bottom of the screen there, where it says the evidence submitted in that previous case on this matter establishes that competition among private providers of ambulance services in a large market serves a public necessity which I know is the core of what we're after here -- is being able to serve the public necessity, and

it's recognizing that, even within the CON framework that applies here in Arizona, competition can work; it can make a difference. The CON can check off all the boxes and make sure that the providers come in and then give the consumers, the patients, and more particularly the hospitals for IFTs the choices among those so that we get all the benefits of competition within the CON framework.

Q. So with that -- taking that into consideration, how is it appropriate or how could it be appropriate to approve another IFT provider in this -- in Maricopa County or in a CON service area when there are others represented here today that provide that same -- same or similar service?

A. Right. Certainly that's -- that's -- The controversy is we've got providers here. Why should another one be allowed in? And I think it really comes down to the question of do the incumbents provide the services demanded by -- by the existing -- I'm sorry -- by the hospitals in the area and providing the quality that the hospital wants?

There's another element here that I think is important to bring out that when I'm talking about quality, it's -- there's -- there's a risk involved when a hospital contracts with an independent entity that it hasn't worked with before. It doesn't really know how

it's going to -- how it's going to work out. They hear good things; the provider is certainly going to promise good things. But in -- in this case, you have a provider that Maricopa -- sorry -- that Dignity is very familiar with and understands the quality and has the same framework and so forth for that.

Q. Well, what about -- You just talked about the hospital. But what about the patient population of Maricopa County?

A. Certainly. And -- and the -- the patient population isn't going to be any worse off and they could easily be better off. If a new provider comes in, provides higher level of quality, then that's going to make those patients that are served, for example, by Dignity better off by being able to get the service that Dignity promises them. It also has an effect -- kind of a halo effect or -- what is it -- a "rising tide rises all boats" effect, where if Community Ambulance is providing a higher quality of care -- I don't know whether they are or aren't, but this is a question to be considered. If they are, then that's going to put pressure on all of the other ambulance providers in the county to do the same thing, to match that. Because they will be concerned about the hospitals who should pressure them to be concerned about not meeting up to the community standard.

So even if they're -- Community Ambulance is not ready to serve everyone else in the county, it can add pressure to the competitive pressure to force everyone to have higher quality services.

Q. So let's talk about the Dignity-Community Ambulance relationship. Does it make a difference to patients whether it's Community Ambulance as opposed to a preferred contracted independent ambulance service?

A. As I think I said before, it doesn't really matter to the patient as long as they're getting a good quality of service, and it doesn't matter to -- to Dignity as long as they're getting the -- the good quality of service that they want with the exception of the -- that risk period that they would have -- Dignity would have to go through to try testing out a new contracted entity as opposed to relying on an existing entity.

Q. What if Community Ambulance doesn't provide quality service to Dignity Health, keeping in mind that Community Ambulance is co-owned by Dignity Health?

A. Well, that's -- that's certainly a fair question, one that has to be evaluated carefully. As I said before in a more general context, the JV partner is in a perfect position to put pressure on the ambulance company to up their game, to -- to provide the services that that JV partner hospital demands. In the case of -- And I think

I said before they could -- they could divert some patients to other providers. They could just dump the whole contract and start off with a whole new JV arrangement. But in the case of Community Ambulance, it has a services agreement with Dignity that gives some -- some options for Dignity in the event that Community doesn't do well.

MR. MURPHY: Your Honor, if we could pull up -- is it CA-17? I believe. Yeah.

BY MR. MURPHY:

Q. So you mentioned an Ambulance Services Agreement. This is CA-17. Is this what you're referring to?

A. Yes. Yes, it is.

Q. You reviewed this document as part of developing your opinion in this case?

A. Yes, I did. It was this one and there were -- there were two others, one with AMR and one with Maricopa. This one looks almost identical or if not literally identical to the AMR services agreement. So this is between Dignity and its JV partner. And what it's saying here is that Dignity has agreed to a 24-month term contract. It's only a two-year contract, and it's not automatically renewable. So it's -- within the terms of this contract, it's possible that Dignity could -- could say at the end of two years, "You haven't done a good job.

We're not going to continue with you."

And later down on this -- I forget exactly what page it is -- it talks about the termination, and the termination here, which is very common in ambulance service contracts, is very brief. It's only 60 days without any notice -- I'm sorry -- with 60 days' notice without any cause. So at any point in this relationship between Dignity and Community Ambulance, Dignity -- Dignity can say, "We're done. You've got 60 days, then you're out of here," whether they -- because they failed to improve or whatever else is going on. It worked well in Nevada, but it's not working well here. Whatever that story is, Dignity has, by the contract, allowed itself an out with just 60 days' notice.

Q. An issue that's come up in this case is the concept called cream skimming. Are you familiar with what cream skimming is? And if you are, can you tell the judge what -- what your view of it is?

A. Yes. I'm certainly familiar with the term. It's very common in healthcare to hear about cream skimming. And the reason -- where it comes from is there are a lot have -- First, you have to think of what is the cream? And there are a lot of services and payers that it's hard to make any money on. You think about Medicaid business; you usually lose money on that. Or there may be other

specific services where you lose money. So providers that are serving different payers for providing multiple services may recognize they make a fair amount of money on one -- say privately insured patients or -- in one type of hospital or physician service, and that helps them to offset the loss on the other one. So the cream is the higher profits they're making on one service that's used to offset losses on another.

Now, the cream skimming comes when you have a competing entity that comes in and serves only the highly profitable patients or provides only a highly profitable service, and that's -- that's -- you know, that's where this term comes from. It's also called cherry-picking. There are probably other culinary ways of referring to it, but that's -- that's what the concept is.

Q. In your opinion, is cream skimming an issue in this proposed application for CON?

A. No. I don't think it is. I think there are a couple of reasons for that. One is that, as we referred to -- as I referred to a while ago, Maricopa County is a -- is a big county. It's got 300,000 or so transports, and Community, I believe the number is 11,300 -- it's talking about 11,300 IFTs. That's 3 or 4 percent of the total, so 96, 97 percent of the total transports in the county are not affected by this arrangement here.

And what that means is that the cost of serving -- of providing the -- the services for the remainder of the county are spread among large numbers of -- of transports and, you know, 911 and IFTs. And it's -- As long as those costs are spread, then the company -- adequately, then the company providing the service will continue to do it. What we don't want to have happen is the company to go out of business because so much of the cream has been skimmed away that it cannot operate. But with the -- it may be the case -- it probably will be the case that the company will earn less money -- the incumbent company will earn less money. But unless that company is being pushed out of business, then there's no real impact on -- on the hospital -- I'm sorry -- on the community, in this case the patient, which is what we've got going here in Maricopa County.

Q. What about rural areas, though?

A. Rural areas are, potentially anyway, a different animal in this context, and the reason I say potentially is because you actually have to have a high-profit and low-profit service, so I -- I don't know that the IFTs necessarily are high profit in rural communities and the 911 are not high profit in those communities. And I recognize that there's some fixed costs that need to be maintained for the 911 that are a little bit different

than the IFTs. But let's just assume for now that the IFTs are the cream and the 911 services are the rest of the services in a rural community, and Dignity has recognized that. My understanding is that Dignity is giving a right of first refusal to the providers -- ambulance service providers in those rural areas, like Wickenburg, for Dignity patients, and that Dignity would serve as a backup in case, and whoever the incumbent is would serve as the primary. So that would eliminate the possibility of being cream skimming issues in rural areas.

Q. So have you reached some conclusions about the issues that you were asked to evaluate? And if you have, if you can just sort of enumerate them here?

A. Certainly. Just getting back to where I started in this whole question is that the -- it's my view from my work here, from my economics training, from my past work in this industry and in the state -- is that the CON -- there isn't a conflict between the CON and -- and competition in ambulance services here. These contracts are set up to provide exactly the same incentives that the CONs do in terms of cost control, quality assurance, mitigating any effects of duplicative services or overinvestment. And you get the benefits of the competition within that CON framework by giving the health -- sorry -- giving the hospitals choices. And as

long as they have those choices, they are smart, they are -- they are sophisticated purchasers, contractors -- whatever the term is -- and they will force these ambulance companies to provide the service that they demand. And if they fail -- if the ambulance companies fail and the hospitals don't respond, then the hospitals are going to take it on the chin when it comes to competing against other hospital systems in the community. Dignity can't afford to have an overall hospital product that's not the same product or better quality than Banner or HonorHealth or anyone else. It's -- it's much bigger story out there than just the ambulance services.

So I think at the end of the day, the public interest here, the service of the patients -- and by extraction -- or, by extrapolation, the hospitals that are arranging those services and are responsible for providing those or for setting up these IFTs, they're only better off by having an additional provider, in this case Community Ambulance, be allowed into the area with the CON.

MR. MURPHY: Thank you, Dr. Argue. Nothing further.

ALJ EIGENHEER: Cross?

CROSS-EXAMINATION

BY MR. BELANGER:

Q. Doctor, I -- we've met before. I'm Jim Belanger. I represent Maricopa Ambulance.

Do you know how many CON holders currently provide the same exact service that the applicant does in Maricopa County?

A. I don't know the exact number.

Q. No idea?

A. It's a handful.

Q. How many?

A. I said I don't know the exact number.

Q. You've had -- In your resume, you said you've had some experience with regulatory issues in healthcare.

A. Yes, sir.

Q. What does -- what does that mean? Does that mean, for example, that you have advised companies on DOJ inquiries regarding their practices?

A. That's part of it, yes.

Q. So I want to talk about a couple of things. When you were an expert witness on behalf of Maricopa Ambulance, do you remember the -- the conditions of the market that existed in terms of CON holders and services provided when you were brought in to be an expert in that hearing?

A. Generally, yes.

Q. What were they?

A. My recollection is that AMR had recently entered the market and acquired Rural/Metro, and it was at -- there was a risk of some bankruptcy at the time, and there was a lot of concern on behalf of the -- the municipalities and the facilities of what would happen if AMR actually did go bankrupt and they were left with no one to provide that services -- that service. In addition, they were concerned about not having choices, just having AMR.

Now, ABC was in the market at the time providing just IFTs. It was small and had just started up.

Q. So your recollection is, though, perhaps the primary concern was that there was one service provider for the entirety of Maricopa County and that Maricopa -- Maricopa Ambulance was competing for a CON in order to provide an alternative to the one other significant private CON holder that provided the array of ambulance services in the county. Is that your recollection?

A. That's correct. Those were the circumstances in 2015, three years ago.

Q. That's not the situation here, to your understanding, correct?

A. That's correct.

Q. You understand that there are at least -- you don't know how many, but there are multiple providers that can do the same exact thing as Community Ambulance?

A. There are multiple providers that have CONs to provide IFTs. Whether that's exactly the same services as Community, I think that's a debatable question.

Q. One of the things that you talked about is competition and that when you testified previously in the Maricopa Ambulance CON hearing, you -- you discussed competition as being a benefit to facilities in terms of being able to competitively bid contracts among providers of ambulance services so that as a result of that competitive bidding process, they would get theoretically the highest level of service available in the market. Do you remember speaking to competition in those terms?

A. Generally, yes.

Q. And you understand here that there will be no competition for the Dignity transports that are proposed under the applicant's ARCR?

A. I disagree with that view of how those -- that market is going to be working.

Q. Were you here when the CEO of Dignity testified several days ago?

A. I have not seen or heard any of the testimony.

Q. Well, there's a gentleman by the name of Jeff O'Malley, who, I believe, is sitting behind me. You may know Mr. O'Malley.

A. I've spoken with him.

Q. The testimony was essentially that all of the transports that Dignity hospitals, Dignity-owned facilities, or Dignity-affiliated facilities would be directed to the Community Ambulance to the greatest extent possible. Did you hear that testimony?

A. Like I said, I didn't hear any of his testimony, but I don't doubt that that's what he said. The point is this is --

Q. That answers my question.

A. -- competition --

Q. That answers my question. On redirect, Brendan -- he's very good -- he'll be able to ask whatever he wants.

You said a CON -- a CON allows a provider to try to enter the market and to provide -- allow them to actually try and compete within the market.

In this instance, this applicant will not be competing for a contract as -- against any other CON service provider. They will be awarded a contract as soon as they walk in the door. You understand that, correct?

A. They will be competing to keep the business.

Q. So let's talk about that, because you -- you belittled the idea of being a JV partner. And I understand in the abstract that a JV partner can say, "This joint venture isn't working out." But you would agree with me that if you're a majority owner of a joint venture and you're receiving profits from every ambulance transport that your joint venturer does on your behalf, that you are financially incentivized to use that ambulance service provider?

A. What you say is -- There -- there certainly is a financial incentive. That is part of the broader financial incentive, but it goes away if they don't get it right.

Q. Understood.

But you understand that there is a financial incentive for a joint venturer to make sure that its co-joint venturer -- Every transport that's generated, if it receives a profit, there's a financial incentive to use your joint venturer ambulance provider. You would agree with that? That's a yes or no.

A. Yes.

Q. And, in fact, I'm not suggesting that there's any Department of Justice analysis going on here at all, but the financial -- the Department of Justice, if they look at an arrangement like this, they would specifically look

at whether or not one of the partners that was providing transports to its other partner was financially incentivized to do so, correct?

MR. MURPHY: Objection.

THE WITNESS: The Department of Justice --

MR. BELANGER: He -- he said that he was capable of dealing with regulatory healthcare issues.

MR. MURPHY: These -- these continued accusations or implications of some sort of DOJ investigation, some sort of improper anti-kickback conduct between Dignity Health and Community Ambulance, I've seen no document, no memorandum of law telling me why these allegations keep coming up and why they're relevant at all to this hearing.

MR. BELANGER: They're not allegations, Your Honor. I've said that I have no awareness of anything like this at all. However --

MR. MURPHY: Then you shouldn't bring it up.

MR. BELANGER: -- on more than one occasion, the applicant has belittled the idea of financial incentivization: "Well, there's no financial incentive. We're doing this because it's a charitable enterprise." I want to establish that, in fact, there's a financial incentive, and it's a recognized financial incentive for the joint venturer Community Ambulance to ensure that its

co-joint venturer receives transports so that it can receive the benefit of the transports it provides, and that there is, as a result of that, however de minimis, a financial incentive. That's the scope of the question.

BY MR. BELANGER:

Q. Would agree that there is a financial incentive?

MR. MURPHY: Your Honor --

ALJ EIGENHEER: It's been acknowledged, so sustained.

BY MR. BELANGER:

Q. You testified regarding Maricopa Ambulance entering into the market a few years ago and that that would provide competition within the marketplace for consumers of ambulance services. That was essentially why you were retained as an expert. Do you remember that?

A. Yes, I do.

Q. Do you understand -- Do you have any idea who's providing transports for Dignity as we speak today?

A. My understanding is that AMR provides some and Maricopa Ambulance provides some.

Q. And if -- if, in fact, it was testimony to the effect that for whatever reasons Dignity is not satisfied with the level of services that was being provided by one of those providers and it turned to the other provider, that's essentially how the competitive market is supposed

to work. Isn't that safe to say?

A. That's the general idea. And there are specifics to each market as to how effective that can be, yes.

Q. That's a yes?

That's a yes?

A. I gave you my answer. I said yes.

Q. Well you weren't here -- Or, have you been provided with details of any of the testimony prior to your arrival here this morning?

A. No.

Q. If -- if there was testimony to the effect that Maricopa Ambulance, when they stepped in to provide transports to Dignity, was performing excellently with no issues -- Are you aware of that?

A. I have been told of that -- that there's that part of the testimony, but there's additional testimony relating to other aspects of Maricopa Ambulance's performance.

Q. What were those?

A. That they're not able to serve the East Valley adequately.

Q. Oh, yeah. And so -- But I think you testified on direct that a company -- do you have any understanding, first -- Well, strike that.

Do you have any understanding what Maricopa

Ambulance's financial and operational capacity is to put ambulances on the road to meet the demand of Dignity if, in fact, it entered into a contract with Dignity?

A. No, I do not.

Q. You've indicated that if an entity is awarded a contract -- a preferred provider contract, that provides certainty in the market that allows them to allocate their resources more effectively in order to meet the demand that's generated by the certainty of a preferred provider contract. Do you remember testifying words to that effect?

A. Yes.

Q. So is it your -- you have -- If, in fact, Maricopa Ambulance had the financial capability and the operational capability to -- to expand to meet the demand and it received a preferred provider contract with Dignity, you have no reason or ability to say that Maricopa Ambulance would not be able to provide that level of service?

A. I don't know what Maricopa -- its ultimate ability to provide that, but I made reference before to the risk component that Dignity would face not knowing whether Maricopa would do it. A promise is a promise, but they know what Community Ambulance can do.

Q. If they had the historical track record of

services being provided by one of the -- Maricopa Ambulance or any other provider in the market, that would suggest to Dignity whether or not the performance would be requisite with what they need?

A. That's one -- that's one data point.

Q. How much are you getting paid an hour?

A. $725.

Q. Competition for the contract forces bidders to make the best offers that they can to fulfill their promises. Let's assume that Community Ambulance is not in the market, doesn't get the CON. There would still be competition in this market among the existing CON service providers, would there not?

A. Yes, there would.

Q. And your expectation is that competition for whatever contracts might be let by Dignity would force or compel the bidders to make their best possible offers?

A. They, I presume, would make their best offers. Whether it's adequate for Dignity or not is the question.

Q. You -- you testified about portions of the guidance document. Do you recall that?

A. Yes.

Q. Did you -- have you been provided with any information regarding a needs assessment on behalf of Community -- the Maricopa County in terms of this CON?

A. I don't recall that specifically.
Q. Have you been provided with anything beyond Dignity's needs in terms of this CON application?
A. I don't recall seeing anything.
Q. So you don't even have any information regarding Dignity's needs, or do you?
A. I -- I don't recall specifically.
Q. When you talk about an exclusive contract being beneficial, that's because, I think, as you testified on direct, if you get a preferred provider contract or an exclusive contract, understanding that it might be terminable or of a certain duration, in two or three years, those are beneficial because they allow an ambulance service provider to ramp up or allocate its resources to best serve the contract, correct?
A. That's -- that's generally right. When we're talking about preferred providers here -- and the idea of a preferred contract, as I said before, was to give them some assurance that they've got volume coming so they are willing to commit resources to serve that hospital contract.
Q. And you have no information that -- at least as to my client, that they have no inability -- they have no inability to provide whatever service Dignity is requiring? You have no information to that effect?

A. I do -- that's correct. I do not know whether Maricopa Ambulance could or could not provide that service.

Q. One of the things -- and I think you -- you may have touched on this on direct examination. But one of the purposes of the CON is to ensure that the existing CON holders remain economically viable and capable of providing services to all of Arizonans but, in this instance, Maricopa County's residents, rural or otherwise. Do you understand that?

A. I don't think that's what I said.

Q. Oh. So you don't understand that the guidance document to speak to that? What did you say?

A. I said the guidance document considers the impact on other providers in the area. It didn't necessarily say that they all need to remain financially viable.

MR. BELANGER: So could we call up the guidance document, Your Honor? It's page 1 of 5.

BY MR. BELANGER:

Q. It says "Ambulance Service Regulation." Could you read that to yourself, Dr. Argue?

A. Okay. I read it.

Q. Do you understand that the Department of Health Services Bureau, BEMTS -- I always get this wrong, but the Bureau, they drafted this document in terms of

interpreting -- providing guidance on the statutes and rules, regulations that govern CONs in Arizona?

A. That's my understanding, yes.

Q. It says here that ". . . the Statutes and Rules seek to ensure that ambulance services have the sufficient financial strength and volume of business to continue operations to provide Arizonans with reliable service." Do you see that?

A. I see that.

Q. It's one of the goals of the guidance document?

A. Appear to be.

Q. You -- And I think I asked you this. If I didn't -- If I asked it already, I apologize. You can strike it as being cumulative.

You've never been provided with any kind of needs assessment by the applicant in terms of the actual needs of the -- of the community, the persons that would need ambulance services in Maricopa County. You've not been provided with that kind of information, have you?

A. I don't recall that. If they're in the -- if they're among the documents that I reviewed, it will be on that sheet that you guys will be provided. But it's not coming back to me.

Q. They're not -- they're not among the documents that were on that sheet that were provided by Mr. Murphy.

A. Okay. Then I have not seen them.
Q. When you interacted with RBR, the applicant, did you ever discuss any of your testimony with anybody from an entity known as EMS Advisors?
A. I don't think so.
Q. Were you here -- I could eliminate a lot of these questions in the sense of the were-you-here questions.
When did you actually arrive and start listening to testimony at this hearing?
A. It was about 9 o'clock this morning.
Q. Okay. So do you disagree that for interfac- -- Let me -- let me back up a little bit.
If a ground ambulance service provider is required to provide both -- under its CON, both 911 and interfacility and convalescent transports -- if it's authorized to do all three of those types of transports, do you agree that there is an infrastructure cost associated with being able to provide the 911 service?
A. Yes.
Q. Do you agree that in a situation like that, which the applicant proposes to service in year one at least only Dignity patients on an interfacility transport basis, that it has the ability to assess the potential of remuneration of the individuals that it intends to

transport to and from Dignity facilities?

A. I'm sorry. I got lost in that question.

Q. Yeah.

A. Could you repeat it?

Q. Yeah.

MR. BELANGER: Could we call up DHS-12, Your Honor? It's the infamous first paragraph, I believe, paragraph number 1.

BY MR. BELANGER:

Q. This is a statement made by, I believe, one of the principals of the applicant -- I believe it was Mr. Richardson -- regarding his ability to evaluate bad debt in terms of not having to provide 911 services. Have you been provided with that information?

A. I think I saw this, yes.

Q. Do you disagree with Mr. Richardson?

A. I don't have any reason to disagree with what I see.

Q. When you were testifying in the Maricopa Ambulance CON hearing, you discussed how the market for interfacility transports work in Maricopa County. Do you remember that?

A. Yes.

Q. Did you review your testimony?

A. Yes, I did.

Q. And it talks about facilities putting out RFPs. What is an RFP?

A. Request for proposal.

Q. What is an RFP -- if an RFP is submitted to the -- In this instance, if Dignity was putting an RFP for ambulance providers, where would you expect the RFP to go?

A. To the entities. If there's a formal RFP, it's presumably going to be to the entities that have CONs that it feels are appropriate for providing the service.

Q. And what generally happens after an RFP is distributed to the potential providers of services?

A. If there's a formal RFP process, my presumption is that the parties interested in responding to it will submit a response, a proposal back to Dignity if they have gone through that formalized process.

Q. Do you consider that to be part of the competitive market for ambulance services for facilities?

A. That, the idea of -- It can be part of it. It isn't the only way that hospitals can understand what options are available for them.

Q. One of the concerns in Maricopa Ambulance, the CON hearing, I believe, that you touched on was the lack of competition in the RFP process. Do you recall that?

A. Yes, in a sense. I'm not sure how it related to

the RFP process particularly, but it was for there being only one other alternative CON holder for 911 and two for IFT --

Q. Two for IFT?

A. Well, ABC was in the market, had a CON there.

Q. Exactly.

That's not the case, as we sit here today, to your knowledge, is it?

A. That's correct.

Q. You indicated that the ambulance service provider, based on the service it provides to a hospital, has an impact on the -- on the person being transferred, on their view or gestalt of the hospital system as a whole.

A. Yes.

Q. Do you have any reason, as we sit here today, to understand whether -- to say whether transports being done by Maricopa Ambulance have diminished, in any respect whatsoever, a customer's view of the Dignity Hospital experience?

A. No, I have no information on that.

Q. I think you talked about the CON guidelines and you indicated that one of the purposes of the guidelines -- or, one of the goals of the guidelines in terms of the CON application process was to ensure the

viability of the -- the applicant. Do you remember saying that?

A. Yes.

Q. Do you understand that the CON application process is also intended to ensure the viability of all of the existing CON providers in the market?

A. I think this is a topic we just discussed a few minutes ago where I'm not so sure that it's intended to cover all the existing incumbents. They want to make sure that the actual providers are viable and the services are available to the population.

Q. Do you have -- Your testimony -- and obviously, you didn't talk about it on direct, and my guess is that you haven't been provided with any of this kind of information. So these will be simple yes or nos.

Have you been provided with any information regarding Community Ambulance's plan to deal with rural transports in Maricopa County?

A. Other than a conversation I had with Mr. O'Malley about the right of first refusal for some of its patients in the Wickenburg area, I don't have any more information.

Q. Do you -- do you know -- What did Mr. O'Malley tell you about the right of first refusal up in Wickenburg?

A. Essentially what I just told you. This was

Dignity's plan to allow AMR largely to be the first choice, the preferred provider in this area.

Q. Dignity's plan was to let AMR handle the interfacility transports up in and around the Wickenburg area?

A. I believe you said -- you encapsulated what I just said, yes.

Q. Right. Do you know how many transports we're talking about?

A. It's pretty small numbers, but I don't know exactly.

Q. You indicated that if Community Ambulance is -- is provided with this proposed service agreement with Dignity ambulance [sic] and it basically has exclusive access to all 11,315 transports, that would cause the other companies -- the other CON service providers to up their game and improve their quality of care?

MR. MURPHY: Objection. He didn't testify it was exclusive, and it wouldn't be exclusive. It's a preferred contract.

BY MR. BELANGER:

Q. Preferred contract?

A. I'm sorry. Can you repeat your question?

Q. Yeah. Yeah. My apologies.

But I want you to bear this in mind with the

statements of the CEO and Mr. O'Malley that they intend for Community Ambulance to have the entire universe as much as possible of transports that are generated from Dignity facilities and Dignity-affiliated facilities. But I think you said words to the effect that if Community Ambulance gets that services agreement, that would cause the other companies to up their game and improve their quality of care?

A. I -- I -- Yeah, I did say that. What I'm referring to is that if Community Ambulance brings in something that's distinctly better than any other one -- any other provider in the area of IFTs -- I don't know what that might be; this is a theoretical viewpoint -- if they do, then word is going to get out that this is a good -- that ambulance companies can do this, and Banner's going to want to have that too and HonorHealth is going to want that too, because that's part of their overall hospital competition.

Q. Do you have any empirical knowledge to be able to tell us today that Community Ambulance has a greater quality of care than Maricopa Ambulance?

A. I couldn't tell you.

Q. The RFP process that you talk about -- you spoke about previously, in the market as it currently exists, that's also intended to cause persons who do not receive a

contract pursuant to an RFP to up their game. Isn't that correct? In other words, if they -- if they bid for a contract and they lose it, you would expect potentially that the losing party would evaluate the process and make a determination how it could improve its own services in order to be able to more effectively compete the next time an RFP came around?

A. Yes, I would expect that for the next time the RFP came around and possibly also for any other RFPs that they respond to in the area.

MR. BELANGER: I don't have any other questions, Doctor. Thank you.

ALJ EIGENHEER: Cross?

MS. FICKBOHM: You're next.

MS. HOFMEYR: I don't have any questions.

MS. FICKBOHM: Okay.

MR. McGOLDRICK: I don't have anything for you. Thank you.

MR. RAY: I don't have any questions either. Thank you for your time.

ALJ EIGENHEER: Any redirect?

MR. MURPHY: Couple of follow-ups.

REDIRECT EXAMINATION

BY MR. MURPHY:

Q. Dr. Argue, are there benefits to Dignity Health as a member of Community Ambulance, the LLC, other than profits from the ambulance service Community Ambulance provides?

A. I think the whole point of bringing -- for Dignity of bringing Community Health [sic] to this area is to reap the advantages and benefits that they've already achieved in Nevada in terms of whatever the service level, the reliability, the trust that they've got with this provider, the same philosophical viewpoint on how to treat patients. They want to bring that in. That's not monetary, but it's a benefit to Dignity. It improves their -- hopefully would improve the patient performance -- patient satisfaction in that area which will enhance their competitiveness overall -- graceful -- in the overall hospital services.

MR. MURPHY: Did you catch the last bit there?

THE COURT REPORTER: I did.

BY MR. MURPHY:

Q. I just have one final question for you.

A. Yes.

Q. Could the possibility of a new CON holder, an

applicant, to market -- could just the threat of that potential new CON holder improve service -- ambulance service in the proposed service area?

A. I certainly think that it could, yes.

Q. Why?

A. Well, if -- if you've got an applicant that's come in and has got -- invent a better mousetrap, right -- has got a plan for improving the quality of service in the area, they sit at this hearing, they submit their proposal, then everybody's going to be looking at it, everybody's going to know what's coming, and they're going to be worried about it. They should be worried about it because they know they would be at risk of losing their contracts if they -- if the CON gets approved and that applicant comes in, so that they would want to be prepared and ready for the -- the new competitive environment with that new applicant.

Q. And how would an existing service prepare for that potential new applicant who's not yet providing service in the market?

A. Well, there's a time -- Okay. There's this process that they go through so they've got the ability to -- let's say it's better communication between the hospitals and the -- and the ambulances, and I think this was an issue in the community, that they had somehow

were -- were enhancing the -- or, promised better coordination between the hospital and the ambulance.

Then the other ambulance companies would start their process of figuring out "How are we going to do the same thing so that when the new guys come in, we're not left behind? We want to be right up ready to compete with them from the get-go."

MR. MURPHY: Thank you, Dr. Argue.

ALJ EIGENHEER: You may be excused. Thank you.

We will go off the record at this time.

(A recess ensued from 11:54 a.m. to 1:18 p.m.)

ALJ EIGENHEER: Okay. We are back on the record.

Next witness?

MR. MURPHY: Brian Rogers, Your Honor.

Do we need the mics on? Or is my mic working?

ALJ EIGENHEER: You have the button.

How's that?

MR. MURPHY: Great. Thank you.

ALJ EIGENHEER: Please raise your right hand.

BRIAN ROGERS,

called as a witness on behalf of RBR Management, LLC, herein, having been first duly sworn by the Administrative Law Judge to speak the truth and nothing but the truth, was examined and testified as follows:

ALJ EIGENHEER: Would you please state your name, spelling it for the record.

THE WITNESS: Brian Rogers, B-r-i-a-n R-o-g-e-r-s.

ALJ EIGENHEER: Please proceed.

DIRECT EXAMINATION

BY MR. MURPHY:

Q. Good afternoon, Brian.

A. Good afternoon.

MR. MURPHY: Your Honor, could we just pull up Mr. Rogers's resume, CA-173, please? Thank you.

BY MR. MURPHY:

Q. Brian, what's your current position with Community Ambulance?

A. I'm the chief operating officer, and I'm also one of the owners.

Q. And by "owner," what do you -- what do you mean by that?

A. Well, I own 50 percent of AMG, which owns 49.9 percent of RBR.

Q. By "RBR," you mean RBR Management, LLC?

A. Dba Community Ambulance.

Q. Okay. On the screen is CA-173. Do you recognize that document?

A. Yes, I do.

Q. What do you recognize it as?

A. My resume.

MR. MURPHY: Move to admit 173.

MS. FICKBOHM: No objection.

ALJ EIGENHEER: CA-173 is admitted.

BY MR. MURPHY:

Q. So let's go through your educational background.

A. That's pretty easy. I have a bachelor's degree in management, and I have an advanced paramedic education out of University Medical -- University Medical Center in Las Vegas, Nevada.

Q. Okay. And do you know when you got your bachelor's -- bachelor of science?

A. Yeah, I think 2017. I finally finished up in 30 years.

Q. And your advanced paramedic education?

A. '89.

Q. In '89.

So let's, then, talk about your work experience. First job in --

A. My first job in --

Q. You have to let me finish the question.

A. I thought I did.

Q. And then pause and then answer.

First job in EMS?

A. My first job was a long time ago. It was called an emergency vehicle operator. You didn't even need to be certified. Needed a CPR card. In 1984, I first worked ambulance in Brooklyn, New York. Then I went to EMT school. And in 1986, I went to work for New York City EMS, which at the time was part of FDNY. We were third service, health and -- Health and Hospitals Corporation in New York City.

Q. Did you work as an EMT?

A. Yeah, I was an EMT on an ambulance providing 911 service.

Q. How long were you -- were you there?

A. I think about two years.

And I went to -- I then left and I went to Las Vegas. I was actually going to go and get my education. I was only going to spend two years; then I was going back to New York. I moved out there in 1988, and I'm still there 30 years later.

But I went to work for a company called Mercy Medical Services.

Q. When did you start with Mercy Medical Services?

A. In 19- -- March 20th of 1989.

Prior to that, I was with -- just several months prior to that, they had a volunteer organization that was associated with Mercy, so I was waiting to test. They were associated with Mercy, and it was called VMSI, Volunteer Medical Services, Incorporated. So I volunteered until I got my job with Mercy.

Q. In 1989?

A. Yeah.

I also worked in supply. I forgot about that. I worked in supply until I got my job.

Q. And did you -- Were you a paramedic at this time?

A. No, I was an EMT. In New York, you were either an EMT or paramedic. What I learned when I came out west was they had this middle thing called an EMT intermediate. So in order to do 911 calls, you had to be an EMT intermediate. So I had to go to school to become an EMT intermediate so I could test and then get onto Mercy. So I did that, and I got hired.

Q. So when you were working for Mercy, did you go to paramedic school?

A. Yeah.

So I was with Mercy for about six months. And I happened to run a call on one of the fire chiefs' wives, and I did pretty well, I guess, so Mercy decided that if I wanted to, they were going to sponsor me to send me to paramedic school.

Q. So how did you do --

A. I got sent to paramedic school immediately.

Q. How did you do in paramedic school?

A. I think I did pretty well. I finished with a 103 average.

Q. And when you -- What was your next step in the progression of your career at Mercy?

A. So my next step is obviously I became a -- you go through a probationary paramedic step, and then you become what they call a senior paramedic. And all that means is you can work as a paramedic on your own. It sounds good, but it's just that you work as a paramedic.

So I did that. And about 10 months into that, there was a job posting that came out for field training officers and for supervisors, and I wanted to do it, but you needed a year. And so I approached management and I said, "Look, I want to do this. Do you mind if I test at least so I can have the experience so next time I test I'll be okay?" And they said, "That's fine." So I

tested for both at the same time -- actually, they were all in the same day. And I was waiting and waiting and they didn't give the results, and it was driving us all crazy. Well, on the day that I had exactly one year of paramedic service, they announced the results, and I was one of the people chosen to be a supervisor, and I was also given my FTO patch, field training officer.

Q. So what -- what kind of supervisor?

A. Initially, I was a field supervisor, which means that I was in the field. I could act as a supervisor when the operation supervisor wasn't available, but I was still out on an ambulance. And that lasted approximately a year. And then I was promoted to what's called an operations supervisor.

Q. Okay. And what is an operations supervisor? What did you do in that role as an operations supervisor?

A. The operations supervisor, I guess, to put it in a way a lot of people understand, it's like a battalion chief at a fire department. I was responsible for everything that happened on that shift. We had about -- I don't know -- 22 shifts, and by "shifts," I mean ambulance crews going out. And I was responsible for everything that they did and to ensure they had everything they needed to do their job. I oversaw, just for that 12-hour period, the dispatchers, supply, fleet. I made sure I did

all the changes with any ambulances that may go in or out of service. So I had pretty much oversight for that 12-hour shift.

Q. How long were you in that role at Mercy as a operations supervisor?

A. Probably about three years.

Q. Okay. What happened next?

A. I was promoted to work as the director of special events/specialty care services. They change names all the time, so I forget. But pretty much I took care of the special event department.

Q. Okay.

A. And I did that. And very shortly after doing that, my boss, a guy named John Wilson -- you may know him -- came to me and said, "Hey, do you want to take over communications?"

I'm, like, "I can't even spell computer much less take over communications."

He says, "Yes, you can. Just do it."

So I did it, and I actually enjoyed it. So I was running communications and special events. Las Vegas has a very, very big special event market. And it was actually a really enjoyable job.

Q. What is involved in the communications aspect? What did you do --

A. Communications --

Q. This director of communications position, is that what you're referring to?

A. Yes, I am.

Q. So what were your responsibilities?

A. I was responsible for the personnel and all the technology that went with it. And one of my achievements while I was director of communication in Las Cruces, New Mexico -- our Las Cruces, New Mexico, operation were having difficulty, so I actually, with one of our vendors, figured out how we were going to dispatch Las Cruces, New Mexico, from Las Vegas, Nevada, seamlessly. And we actually worked with their PSAP in Las Cruces, New Mexico, and we started -- it took me, like, a year, maybe 18 months to get everything up and running, but that was one of my accomplishments that I was dispatching Las Cruces, New Mexico, out of Las Vegas, Nevada.

Q. And how long were you in that director of communications role?

A. Probably two, three years. I never really gave it up, but just that part of it, yeah.

Q. And what -- and so what did you do next?

A. So I'll give you a little background. In '97, Laidlaw owned Mercy Ambulance. One day they came in and made an announcement that Laidlaw purchased AMR. We were

like, "Cool, we've got all these people." Then the next day they came in and said, "Yeah, by the way, AMR -- AMR's going to be running it. Laidlaw management is out." Okay. So a lot of our management left. So at that point, I was given the position of operations manager.

Q. Okay. And operations manager, what did that entail?

A. Pretty much I was over everything except finance and billing. Everything else at our local operation I was responsible for, so you're talking fleet, support service, field operations, communications. I don't think I'm missing anything there, but . . .

Q. Okay. And how long -- This is AMR Mercy?

A. This is Mercy -- Mercy Medical Services.

Q. All right. And then how long were you in that position?

A. I lasted there -- I think it was almost two years.

Q. Okay.

A. The gentleman that was the director of operation, they moved him. He was the CFO. He had no operational experience. He only lasted, like, 18 months because he didn't have the operational experience.

So then I was promoted to director of operations, which was the highest local-level position, so

I reported to corporate at that point. I didn't report to anybody on the ground. Guy named Bill Paul.

Q. And how long were you in that role?

A. About two years.

Q. Okay. So at some point did you leave Mercy?

A. Yeah. In early 2001 --

Q. Uh-huh.

A. -- I made the decision to leave Mercy and go to work for a start-up company called Southwest Ambulance. I was recruited by John Wilson and Bob Ramsey. To be honest, I initially said no back in September, and then they just -- I just got frustrated with what I was doing and I left, and I went to do this start-up. I actually took a $30,000 cut in pay to go do it.

Q. It was a start-up operation?

A. Back in November, they received their franchise agreement, so they were allowed to do non-emergency work, but they were preparing to get into the 911 market. And they didn't have anybody to get them ready. So that's why they were really pushing me to come over.

Q. So what role did you have at -- you said Southwest?

A. Yeah, it was Southwest initially. Then we changed our name to MedicWest because Southwest Phoenix tried to sue us, but that's neither here or there. So we

had to change to MedicWest Ambulance.

Q. Okay. And so your role there?

A. I think my first -- what did they call me? It was the vice president of operations, but initially, I went over as managing director.

Q. Okay.

A. That was it. So everybody in the company reported to me.

Q. Okay. What were some of your job obligations?

A. First and foremost, I had to get the company up and running. They were going from running 5 or 6 a day to probably 150 a day in the next three months.

Q. Transports?

A. Transports, yes.

So my job was to compile a demand analysis, figure out scheduling so I knew how many units I was going to have, and then hire the personnel to fit in that. I also had hired communications personnel to dispatch these things. So I got all that accomplished very quickly. We hired over 100 full-time employees, and April 15th of 2001, Southwest Ambulance started running 911 calls.

Q. And how long were you in that role?

A. I stayed there until February 25th of 2008 in --

Q. Go ahead. I'm sorry.

A. In -- Well, I knew about it a little earlier,

but ultimately, I think it was July 17th of 2007, AMR purchased what was now called MedicWest Ambulance. And now we were back to being an AMR company. So although I had many friends, I decided that wasn't what I wanted to do. And so --

Q. Where did you go? You said February 25th, 2008. Where did you go?

A. I was recruited to the Henderson Fire Department. But I -- I didn't really leave. I just want to make it clear. John asked me to stick around MedicWest. I did all their systems status management and deployment planning for about a year and a half after I left.

Q. John?

A. John Wilson.

Q. Okay.

A. He was still running it. He became the general manager for Las Vegas of all the AMR companies. So he asked me to stick around and do some status management and develop scheduling.

Q. So did you work part-time for AMR doing systems status management?

A. Yeah. And I was also a field paramedic.

Q. How long did you --

A. And that was just --

Q. Let me finish the question.

A. No, I just want to clarify my answer. I didn't work for AMR. I worked for MedicWest.

Q. For MedicWest.

So how long were you in that part-time role with AMR --

A. Until --

Q. -- excuse me MedicWest. I'm sorry. You just corrected me.

A. I think I resigned in January of 2010.

Q. Okay. And what was your job with the fire department?

A. So it was interesting. The only position they had available was an EMS training officer, so I went over as an EMS training officer, which is a captain-level position within the fire service.

Q. And what were your job responsibilities?

A. My job responsibilities were 200 -- we had about 200 employees. I had to make sure they had all their clinical education. I had to make sure that they had all their research done, quality assurance, quality improvement. And we had other people to do these things, but it was just my job to make sure it all got done. I was also externally -- I was the liaison to Southern Nevada Health District. I was adviser to the chief. I did a lot -- It was one of those jobs where -- you know,

"as delegated," so the chief would tell me, "Okay. You go do this."

Actually, as part of my job there, the Clark County fire chief called the Henderson fire chief in -- in 2009 because the AMR employees were threatening to go on strike. And it would have been -- it would have been devastating. So the -- the Clark County chief asked my chief if I could come over there and work and put together a systems status plan in case all hell broke loose, and I did.

Q. So in -- on your resume, it shows that you worked with Henderson Fire to 2012. And then starting in 2010, you began with Community Ambulance. So when did you start in your role with Community Ambulance?

A. Well, we started Community Ambulance early in 2010. But we didn't get -- we didn't run our first call until August 7, 2010. But to be honest with you, we -- we started doing convenience transports, so that wasn't a lot of calls every day.

And just to -- just to clarify something that was said yesterday, we talked about how there was legislation that helped this. The legislation that was talked about yesterday --

Q. That helped what?

A. That helped the system. That made it better.

Q. Okay. In Henderson?

A. In Henderson and all of southern Nevada.

Q. Okay.

A. It was -- it was the State of Nevada legislation that was passed. That was passed in 2005. I was the framer for that legislation; that's how I know. And it was revised again in 2007.

So when that didn't work, that's pretty much why we started this ambulance company. We were trying to do whatever we could to relieve the pressure in the emergency rooms. And that was really the -- the onset of Community Ambulance.

MS. FICKBOHM: I'm going to -- Excuse me, Counsel. If the witness could confine his answer to the question, that would help my ability to know whether or not there's an appropriate objection.

MR. MURPHY: Sure.

MS. FICKBOHM: You're asking a question, and he's answering it. Then he's anticipating what you're going to ask him next and launching into it.

MR. MURPHY: Understood.

MS. FICKBOHM: So I'd just ask that as a courtesy, for the record also.

ALJ EIGENHEER: Please just answer the question that was asked.

THE WITNESS: Okay. I thought I was. I apologize.

BY MR. MURPHY:

Q. So let's -- So when did you start full-time with Community Ambulance?

A. In May of 2012.

Q. Okay. And at that time did you resign from the fire department?

A. Yes.

Q. Okay. What is your current role for Community Ambulance?

A. I am the chief operating officer and obviously partner, co-owner, whatever you want to call it.

Q. And what are your -- As chief operating officer, what are your job responsibilities?

A. I have both internal and external responsibilities. Internal, anybody that has anything to do with operations reports to me. So general manager, he ultimately -- people report up through him. But we have clinical. We have communications. We have operations. We have special events. We have supply. We have IT. All those people report to me.

Q. Okay.

A. That ultimately is my decision, my wheelhouse.

Q. So --

A. And --
Q. Sorry.
A. Then externally, I'm the liaison with the hospital CEOs. I'm the liaison with the Southern Nevada Health District and the fire departments.
Q. Internally, field ops, what's that job responsibility entail?
A. It's my job to do -- I still do -- I keep it because I love doing it -- the systems status management, which is demand analysis and scheduling.
Q. Anything else in that role?
A. I am ultimately responsible for franchise compliance, so I have to make sure that all of our field operations are in line with our franchise. Then I have to do monthly reporting to our regulators. And . . .
Q. And then you also mentioned communications. What's involved in communications?
A. Communications is actually -- a lot involved. Because it's -- as we turn more technologically savvy, everything's done, so we have not only our communication system in our CAD, but now we have connections -- we have -- Each ambulance has its own Wi-Fi. They get connected to MDTs, which are mobile data terminals, that calls are received on. There are also status terminals, so you can push buttons and, you know, say, "I'm

en route," "I'm on scene." And, you know, it's just a lot of technology when it comes to communications.

MR. MURPHY: Okay. Your Honor, if you could pull up CA-125, CA-236, and -237. I'm just going to -- Oh, I'm sorry, Your Honor, 152 as well. We can start at 155. I'm going to try to very quickly run through these exhibits. Okay.

BY MR. MURPHY:

Q. All right, Brian. We're going to just walk through some of your certificates and awards and certifications you've received. These appear to be expired certifications. Can you explain the documents that are on this page?

MR. MURPHY: How many pages is this PDF, Your Honor?

ALJ EIGENHEER: This is two.

BY MR. MURPHY:

Q. Can you explain what these -- these are?

A. Basically, what these are referencing is -- Paramedics have to go through a lot of canned classes every year, and I've not only been an instructor for most of them, but, like, the American Heart Association, I was affiliate faculty, meaning in southern Nevada I was, like, a representative for the American Heart Association for these classes. I maintained all the testing, you know. I

was over the -- the instructors. So there is pretty much no canned EMS class that I'm not an instructor -- I wasn't an instructor in at some point in my career.

Q. And these are all your --

A. These are all my certifications. And so you have ACLS, which is advanced cardiac life support; PALS, pediatric advanced life support. You have CPR, I was a CPR instructor. I was an EMS instructor. Southern Nevada Health District breaks EMS instructors down to primary and secondary. I'm a primary EMS instructor, which means I can teach any class I want. Then as you go on, you'll see PEPP right there; I was a PEPP coordinator.

Q. What is PEPP?

A. PEPP is pediatric emergency care. It takes the place of PALS. I talked about pediatric advanced life support. Well, we also had PEPP. It's the same thing, just by a different company. It's a different way to teach, so it breaks up the monotony of doing the same thing every two years.

So PHTLS, prehospital trauma life support, I'm an instructor -- or, I was a instructor.

Q. Any other areas where you've been an instructor that are not represented on this exhibit?

A. Not that I can -- not that I can think of at the moment.

MR. MURPHY: Move to admit CA-155.

MS. FICKBOHM: No objection.

ALJ EIGENHEER: CA-155 is admitted.

MR. MURPHY: If we could look at CA-236, please. If you could just --

BY MR. MURPHY:

Q. We'll just go through each of these awards quickly. What is this? That first award or certificate of commendation, what is that?

A. Senator Reid -- In 2009, I developed all the stroke protocols for both the hospital and EMS. For the hospital side, to put regulations around what it took to be a stroke center. And then on the EMS side, I developed most of our stroke protocols. So AAJ gave me paramedic of the year, so Senator Reid and several other congressional people gave me -- gave me an award for that achievement.

MR. MURPHY: Your Honor, can we go to the next?

BY MR. MURPHY:

Q. And what is this award?

A. That's from John Ensign for the -- the same thing, EMS of the year.

Q. What year?

A. This is 2009. See there?

Q. Okay. And the -- that next award, what is this

document?

A. That's congressional recognition, meaning Dean Heller gave me the same thing.

Q. Okay.

A. The American Stroke Association and the American Heart Association, Dina Titus, EMS of the year.

I don't know who that's from, but -- Shelley -- Shelley Berkley.

Q. Same year?

A. Yeah.

MR. MURPHY: Is that the end of the line?

Move to admit CA-236.

MS. FICKBOHM: No objection.

ALJ EIGENHEER: CA-236 is admitted.

MR. MURPHY: If we could look at CA-237, Your Honor.

BY MR. MURPHY:

Q. What is this - --

A. That's my --

Q. -- document?

A. That's my current national reg- -- national registry paramedic certifications.

Q. Okay. The next document group, what is this?

A. That's just my bachelor's degree.

Q. From University of Phoenix?

A. Yes.
Q. Okay.
A. That's just my degree from national registry saying I'm a paramedic.
Q. And the next document?
A. That just says Southern Nevada Health District, that I'm a paramedic.
Q. And what are these cards?
A. Remember I talked about advanced cardiac life support, PALS? These are taking its place. So you have your BLS, your pediatric advanced life support, and your ACLS. It's just a different company that's doing it.
Q. Okay. Then next is a FEMA certificate. What is this document?
A. The next four documents will be FEMA certificates. And they just talk about in the ITS structure what you are capable of doing. So I've gone through several FEMA courses, so I can play a part in -- in incident command.
Q. Okay. And what's -- Is there a certain level of achievement in -- within the FEMA structure?
A. You can keep going. It's just once you get 300 and 400, you can play a control role within the ITS command structure, so that's where I'm at.
MR. MURPHY: Okay. Move to admit CA-237.

MS. FICKBOHM: No objection.

ALJ EIGENHEER: CA-237 is admitted.

BY MR. MURPHY:

Q. And then CA-152. What is this document?

A. I asked and received from Deputy Chief Jon Klassen from Clark County Fire Department a letter of recommendation. And this is just to show that starting in 2016, when Clark County gave us a franchise, not only did I meet all the expectations of those franchise, both clinically and response time-wise, but I exceeded them -- or, we exceeded them as far as Community Ambulance goes. So I asked the chief to write a letter stating, and he did. Down on the bottom, he just talks about me. You know, that's one of the things that he knows about me is that I have unfiltered honesty that gets me in trouble a lot, but, you know, I would say, yeah, as long as you're telling the truth, don't worry about it.

MR. MURPHY: Let's move to admit CA-152.

MS. FICKBOHM: No objection.

ALJ EIGENHEER: CA-152 is admitted.

BY MR. MURPHY:

Q. So let's --

A. Can I make one other comment?

MS. FICKBOHM: We don't have a question in front of you.

THE WITNESS: Back to this one. I forgot to point out a line on there.

BY MR. MURPHY:

Q. Do you have an additional comment about --

A. Yes, about the questioning --

ALJ EIGENHEER: You can't talk over him. Proceed.

BY MR. MURPHY:

Q. Do you have another question about CA- -- Or, do you have something you would like to say about CA-152, which is a letter from Deputy Chief Klassen?

A. Yeah. I know data in -- in Maricopa is very important in working with Bureau of EMS and Trauma Services. He just wrote on there that transparency is one of our favorite things. I love that you can have all the data you want. You know exactly what we do at all times. I don't hold anything back.

Q. Okay. Thank you.

Let's turn to your operations in Nevada for Community Ambulance. Can you tell the judge what your current scope of services involve in the Community Ambulance?

A. Currently we provide BLS, ALS, and CCT levels of service.

Q. What is CCT?

A. Critical care transport. Or in some systems, it's called specialty care transport, SCT.

Q. And do you do both non-911 and 911 services?

A. That's correct. So we have three franchised areas and two nonfranchised areas.

Q. Why don't you talk about the franchise areas first.

A. Okay. The first one would be Henderson, Nevada. We have an exclusive franchise in the city of Henderson to provide all non-emergency interfacility transports, which includes urgent interfacility transports, which can be emergent. And we are backup to the 911 system. And we have response time compliance and, as you say, arrival time compliance within the city of Henderson on both -- both if we do 911 and if we do IFT.

Q. Where is your next franchise agreement?

A. Clark County, Nevada. And there we have a franchise -- We have a primary 911 area. And we also do interfacility transports throughout all of Clark County.

Q. Okay. And then is there -- You said there was a third. Is there another franchise agreement area?

A. City of Las Vegas.

Q. Okay.

A. We do --

Q. What -- what sort of service do you provide to

the city of Las Vegas under your franchise agreement?

A. We provide interfacility transport and special event services.

Q. Do you have 911 service in Las Vegas?

A. No, we don't.

Q. And then you mentioned non-franchised areas. What are those?

A. Boulder City, Nevada, and Lake Mead National Recreation Area, which is federal land, we provide 911 and interfacility transport. And in Boulder City, it is backup. I mean, they have one rescue, but we provide those -- But there's no franchise. It's just a business license to do work. As they -- as they need, they will call you.

Q. So this word has come up, "franchise." Can you explain what a franchise agreement is, please?

A. A franchise, the way it's been described to me by Clark County, it's really like a privilege license. So this is "We're giving you the privilege of doing this, and these are the requirements you're going to meet for us giving you that privilege."

Q. And when was your -- when was Community Ambulance's first franchise agreement?

A. It was approved in late 2015 to go into effect in early 2016.

Q. And who is that with?
A. That was with Clark County, Nevada.
Q. Okay. And when did you start transporting patients under that franchise agreement?
A. We started transporting -- and I hope I don't confuse anybody -- 911 nonemergent calls, which are Alpha calls, in February of 2016. And we did that as a trial period to make sure our CAD-to-CAD interfaces worked and our communications worked. Once we were assured that all of that worked, we then went on to start doing the more emergent Bravo, Charlie, Delta, and Echo calls.
Q. And when did the more emergent calls begin under the Clark County franchise agreement?
A. April 1st, 2016.
Q. Okay. And so in 2015, how many transports was Community Ambulance running per day?
A. It's kind of -- We were only doing 21 to 22 transports a day --
Q. Okay.
A. -- on average, in -- in 2015.
Q. Do you know how many that year -- make you do math -- how many you did that year, 2015?
A. So let's just say about 7,000, 7,200.
Q. Okay. And then what about 2016?
A. 2016, there was a huge spike. Like I said, we

started in Clark County. That's a huge market. So -- so we probably, on average, did around 80 transports a day. So that was an increase of about 60 transports a day. So by about 400 times, our call volume increased.

Q. And how about 2016, if you have an annualized number for the number of transports in --

A. About --

Q. -- 2017?

A. About 85,000. I can do it in my head -- I'm sorry. About -- 85,000, I only wish. About 85 transports per day. Which is -- what's that? 8 -- that's 17, 25, 50 -- it's about 30,000.

Q. Okay. And you mentioned compliance requirements under the franchise agreements. What -- what are the requirements Community Ambulance has to abide by or comply with under these franchise agreements you mentioned?

A. So can I say that each one -- each franchise agreement is unique unto itself. However, each one of them has the same response time compliance.

Q. Let's talk --

A. So I just want -- When I say it, it really pertains to all three.

Q. So talk about -- so talk about response time requirements. The same under all three franchise agreements?

A. Okay. Our response time requirements is, on 911 calls, for the Alpha responses, we have to be there within 19 minutes and 59 seconds. For Bravo, Charlie, Delta, and Echo, we have to be there within 11 minutes and 59 seconds. And for both of those, we have to achieve that time 90 percent of the time.

Then we can move on to the interfacility. And we also have response times/arrival times for those. And the way it's set up is urgent requests, which -- Just to give an example so the terminology doesn't change for anybody, that's like someone having a STEMI or a heart attack or a stroke or something like that. We have 19 minutes and 59 seconds to get there once we get that call.

And then the next category would be on scheduled, so if somebody picks up the phone and says, "I need this person transported to this place," that means we have 59 minutes and 59 seconds to get there.

And then the last one is scheduled. And as long as you schedule at least four hours in advance, we have to be there on time. So there is no -- no leeway whatsoever.

Q. And how are your response times monitored under the franchise agreements?

A. For a long time, it was self-reporting. But

now -- it's something I pushed for since I was back at MedicWest. We use a program called Online Compliance Utility, and all of our franchise reporting is -- is done automatically, and it's done transparently, and we really don't have control over it so nobody could ever question it. How does that happen? Stout Solutions puts out this program. Like I said, it's online compliance unit. And they monitor every CAD in southern Nevada because they also do the biosurveillance systems, so they already have all the data. And they write very specific programs to each unique franchise agreement. And compliance is done -- is then automated.

So having said that, one of the other --

Q. Hold on. Hold on. How does -- how does the CAD communicate with the program to report the data to a third-party service?

A. Okay. Like I said, they also do our biosurveillance, so they -- they are real-time uploading all of our CAD information because they're looking for clusters of possible stomach issues. You know, so they're always looking for things. So real-time, they are loading all of the data from southern Nevada, every EMS CAD. So they have all of the information and they have all the response time information, such as time received, time en route, time on scene, time en route to the hospital,

and time available. They're much better at this than I am, but they just write programs that say, "Okay. Well, if this was the time received and this is the time they got on scene, this was their response time."

And one of the other advancements with that was -- There's always been a question on status button. When do you hit your button? You know, can you hit your button when you're pulling into a driveway? Your -- your on-scene button. Because like I said earlier, there's status buttons. There's always been questions. When do you hit your status button that says "on scene"? And one of the things that we got --

Q. Wait. Let me ask you when would you hit your status button to show that you were on scene?

A. When you arrive on scene and the vehicle goes in park.

Q. Okay.

A. That's -- But I'll be honest with you, that didn't always happen. You know, if you're going to a critical call, these guys are excited. They hit their button and they jump out. That's just the reality of it.

So what we had written -- and we did it first -- was that we now report on scene by zero miles per hour. So it takes the button push of on scene and then it has to verify were you at zero miles per hour when that

button was pushed? And that is now your on-scene time. And then it calculates what the actual response time was.

Q. Okay.

A. So in my mind, I always keep saying we don't even need to push any buttons anymore because it already has it, but for some reason everybody still wants to push buttons.

Q. Do you know how the Bureau -- Arizona Department of Health evaluates response or arrival times for CON holders?

A. My understanding is that every year we have to do -- or, CON holders would have to do an ARCR, and when you do your ARCR, you have to write a letter of attestation saying that you met all your requirements, which includes your response time requirements.

Q. Would you -- What would your thoughts be on implementing this OCU program in Arizona, if you had a CON --

A. Much like --

Q. -- if Community Ambulance was awarded a CON?

A. Much like in southern Nevada, it makes my life so much easier. I would love for that to happen.

Q. And your partner Rob testified about this, but would you -- would you be willing to agree to arrival times -- interfacility transport arrival times in your CON

even though it's not specifically set forth in the application?

A. Absolutely. I would expect we are held to arrival times.

MR. MURPHY: Can we pull up CA-225, please, Your Honor?

MS. FICKBOHM: Excuse me, Counsel.

So, Judge, now I'm going to have to jump in and make an objection here. This is a franchise report out of Clark County, Nevada, and I don't think that anyone sitting in this room is disagreeing that Community Ambulance has -- had excellent response compliance in Clark County. This was one of the "last-minute document dump" things that happened at the very end of the time within which we were able to ask for information, disclose exhibits, et cetera, and I think that we're about to enter into the realm of a backhanded way of trying to compare and contrast AMR's service and compliance in Nevada as opposed to Community Ambulance.

And the problem with that is multifold, and we could end up spending a half day of the hearing, me bringing in people to talk about it, them talking about it. Again, I just want to start by saying no one here is disagreeing that Community Ambulance has had excellent compliance reporting in Clark County. The way the

franchise system is set up there, he's already testified they have an area that they're the exclusive provider in. AMR will have other areas they're the exclusive provider in. And to a certain extent comparing percentage of compliance is basically comparing apples and oranges, because different municipalities -- Clark County in different parts of Clark County sends different response criteria. To a certain extent, these reports penalize the providers that take on the tougher challenges.

And I will also tell you, if we start going down this road, I'm going to need to bring in witnesses to talk about how AMR has serious concerns about the accuracy of these reporting. And they asked for independent audits and they offered to pay for independent audits. That request was not supported by Community Ambulance despite the claim of transparency. And they were told politically it wasn't the right time. They finally dropped the request because the fire department seemed to be getting ticked off at them.

But this is a whole one of these ancillary streams that we're going to go down that I really think is just intended to try to throw mud at AMR when, again, these reports, to a certain extent, are comparing apples to oranges.

The witness has already testified that they

have excellent response compliance, and -- and I don't think that ABC or Maricopa Ambulance has indicated any intent to take that on, the response compliance in Nevada. I don't think we need to spend the time out of the precious time we have left. And again, this is going to open a whole new area of inquiry. So I'm going to object to relevance, to late, last-minute disclosure. This wasn't included as part of their disclosure in April that you required them to make. We didn't have a chance to ask questions, obtain data, et cetera, et cetera.

So that's my objection.

MR. MURPHY: It's relevant to the extent that the Director considers issues of fit and proper. To the extent that Community Ambulance has agreed and testified to submit itself to arrival time standards in this case, it, again, relates to transparency and sharing with this Court and with the Director its performance. And not necessarily comparing it to the performance of AMR. It turns out that AMR and AMR MedicWest are the only other two franchisees in that area. But Community Ambulance is on this report and would like to share with this Court and with the Director its performance under franchise agreements when subjected to arrival and response times. And we're happy to focus and make zero comparisons about Community Ambulance's performance as

compared to AMR company's.

MS. FICKBOHM: And again, Your Honor, we have two entirely different regulatory environments. I don't think you can really compare Nevada's regulation response and arrival times with Arizona's, especially without knowing all the details. And it just seems to me like we're going to spend a lot of time on something, when you guys are running out of time, that isn't really relevant. I don't think anybody is going to contest his testimony that they have excellent compliance. And I don't see how this has anything to do with transparency. It's -- it's a report that's generated with summary numbers.

MS. HOFMEYR: Judge, ABC joins that to the extent it's clearly a comparison. So comparing it to AMR makes it not relevant to fit and proper for RBR. If they wanted to redact from this report things related to anything other than Community Ambulance, I wouldn't object.

MR. MURPHY: If AMR would like to not have their compliance percentages in this exhibit and would prefer to have them redacted so that no comparison could be made to the applicant for the CON in Arizona, I will confer with my clients and -- but I'm sure that they would be happy to redact those portions and just demonstrate

their consistent compliance with the franchise agreements that have arrival time compliance requirements. And as Mr. Rogers testified, he or none of the ambulance companies can control those response times. So we'd be happy to redact.

MS. FICKBOHM: Well, I guess we've -- that's a whole nother -- in my objection, that's a whole nother area of inquiry, because there are about four different issues that my client has brought to my attention, the way some of this stuff can be manipulated and when these automatic reporting ability went into effect and when they didn't go into effect, and because of my client's concern about it, it has repeatedly requested auditing because it doesn't think these reports are accurate. So we're going to get into a whole issue about accuracy of these reports.

Nobody is disagreeing with your witness's testimony that their response compliance in Nevada is excellent. I don't know why we need to start going down this road and spending the time.

ALJ EIGENHEER: Okay. So to the extent that you're going to limit your questions on Exhibit 225 to pages 3 and 5, I will allow a very condensed version of those questions. I do have doubts as to the relevance. Also, I know that on page 3, none of these are finalized, the -- not yet finalized. So I don't know what value it

has. So -- But that will all go to the weight, understanding that's a different regulatory scheme, and I have no idea how this is recorded. But you may proceed with questions about pages 3 and 5.

MR. MURPHY: Well, we can -- Since the performance report for 2016 is not final, we can just move to the page 5, which is just -- it just shows Community Ambulance and has no indication that it's not the final document.

ALJ EIGENHEER: Okay.

BY MR. MURPHY:

Q. Brian, who -- how many franchisees are in Clark County?

A. Three.

Q. And who are they?

A. Community Ambulance, AMR, and AMR MedicWest.

Q. And how do you -- or, how does Community Ambulance receive these performance reports?

A. They're giving out -- given out every quarter at -- by Clark County, Nevada. As they finalize compliance, these reports are given out.

Q. So are there compliance meetings with all franchisees?

A. Yes. We are all in the room and we talk about any issues. We talk about compliance and --

Q. Okay. So let me stop you. Who attends the meetings for -- about compliance reporting?

A. In the meetings are the franchisees, the Clark County division of business license, and Clark County Fire Department and on occasion county manager.

Q. Clark County manager?

A. Yeah.

Q. Anybody else attend those meetings?

A. Sometimes there's random people from Clark County. I don't know their titles, and I've got to be careful here. I don't know their titles.

Q. Who or what agency, if you know, generates this reporting?

A. Clark County department of business licensing, Mike Carwell, he's the manager of franchises. He's the franchise manager.

Q. So what does the report that you receive at these Clark County franchise meetings of the franchisees on a quarterly basis show?

A. It shows that -- the compliance in the previous quarter; then it gets rolled up into a yearly. So each quarter will fill in. So the first quarter, you'll see the first three months. Second quarter, you'll see six months and so on.

Q. And you -- Under the franchise agreements, you

testified that you have 911 and non-911 service, correct?

A. That is correct.

Q. And can you explain for the judge, please, how that reporting for those levels of service is identified on these -- on this report?

A. Okay. As I said earlier, we have a response time compliance for Alpha calls.

MR. MURPHY: Judge, can -- can the witness approach the exhibit?

ALJ EIGENHEER: Yes.

THE WITNESS: So as I said earlier, we have --

ALJ EIGENHEER: No, you're fine.

THE WITNESS: So we have the Alpha responses, which we have to be on time for 19 minutes and 59 seconds. That's a 911 non-emergency. Pretty much that's like a stubbed toe. And then we have the priority one, Bravo through Echo -- Echo, which is the more serious, Echo being a cardiac arrest. We have to be on scene within 11:59 90 percent of the time. And as you can see going down, we -- we are consistently above what's expected of us.

BY MR. MURPHY:

Q. And those are 911 calls?

A. Yes.

Q. Okay.
A. And down here is what you --
Q. Let me ask you the question.
A. Okay.
Q. What does -- what does Pr3 represent?
A. They would be equivalent to Maricopa County arrival times. Those are interfacility transports that we have a response time or a arrival time requirement.
Q. And you -- you testified that there are urgent, -- and you gave the definition -- and scheduled or -- unscheduled and scheduled. Are all of those transports wrapped up into that one number for your arrival time compliance?
A. Yes, they are all three. This is a combined number for all three.
Q. Okay. And how was your performance -- your interfacility combined arrival time performance in 2017?
A. We are always above what our expectations are.
Q. And what is the threshold -- the minimum threshold for compliance under your franchise agreements?
A. As I said, 90 percent.
MR. MURPHY: Thank you.
Move to admit the fifth page of CA-225.
ALJ EIGENHEER: Other than the noted objections, any other objections?

MR. BELANGER: I'll just join the existing objections, Your Honor. I feel compelled to do that.

MS. FICKBOHM: Not because of anything I'm saying.

ALJ EIGENHEER: Fear of missing out?

MR. BELANGER: What's that?

ALJ EIGENHEER: Fear of missing out?

MR. BELANGER: Just in case.

MS. FICKBOHM: Nothing further, Your Honor. Thank you.

ALJ EIGENHEER: Okay. Page 5 of CA-225 is admitted.

MS. HOFMEYR: Will the applicant submit a revised exhibit, or is it still going to stand --

MR. MURPHY: Oh, yeah. Of course.

MR. BELANGER: That's number --

ALJ EIGENHEER: 225.

MR. BELANGER: 225. Thanks, Judge.

BY MR. MURPHY:

Q. Brian, do you -- is there Uber or Lyft in Nevada?

A. Yeah. We're a tourist town. They're all over the place.

Q. And do you know if Uber or Lyft provide patient transport?

A. Once you used the word "patient," that would

leave me to say no.

Q. Are there any transports that Uber or Lyft may handle that were traditionally handled by an ambulance company in the past?

A. I think what you're referring to is there's currently a pilot program that's through our -- we call it the FAO, fire alarm office. It's the 911 dispatch center for all EMS-related calls. And based on a set of protocols, they will go through it, and if the protocol says, they will wind up calling a Lyft or Uber. The patients that you're talking about are most likely those -- believe it or not, because I'm sure most of the people in this room know, people call 911 so they can go get their medication. So this is trying to filter those calls out and put them where they belong, in an Uber. We'd rather pay for an Uber than put them in the back of an ambulance. I think it's a great concept, but it's just not being very well -- we're only finding a couple calls a month that are winding up going there.

Q. So let's -- let's talk about -- You mentioned systems status management. Do you still handle the systems status management for Community Ambulance?

A. Yeah. I'm doing it.

Q. So you like it?

A. Yeah. It's a challenge. I love it.

Q. Can you just say what -- explain for the uninitiated what system status management is?

A. I mean, to break it down, system status management is really matching supply with demand. It's that easy. What you have to do is you develop the demand analysis based on historical data, and it's been proven that if you find trending in historical data, it will play out in the future -- in the future. So not only can you tell at some point with a good accuracy -- I can't tell you I know it all; I'm not a fortune-teller -- but, you know, you can know how many calls by hour of day, day of week; how many transports by hour of day, day of week. And then that leads you to be able to post based on call volumes in certain areas. You can put an ambulance in those areas. It's all based on historical data.

Q. How do you develop your system status management plans for Community Ambulance?

A. I've developed over the years -- I went to my first SSM class in 1991, so over the years, this kind of has evolved. But now, I've created templates in Excel. So I'll download the data out of the CAD, and then I will use pivot tables in Excel to format the data into usable data. And then that -- Automatically, there's a formula, and then that will go into my demand analysis, and it will show me by hour of day, day of week, the resources that I

need. Then I have a schedule built underneath it, which is real sophisticated. I put a 1 in every hour I have something, and that correspond -- corresponds to, you know, one ambulance in that hour. So then that tallies up and goes into the demand analysis, and it shows me that I have enough ambulances for that hour of day.

Q. Will you be using this same system if you're awarded a CON in Arizona?

A. I will, but I just want to put a caveat out there. I also -- I went to San Diego last week to Stout Solutions. They have automated this process, and that's been done for a while, but it's just I've never really trusted it. I'm still the type of guy I want to do it myself to make sure it's right.

Q. How has it been automated?

A. So Stout Solutions, they just bought a program from a company called ZOLL called Resource Planner. And they're making modifications to it. Todd Stout is one of the preeminent experts in data -- EMS data management, and another gentleman, Jonathan Washko, who is actually on the witness list for this, have put this together. I've known both of them for a long time. And so in real time, the -- the concept will be that it makes your demand analysis -- it automates your demand analysis and then it tells you, based on the type of shifts you have, what schedule

changes you need to make to -- to maximize your efficiency when it comes to that demand analysis. So I don't want to sit here and tell you I'm going to do it all by hand because I may go to this program, and I think I will. And we hopefully -- From what I've been talking to Todd Stout, we may be one of the first in the country to get it.

Q. Okay. So it's either use a program that you developed, which is a more manual system using Excel spreadsheets, or this Resource Planner?

A. Absolutely.

Q. Okay. Now, you -- you testified that in addition to street operations, your company does special events. What's your role with respect to special events for Community Ambulance?

A. I oversee it, but I also love it, so I go do a lot of special events also. I have a special event manager, and he gets all the events. And, you know, my role is to oversee it, but I like to go and be a paramedic at them anyway.

Q. And I don't want to belabor this, because Rob testified fairly emotionally about the Route 91 festival, that you have a different perspective on it from an operational point of view. So if you could, just talk a little bit about what you did on that day and how you --

what you did from an operational perspective on October 1st, 2017.

A. It was very interesting. You know, I was lying in bed and my daughter called me -- she works for the company -- and said, "Daddy, they're shooting at me." And, you know, your kid calls you, you don't really understand that on the phone. And I was, like, "What?" And then she repeated herself, and I finally understood what she was telling me. So I told her what to do, because I knew the event; I knew where everything was. And I told her, "You stay put until I get there."

So at that point, I got up. I got in my vehicle. I immediately picked up the phone and called Deputy Chief Klassen at home. I said, "Hey, do you know what's going on?"

"I don't know what's going on."

"You need to meet me down at the Route 91 festival. There's an active shooter." At that point we had no idea how bad it was going to be.

He said "Okay."

My next phone call was to Rob Richardson and I told him, "You need to go to the office. You need to coordinate the response."

I then called Brian Anderson and told him, "You need to go to the office and help Rob."

Q. Who is Brian Anderson?

A. Brian Anderson's our general manager.

I knew I had the field operations side of it. I had both of my supervisors responding to a safe location until I could deem the scene safe and bring them in.

So trying to get all this logistics going while I'm driving there, I'm talking on the radio trying to give directions to the scene commanders who were on scene.

Q. Who was on scene?

A. Because at the time, we only had 21 -- 21 Community Ambulance employees. There was no fire department or anybody else there. So I was trying to give them kind of direction on how to handle what was going on. I arrived probably 15, 18 minutes after I got notified. Chief Klassen had arrived right before me. And we set up what's called east division.

Q. What is east division?

A. East division is a term used in ICS. And because this incident became very spread out, there had to be multiple divisions. So we had an east division, which was just to the east of the event. So if this is the fence for the event, this is where east division was. And then we had a south division, which was -- I don't know -- a

quarter of a mile south. And then we had a north division. Because people were running in all the different directions.

So we set up -- Jon and I -- Chief Klassen and I set up east division. Sad to say one of the first things I had to do was pronounce -- I think it was six or seven people that were just -- they had enough in them to run out, but that was it. And they expired as they were leaving.

We -- Jon and I -- managed all the resources. We set up a staging area, you know. We sent some more people to the hospital. That went on for several hours. At about 3:30 in the morning, we were actually getting ready to terminate command, and metro, which is our law enforcement, came and said, "Hey, we need people to go in and do one last sweep and officially pronounce people expired." So myself, Chief Klassen, and Chief Buchanan had a discussion.

Q. Who was Chief --

A. Both Clark County -- Clark County fire chiefs.

And we decided we didn't want to send our people in there, because we had no idea what anybody was going to see. So the three of us, when we -- And we took Pat Foley, who was the EMS coordinator for Clark County Fire Department, and we went in. It was Pat and Jeff

Buchanan and myself and Jon Klassen. We went to the stage and the stage was broken up into east and west sides with a fence in the middle. They took the east side; Chief Klassen and I took the west side. We pronounced another 17 people expired on that evening.

And then we had a very, very quick hot wash at the incident command, which was at the metro station, which is on Las Vegas Boulevard. There was still a MACTAC unit. MACTAC is law enforcement and fire units that were going door to door in Mandalay Bay. We couldn't all leave. And, you know, it was AMR's area, but I was the one that was there, so I decided -- You know, the AMR supervisor, I know him very well. I actually hired him. I could see he was upset. I told him, "Go home. I got this." So we let them go home.

Left two units sitting at Mandalay Bay for the protection of the MACTAC units in case they found anybody or anything. Command was officially terminated. And, you know, then we could talk about what I did for the rest of -- you know, next couple days for hours, but --

Q. Maybe we'll skip over that --

A. Yeah, exactly.

Q. -- get through the rest of your testimony.

Other -- Rob also talked about the recognition that Community Ambulance received. We're not

going to talk about that now.

But operationally, have you become involved in any post-event training or operations related to this mass event like this?

A. Yeah. To my surprise, a gentleman named Dr. Richard Hunt, out of the Department of Health and Human Resources in Washington, called me. And there's going to be six people from southern Nevada -- two from University Medical Center, two from Sunrise Hospital, both -- all four of them, actually, are trauma surgeons -- myself, and a captain from Clark County Fire Department were asked to help put together an exercise that could be used nationally to help municipalities prepare themselves in case the unthinkable ever happens again. You know, we don't want to believe it's ever going to happen again, but it's better to be prepared than not. So on December 7th, actually, next month, we're flying to Anniston, Alabama, where the FEMA training center is. They supposedly have this huge thing with a hospital built, and we're going to figure out the resources. We're going to come back to Las Vegas with members of HHS and FEMA. We're going to pencil out a drill -- or, an exercise. We're going to go back to Anniston, Alabama. We're going to put it together, see how it goes. Once we're happy with that, we're going to run our first set of test students through

it, so to speak. And then once we're confident in it, the goal is that this would go to every municipality, and actually, the government would pay for them to go to Anniston and do the exercise so they could prepare themselves for -- in case, God forbid, it ever happened again.

Q. Thanks, Brian.

Let's move to more mundane topics.

MR. MURPHY: Operations plan for Community Ambulance, CA-149.

BY MR. MURPHY:

Q. Brian, can you -- can you tell the judge what this document is, please?

A. It's a -- it's called an operational plan. I still call it the start-up plan.

Q. Were you involved in the preparing this document?

A. Absolutely.

MR. MURPHY: Move to admit CA-149.

MS. FICKBOHM: No objection.

ALJ EIGENHEER: CA-149 is admitted.

BY MR. MURPHY:

Q. Brian, if Community Ambulance is awarded a CON, how many transports did it identify that it would handle in year one?

A. 11,315 transports.

Q. And how many ambulances did Community Ambulance identify it will need to cover these transports for year one?

A. Six.

Q. And would you be running all six ambulances at the same time?

A. No. You always want a reserve ambulance, because these ambulances are going to have to go through preventive maintenance. They're going to have to be upgraded. A lot of things will happen, so you always want to have a spare ambulance so you can -- you can rotate them and everybody can keep them in good working order.

Q. So if you have if you have -- you're at level five, you have all five ambulances that are in use, would you then deploy the sixth?

A. No, not necessarily. The sixth one, like I said, is more for, you know, if the fifth one -- I'm just giving you an example. If the fifth one needed to go in for an oil change, the sixth one would take the fifth one's place.

Q. Understood.

And this -- Who owns the ambulances that would be used in Maricopa if a CON is awarded?

A. RBR Management dba Community Ambulance.

Q. And in Nevada -- in your southern Nevada

operation, how many ambulances do you have total?

A. 33.

Q. How many of those 33 are owned by AMG, LLC?

A. 4.

Q. Okay. How will -- how will dispatch work if Community Ambulance is awarded a CON in Maricopa County?

A. We plan on having a dispatch center here, probably at St. Joseph's Hospital. They're going to have a transfer center, and we're going to be involved in that. And that's why you saw that the CAD is going to go through an upgrade, so I can partition out and have one system down there and one system here and neither one will ever see each other. And -- But the good thing is all the data can go to one central database and I'll be able to data mine anything I need to for either system.

Q. Let me ask this question. Will you have dispatchers in Maricopa County?

A. At this point in time, we're talking -- and we're talking dispatchers and call takers. Don't -- so we're -- we're talking about three.

Q. In Maricopa County?

A. Yes.

Q. And they'll be able to dispatch from Maricopa?

A. Yes.

Q. Do you also dispatch for -- If you're awarded a

CON in Maricopa County, will you have dispatchers in your southern Nevada operations dispatching for Maricopa County?

A. The way I'm looking at it, it's a CAAS requirement also, our accreditation, is these two could be backups to each other. That's the great thing. So if anything happened down here -- Everybody has to worry about is CAD going to go down? Are you going to have a problem? So if CAD went down here, we could switch it over to Nevada. If it went down in Nevada, we could switch it over to here. And you kind of have like a fail-safe. No matter what happens, you have a -- you have a CAD that's up and running.

Q. So if -- if the CAD went down in Maricopa County, at St. Joe's, you would be able to dispatch ambulances in Maricopa County from southern Nevada, from Henderson?

A. Yeah. We would be sending now, yes.

Q. Have you developed -- or, do you have a system status plan to handle these calls in the first year?

A. I have my best guess at a system status plan for the first year.

Q. Why do you have a best guess?

A. Because I don't have any data. What I mean -- I've already explained that you have to have historical data in order to create a system status plan -- or, a

demand analysis, which then creates your system status plan. I don't have that data.

Q. What sort of data do you need to create a system status plan or demand analysis?

A. Call location, call destination, when was the call received, when was the call scheduled, when they went en route, on scene, transport, and when they went available, because that all leads to help -- response time and it leads to time on task, which was a very important thing. So I need that by hour of day, day of week.

Q. Have you asked Dignity Health if they have that data?

A. Yes, I have.

Q. Do they have that data?

A. No, they do not.

Q. Can you talk about what a demand analysis shows?

A. A demand analysis shows, much like I said earlier, that -- it will tell me by hour of day, day of week -- you can have min, max, and average number of calls. So once we have that, now I know how many ambulances I have to have on to meet that demand. That's why it's called a demand analysis. And then I can match my schedule with that demand, and we -- That's how you create efficiencies.

Q. So how are you going to operate on day one

without the data to prepare a demand analysis?

A. Well, just think about this. We have 11,315 calls. We have five ambulances. Each ambulance every 12 hours should do five transports in the non- -- in the interfacility transport world. That's -- that's pretty -- pretty reasonable. So really, what we're doing is oversaturating until I can figure out how to become efficient when I have the data.

Q. How long will it take you to obtain the data?

A. Well, I mean, you're going to see changes probably within the first days. But how long will it take it before I'm confident that I have something that I can rest easy at night and know that we're going to be good --

Q. Let me give you something more specific --

A. -- five to six months.

Q. Okay. So let me give you a more specific question. How long is it going to take you to obtain the data you need to prepare a demand analysis system status management plan?

A. I would say before I'm totally confident, it's going to take six months' worth of data.

Q. What are the -- Are there data points that you can anticipate or predict without the data that you say you need for your demand analysis?

A. Yes. And all I'm doing at that point is going by

my experience. You know, we talk about -- Okay. I know St. Joe's is a Level 1 trauma center. I know the only thing they don't do there is burns. So is there going to be people coming out of there? Probably not going to any other acute care facilities. So there's probably discharges going out of there. So discharges generally -- The -- the physicians usually do rounds after they have office hours, so those calls usually are in the late afternoon to the evening hours.

Do I know that quick cares, that first thing in the morning when they first open up, because people have been waiting all night, have more transports? Absolutely. Do I know when quick care is closing, that -- you know, these people want to go home? So all of a sudden, it's the EMS or the ambulance problem to take these people to the hospital.

So there's certain assumptions I can make around when I think these calls are going to be and where they're going to come from, and I'm just going to have to use my best educated guess.

MR. MURPHY: Your Honor, can we pull up CA-186, please? And again, would it be okay if the witness stands? Okay.

ALJ EIGENHEER: Yes.

BY MR. MURPHY:

Q. Brian, this is a map that Robb Beery testified about. Were you there for that testimony?

A. Yes, I was.

Q. Okay. And where you -- Can you tell me -- or, tell the judge --

MR. MURPHY: Judge, if we could zoom out just a little bit, just to get the whole --

BY MR. MURPHY:

Q. Can you show -- Excuse me. Can you tell the judge what this map shows?

THE WITNESS: I can approach?

ALJ EIGENHEER: Yes.

THE WITNESS: Okay. This map shows in a rush hour situation, which is the worst-case scenario, an overlap of the suboperations center, how far you can go within 30 minutes. So -- And just to be clear, during the day when it's not rush hour, you're going to be able to go further.

BY MR. MURPHY:

Q. Okay. And can you identify the suboperations stations that Community Ambulance would use if it's awarded the CON?

A. St. Joe's, St. Joe's Westgate, then you have Chandler and Mercy Gilbert down east.

Q. Okay. And will you have separate crew rooms at these suboperations stations?

A. Yes, we will.

Q. Okay. Are you going to rent that space -- How are you going to get that space from Dignity Health?

A. My understanding is we are going to rent them, and they're going to be about a thousand dollars each per month.

Q. And do you know if that's fair market value for those spaces?

A. I know Dignity does nothing without using the words "fair market value" in evaluating it, so yes.

Q. So where -- Let's talk about where you'll deploy your ambulances that are in service. And you said you will have five in service. So at level five, I may have misspoke earlier -- But at level five, where are your ambulances going to be?

A. So they'll be at each suboperations center. And what I'm thinking is probably somewhere around the Tempe area.

Q. Okay. Why somewhere around the Tempe area?

A. Because I want them to be able to go to the busiest areas. So I already got somebody here that can -- you know, I know it's not a hugely quick response, but they can go here or here. And since the majority of the

calls are here, so hopefully, you know, they can go either way and make it in a reasonable amount of time that meets our arrival times.

Q. And then what -- what if you're at level four? And what does level four mean?

A. Level four means I have four ambulances available to the system. And to be honest with you, they'll be at all the suboperations centers -- all four of the suboperations centers. That makes it easy.

Q. And level three?

A. Level three, what I said was we're probably going to put one unit out west, one in central Maricopa, and one down east.

Q. And level two?

A. Level two, what I would do is take St. Joe's and probably cheat a little bit west, because I know I can still make it back here, so it would be posted somewhere in here. And then I would take probably the one from Mercy Gilbert or Chandler, whichever one's left, and I would post them somewhere over here so they can go that way or that way and we can meet our response times. It's all about drive times and looking at it.

And one of the things I want you to remember is, like I said, this may change day two. I'm giving you the plan that I'm going into. As I get data, as I get

better at this, I'm going to change it to make sure we're the most efficient we can.

Q. And then level one, if that were to occur --

A. Level one, one right in the middle, Tempe. We can go either way and do the best we can.

Q. How often would you expect a level one situation in your first year of transports?

A. So we're going into it believing that we have 30 transports a day. We're going to have five ambulances. So I can't imagine we're going to have more than, you know, maybe two, maybe three calls in an hour, so we should always have multiple units available. I mean, I don't see us going to a level one or a level zero many times.

Q. Okay. Thank you.

Brian, have you ever been convicted of a felony or misdemeanor involving moral turpitude?

A. No.

Q. Have you ever had a revocation of a license to operate or termination of a franchise agreement?

A. No.

Q. Have you ever operated a ground ambulance service without proper licensure?

A. No.

Q. Do you plan to collect and submit electronic

patient care reports consistent with the Bureau's guidelines?

A. Absolutely.

Q. Do you have currently in Nevada or will you develop a plan for Maricopa County to adopt clinical guidelines and operating procedures for time-sensitive illnesses consistent with the best practice guidelines?

A. Absolutely. We've -- Dr. Anne Burns has already said that she would come -- come on board with us. And once she does, that's when we would write those guidelines in conjunction with what the Bureau's policies and procedures are. We would have Dr. Burns.

Q. Have you attended and participated in meetings of the regional state EMS councils?

A. I was at the last EMS council in September.

Q. Okay. And you plan to participate in future meetings?

A. Absolutely. I mean, for the better part of 30 years, I've been on the medical advisory board for the Southern Nevada Health District. I don't see why it would be any different out here. I would be a participant in whatever I could.

Q. Do you have a plan to ensure that ambulance service will be maintained and improved for rural communities and county islands?

A. Absolutely.

Q. What is that plan?

A. Our plan is if something's not -- not broken, don't fix it.

Q. What does that mean?

A. Right now, the -- the areas are being covered, so we do not want to interfere with something that's working. And so we would leave the provider -- You know, I know we keep saying -- or, I keep hearing -- it drives me nuts every time I hear it -- "We'll let that, we'll let that." We're not going to let everything. We leave stuff alone if it works. We're here to enhance and not hurt.

Q. Will you take steps to ensure that the service model will be cost-effective and not result in higher ambulance rates?

A. Yes.

And, you know, I heard a lot about, you know, the infrastructure costs and stuff. The only thing I can go off of is my experience in -- in southern Nevada, and we've had twice where we've had ambulance companies enter the market, and that has been brought up every time, along with there's going to be employees that are going to lose their job -- well, you know, the whole nine yards. Well, it's always a transient thing. It's a short-lived thing. So there might be some upward pressure right off

the bat, but it's going to go away rather quickly. Maricopa County has growth. We're talking -- what? -- 2 percent? So it's just like southern Nevada; we grow, we -- we add call volume, and that's how that's absorbed.

MR. MURPHY: Thank you. I have nothing further.

MR. BELANGER: Can we take a break, Your Honor? Thanks.

ALJ EIGENHEER: We'll go off the record at this time.

(A recess ensued from 2:42 p.m. to 2:56 p.m.)

ALJ EIGENHEER: Okay. We are back on the record.

Cross?

MS. FICKBOHM: Thank you.

CROSS-EXAMINATION

BY MS. FICKBOHM:

Q. Good afternoon.

A. Good afternoon.

Q. Happy Friday.

I hate to do it, but let's go back to the harvest festival on 10-1-17 for a minute. Tell me how many ambulances Community Ambulance has that it can put on

the road -- or, had that it could put on the road at any one time in that part of 2017. Like did you have 33 ambulances, you said?

A. Yeah, we had 33.

Q. 33.

And -- and of those, do you use 100 percent of them or some of them down for maintenance, oil changes, and such?

A. In a normal circumstance, yes, you're correct.

Q. Okay. So -- and the night of the harvest festival, you're an ambulance provider. It's not just you have to go over there to this horrible, unnatural thing that's happening, but you also have to continue to cover the rest of the system, the guy that collapsed from a heart attack over in your franchise area, et cetera, correct?

A. Yeah.

Q. So how many ambulances were you able -- Well, let me strike that for a minute.

And in response to the Harvest Festival, it wasn't just ambulances showing up to take people from the festival itself. Certain emergency departments were being overrun with patients that were close to the festival, right?

A. That is correct.

Q. And people were actually running to the Strip and jumping in Ubers and Lyft and taxis -- that were shot -- and taking themselves to emergency rooms, right?

A. Absolutely.

Q. And so part of the problem that night into the early morning of the next day was the need to move people from the closest hospitals to outlying hospitals that could take care of them because the closest hospitals were just overrun?

A. Correct.

Q. And so it wasn't just the ambulances that were going to respond to the Harvest Festival itself. It was the ones that were going to go to the hospitals and do the interfacility transfers, or maybe it wasn't even going to be an IFT; it was just people in waiting rooms, scoop them and run. Desperate times call for desperate measures.

A. Absolutely.

Q. And so how many ambulances was Community Ambulance able to devote to -- to that terrible response?

A. We -- we sent 27.

Q. 27?

And your partners in AMR and AMR's wholly owned MedicWest, how many ambulances were they able to send?

A. I don't want to give you an exact number. I

don't remember, but it's a good amount. I think it's up in the 70s, if I remember correctly.

Q. How about 106?

A. Okay. If you say so. I know it's a -- it was a large amount. And just -- we did send employees over to go on the AMR Ambulances.

Q. 106 ambulances?

A. I'm sorry?

Q. You sent employees over to go on 106 ambulances?

A. No. I'm just showing we worked together that night --

Q. Right.

A. -- to do whatever we had to do.

Q. But basically, you had finite resources. You had 33 ambulances that you could have for ones that might be out for maintenance, staff normal calls, and then ones you could take to this event, correct?

A. Absolutely.

Q. And of these 33 ambulances, Mr. Richardson has already told us you had no way to backfill those 33. You don't have operations anywhere else.

A. That's correct.

Q. And so just accept for now my number 106 that AMR and MedicWest were able to dedicate to the event. Do you know how many they were also able to mobilize or have

access to in California, Arizona, and other nearby places?

A. I could only venture a guess.

Q. And would you agree with me that it's good for any geographic location, because these days this kind of crap can happen anywhere, to have a provider that has the strength of being able to backfill even from geographically remote areas if bad things like this happen and you need a lot of unexpected resources?

A. Correct.

Q. And by not talking about AMR's contribution during your testimony other than talking about the one supervisor, you didn't mean to minimize AMR's involvement in cooperating and being part of the solution that night?

A. No. If you hear me the day after, I did many interviews, and I told everybody how proud I was about the system, included AMR. And the only reason AMR didn't come up in my testimony was I was talking about the actual festival ground itself. But as a response, yes.

Q. And AMR Ambulances did respond to the festival grounds to pick up patients?

A. Yeah. I -- I would imagine. Maybe I'm misspeaking. I was speaking of the people -- my people were there at the time, and that's what I focused on.

Q. Right.

A. I apologize.

Q. And you were there because you had the first aid contract?

A. Correct.

Q. So let's move to a different topic.

You talked about the -- your system status management plan for these 11,315 transports you're going to do, correct?

A. Yes.

Q. So first of all, I want to talk about your inability to get data from Dignity Health to help you do this planning. You've been here through the whole hearing, right?

A. Yes, I have.

Q. And so you were here when Linda Hunt testified, right?

A. Yes, I was.

Q. Okay. So you know that in fiscal 2017, Dignity Health in Arizona had $2 billion in revenue, right?

A. That's something like that she said.

Q. And they had 94 million in EBITDA, right?

A. Okay.

Q. They're a big system with a lot of money, right?

A. Absolutely.

Q. And so despite that fact, they did not provide you -- well -- And you also heard Jeff O'Malley testify

that he started looking into this alternative transport idea early in 2015, right?

A. Yes.

Q. Yet Dignity didn't provide you with any information that they had collected since 2015 about the number of ambulance transports coming out of their facilities, hospitals, freestanding ERs, urgent cares in Maricopa County? They didn't provide you with any information about number of transports coming out of their facilities?

A. We saw reports that were given to them by AMR, but it was a cumulative report, so it didn't break down the data.

Q. Right. So -- so Dignity Health starting to look into this topic in 2005 and having millions of dollars in EBITDA didn't collect and provide to you information about "This hospital had these many transports, especially heavy on these days a week, at this time of day," "We see this urgent care doing X," "We see this urgent care doing Y"? You didn't get any kind of information like that from Dignity?

A. No.

MR. MURPHY: Objection.

ALJ EIGENHEER: I assume you meant 2015?

MS. FICKBOHM: I'm sorry. 2015, yes.

ALJ EIGENHEER: You said "2005."
MS. FICKBOHM: Oh, sorry. Thank you.
ALJ EIGENHEER: I assume that's the objection?
MR. MURPHY: It is, yes.
ALJ EIGENHEER: Thank you.
MS. FICKBOHM: Thank you, Your Honor.
ALJ EIGENHEER: You may answer.
THE WITNESS: No, I did not.
BY MS. FICKBOHM:
Q. And you didn't get any information from Dignity Health about what time of day they had a bigger demand on interfacility transport services than other times. You just have your own sort of general information anybody in a normal hospital system would have about when doctors do rounds, et cetera?
A. Correct.
Q. And I want to make sure that -- Did you say that -- that your expectation is that your ambulances are going to do -- each going to do five transports a day or six transports a day?
A. Five.
Q. Five.
So I think my math is 5 transports times 5 ambulance times 365 days a year comes out to 9,125

transports.

A. So each day every ambulance may have two shifts. So you're talking about -- I clarified. I said per 12-hour shift. So that means that the ambulance can have a day shift and a night shift. So the maximum that I want them to do is five transports each, so each ambulance, if you're looking at it that way, can do 10 transports a day.

Q. And do you expect all that number to be done?

A. No. I'm just showing that there's excess capacity.

Q. Because that would come out to 18,250 transports.

A. Correct. That's maximum.

Q. And -- and that number would dramatically change your ARCR calculations that you submitted to the Department, correct?

A. Yes.

Q. And it would also dramatically change the impact on the system year one, correct?

A. Yes.

Q. Okay. And so you're going to work 12-hour shifts, so tell me how those 12-hour shifts are going to run.

A. 4-3, 3-4.

Q. Okay. For those of us who are not very conversant --

A. I apologize.
Q. And slow down and let me finish asking the question. Okay?
A. I just apologized. I didn't answer anything.
Q. So 12-hour shifts. So tell me how those are going to run, starting with the first one.
A. So let's just assume for a second it's 7:00 a.m. to 7:00 p.m.
Q. And I don't need you to assume anything. Tell me what you're going to do.
A. Okay. So 7:00 a.m. to 7:00 p.m.
Q. Okay.
A. One week, they'll work three days. One week, they'll work four days.
Q. Okay.
A. So in a two-week period, they work seven shifts.
Q. Okay. That's your first shift.
And what's your next shift?
A. So it's 7P to 7A.
Q. Okay. And is it going to be the same thing: one week, three days; next week, four days?
A. Yes.
Q. Okay. Any other shifts?
A. Yes. You could start at 6:00 a.m. and work your way up. So let's just say we start one at 6:00 a.m. to

6:00 p.m. and then 6:00 p.m. to 6:00 a.m. And then you could do -- we'll do 6, 7, 8, and 9.

Q. Okay. 6, 7, 8, and 9. And you've got five ambulances running. What's the fifth going to be?

A. Fifth one is going to be, like, a roving. So we're going to put them -- It's a peak schedule. So once I have a better understanding -- In the beginning, it will be just like everybody else, but once I have a better understanding, it may be a 12-hour shift that comes on from noon to midnight. So I'm going to bring them on during the peak hours.

Q. Okay. So I think that what I'm hearing you say is that you're going to have four ambulances that operate 24 hours a day on these 12-hour shifts but you're going to stagger shifts because we all know that we don't want everybody coming to work at the same time because then you're going to have a point in the day when nobody's available while you're getting in your ambulance and gearing up, right?

A. Absolutely.

Q. Okay. So that's four 24-hour shifts.

And then your fifth is going to be a peak-hour ambulance?

A. It's peak or variable. Bunch of terms for it.

Q. And so -- so when I was doing the math of 5 times

5, it should have been 5 times 4?

A. 4 and a half.

Q. Okay. So your peak ambulance is going to be a 12-hour ambulance as opposed to a 24-hour ambulance?

A. The fifth one, yes.

Q. I'm sorry. The fifth ambulance will be a 12-hour ambulance?

A. Yeah.

Q. Okay. What -- what hours will it work?

A. Like I said, it will probably start out at noon to midnight, and once I know the demand a little bit better, that can fluctuate.

Q. And the noon to midnight will be seven days a week?

A. Yes.

Q. And the employee hours that you're going to staff those ambulances with are as reflected in the ARCR?

A. That was a little challenging to me when I -- when I looked at that yesterday. So I spent a lot of time last night going over that. And to be perfectly honest with you, we are going to staff 12-hour shifts with employees. And we're going to do 20 EMTs, 18 paramedics, 2 nurses, which is a little different than it says in the -- in the --

Q. I'm sorry. 20 EMTs, 18 paramedics --

A. Yes.
Q. -- and 2 nurses, which is 2 less employees than it says in the ARCR?
A. Right. Five trucks, that's the max you could use, so that's the number of employees.
Q. So you'll dial it back 2 employees?
A. Yes.
Q. And the hours -- And according to your ARCR, each of those employees basically, on average, is going to work a 40-hour workweek?
A. They're actually going to work a 42- -- on average, a 42-hour. So they're going to work one week 36, one week 48.
Q. And -- and the week that they work 48, they're going to have to be paid overtime --
A. Correct.
Q. -- for those eight hours?
A. So everybody has 8 hours per pay period overtime built in, which comes out to 192 hours every year.
Q. And so when Mr. Richardson told us that you weren't going to pay any overtime, that was false?
A. I don't know that he said that.
Q. Okay. So -- and of those hours that you're going to be putting into year one, we have to subtract 40 hours per employee for the training that Mr. Richardson told us

was going to be included in part of their salaries per the ARCR. He said five days of training for everyone, and that comes out to 40 hours, correct?

A. Yeah, but I don't know you would take it out. It's, like, that's their first week.

Q. When he was asking about -- Well, you're not going to training them while they're working, are you?

A. No. I would say that would be their first week of work, and they would start on an ambulance the following week.

Q. Correct. So -- but when we're talking about employee hours available to staff the calls that you've represented you're going to do in year one, the first 40 hours of every employee's worklife for that year one cannot be devoted to doing calls, correct?

A. Correct.

Q. Okay. So are you going to have no -- no ambulances on the road from 1:00 a.m. to 6:00 a.m.?

A. No. I -- I explained to you that if -- We said 6:00 a.m. to 6:00 p.m. and then 6:00 p.m. to 6:00 a.m., so the four ambulances are 24-hour ambulances just like you stated. You read that back to me.

Q. Okay. But the hours -- And so between midnight and noon, you will be down one ambulance as compared to your other times, as opposed to the noon to midnight?

A. I don't understand the concept.
Q. So from noon to -- From midnight to noon, you will have four ambulances on the road?
A. Five. Based on the schedule that I gave you.
Q. Okay. Then I want to make sure -- I thought you were going to -- Your peak hour was going to be noon to midnight.
A. Correct. That's the fifth one.
Q. That's the fifth one. Right.
So from midnight to noon, you will only have four ambulances on the road?
A. Yes.
Q. Okay. You talked about level five, level four, level three, level two, and level one. Just so everybody is on the same page, level five means you have five ambulances that aren't currently doing a transport. Level three, that means you aren't currently doing a transport but are ready to go. Level two means you have two that are ready to go but aren't doing anything, right?
A. That is correct.
Q. Okay. So it will be physically impossible for you to be at level five all the time because there are certain times of day you will only have four ambulances available, correct?
A. Absolutely.

Q. And have -- Tell us your calculations for how often you think you'll be at level five.

A. Hopefully not that much.

Q. Okay. How often are you going to be at level four?

A. I would say I'm hoping that we're doing two calls an hour. Some hours -- Because I know in the middle of the night, you're not going to be doing two calls an hour, so during the day, you are. So you've got to average it out to 30, so --

Q. So I think I hear you saying not very much.

A. No. The -- the 4 and the 5 is not going to be very much. You're a hundred percent correct.

Q. And so it will be a very, very rare occasion that you have an ambulance at each of those four base operation stations shown at CA-186?

A. I hope so.

Q. Okay. So -- so CA-186, showing ability to get places within 30 minutes, is something that you're rarely going to see, right?

A. Yes. But please take into account this is rush hour. So non-rush hour, you actually can make it further.

Q. You know, I had to drive into Phoenix, and I was coming in the other day from Tucson, Arizona, at, like, 1:30 in the afternoon, and it was rush hour. So tell me

when rush hour doesn't happen in this town other than in the dark hours of the night.

A. I may learn that pretty quick.

MR. MURPHY: Objection.

BY MS. FICKBOHM:

Q. Well, I want to know.

A. I'm just giving you my experience.

Q. I'm serious, because I've asked people those questions. So have you asked people? I mean, there's, like, real rush hour, where everything is at a standstill, and there's kind of, like -- kind of what I would call rush hour Level B. What inquiries have you made about when rush hour really happens here? Because coming from Tucson it looks to me like all the time.

MR. MURPHY: Objection. Form of the question, scope of the question.

ALJ EIGENHEER: You may answer the question.

THE WITNESS: To be honest, I spoke to EMS Advisors.

You guys have been around here a long time.

And they kind of gave me some basic traffic patterns and stuff. So that's actually where I got my timing from.

BY MS. FICKBOHM:

Q. What about level three? What calculations have

you made about how often doing the volume of calls that you're talking about that you're going to be at level three?

A. I think we'll be at level three a good amount.

Q. What about level two?

A. We will be at least level two a very good amount.

Q. Level one, how often are you going to be at level one?

A. Probably not that much based on 30 transports a day.

Q. What times of days do you think you'll be at level one?

A. It will probably be in the late evening hours if we make it to level one.

Q. And what percentage of the time do you expect to be at level one?

A. I don't think it's going to be a very large percentage. Maybe 10 to 15 percent. And I'm totally speculating there based on the fact that I have no data.

Q. And you didn't talk to us about level zero. Level zero, that green map goes away a hundred percent, right?

A. Zero -- zero is zero.

Q. And -- and how often do you expect to be at level zero?

A. Hopefully not much because, once again, if you only have 30 calls a day and five ambulances, you shouldn't be going to level zero.

Q. Unless they all happen at the same time?

A. Hundred percent. You're -- you're correct. Then I've got to do something different.

Q. So let's say that it's four o'clock in the afternoon and all of the doctors have made their rounds after doing surgery in the morning, and all of a sudden you've got two ambulances already going to urgent cares to pick up patients and you get six IFT calls to move people after the doctors finish their rounds. You're going to be way below zero, right?

A. Yeah.

Q. And what are you going to do?

A. We would look to -- same thing I do in southern Nevada: look to our other EMS partners and see if they can handle the calls.

Q. So that's -- so your backup plan is to look for the current providers that are there today?

A. Yeah. I have to put the caveat in there I don't expect that to happen that much. And if it does, I have to redo something. I have to change something if it does happen.

Q. You mentioned a transfer center at St. Joe's,

correct?

A. Yes.

Q. So is St. Joe's Hospital going to be the one to direct where patients go?

MR. MURPHY: Form. Objection. Sorry.

ALJ EIGENHEER: Why?

MR. MURPHY: It's inconsistent with previous testimony this whole week: the physicians order transports.

MS. FICKBOHM: Well, that's instructing the witness what to say as opposed to an objection that you make to the form or foundation of a question.

ALJ EIGENHEER: I'm not sure I understood the question.

BY MS. FICKBOHM:

Q. You said you're going to have a transfer center at St. Joe's, correct?

A. Yes.

Q. And so is St. Joe's Hospital going to be the one directing where the patients go?

MR. MURPHY: Objection to the form of the question.

ALJ EIGENHEER: You may answer the question. Overruled.

THE WITNESS: I think St. -- St. Joe's may

take the information and relay it to us. I don't think they're going to make the decision. The transfer center people will call there and tell them what they need done.

BY MS. FICKBOHM:

Q. Okay.

A. But they're not making the decision.

Q. And -- and have you been told how long this transfer center is going to hold patients if you're at level zero?

A. No, we haven't discussed that.

Q. Don't you think that's an important discussion to have?

A. Yeah, but hopefully, like I said, that we're going to be able to handle it. If we can't, we're going to have to adjust so we can.

Q. So how many times -- You've been sitting through this hearing. Are you pulling up your Google Maps every now and then and plugging in St. Joe's Westgate and the far west side at certain times of day to see how long it's going to take you to get there?

A. Have you got a mirror behind me or something? Yes, I have.

Q. So you wouldn't be surprised if somebody told you that right now it's going to take you at least 33 minutes to get from St. Joe's Westgate out west?

A. No.

MR. MURPHY: Foundation.

THE WITNESS: By out --

ALJ EIGENHEER: Yeah.

BY MS. FICKBOHM:

Q. From St. Joe's to Mercy Gilbert right now, what's your best guess?

A. I would assume around 30 minutes. Could be more.

Q. 50 minutes surprise you?

A. Yeah. At this time? 3:00? Yeah. Yes, it does.

Q. 3:22. Do you know what traffic in Phoenix is like at 3:22 on a Friday?

A. I'm going to learn real quick, aren't I? If I . . .

Q. You have not only been sitting here through this hearing, but you also attended the Hellsgate hearing also, correct?

A. I attended about four hours of the Hellsgate hearing; then I went home.

Q. So you know that specifics are important when you come into these hearings, correct?

A. Yeah, I would believe so, yes.

Q. Were you the person who was having the conversations with Dean Taylor about the ARCR?

A. No.

Q. Who -- who do you think was?
A. To the best of my knowledge, that was Rob.
Q. Rob.
A. Mr. Richardson.
Q. So --
A. I don't know if I'm being too informal.
Q. No. I'm -- I'm sorry. Thank you for making a record on that. I understood what you were talking about.

So the -- ABC's Exhibit 63 that we were looking at earlier today with the different color ink and the back-and-forth -- I think it was 63. To the best of your knowledge, that would have been Dean Taylor and Mr. Richardson?

A. I'm not throwing anybody under the bus, but I have never seen that document nor ever heard of anything that's in it, so I can't answer to it.
Q. It wasn't you. Okay.

Let's talk about how you're going to pay your paramedics and EMTs, because I think that Mr. Richardson deferred to you on these questions.

A. Yeah.
Q. So the -- What's Phoenix Fire paying their firefighters on an annualized -- on an annual basis, including overtime, when it's averaged out to an hourly rate?

A. I don't know.
Q. What about the local AMR entities when you look at the hourly rate they're paying and their -- the overtime that they pay? What's -- what's their rates average out to?
A. I don't have any firsthand knowledge of that. I can tell you what I was told.
Q. Told by who?
A. By Charlie Smith from EMS Advisors.
Q. What did they tell you?
A. The competitive wage is about 38,000 and 32,000.
Q. 38 for paramedic and 32 for EMTs?
A. Yes.
Q. In Nevada, when you average in the hourly rate that you pay your employees there and the overtime that they get, what does that annualize out to?
A. For paramedics, they start year one at 45,000.
Q. And what about EMTs?
A. They start at 33,000.
Q. And how fast do they progress?
A. Yearly.
Q. I guess that's a pretty good place to work if you're a paramedic and EMT.
A. I think so. I spent my whole career there.
Q. And would you agree that Community Ambulance

currently is doing at least 90 percent of the Dignity transports in Clark County?

A. I would disagree.

Q. Really? What do you -- what do you think the percentage is?

A. I would say 70.

Q. So it sounds to me like you're not going to have really any suboperations stations other than the four hospitals you plotted on the mapping, although when you go down levels, you might move an ambulance just on the street somewhere in between, like Tempe?

A. Correct. Street corner posting will be a large part of our plan.

Q. And in year two, how is that base station -- are you going to add more base stations?

A. Probably not.

Q. What about year three?

A. Probably not.

Q. How do you expect your transport numbers to change year two and year three?

A. I wish I knew that answer. I mean, I know there's going to be inherent growth, because there always is in an EMS system, but I -- I just don't know. I've heard so many numbers, just to be honest with you, that I don't know what's real and what's Memorex. I need to

figure out what's real, and then I can give you a real answer.

Q. So you haven't had that conversation with the folks at Dignity about, you know, "You're going to come in at this number, but here's what we want you to get to" --

A. No.

Q. -- "in order to serve our entire patient population"?

A. I can only tell you -- is that Dignity told me that was their patient population at 11,315 right now. And my understanding is that's not only the hospitals, that's the freestanding ERs and the urgent cares.

Q. But we heard testimony -- and you've been here the whole time --

A. Right.

Q. -- that they intend that you will not only serve those freestanding ERs and urgent care centers and hospitals, but because they have patients in every zip code in Maricopa, they're going to expect you to also go to other non-Dignity facilities to get their patients. For example, a patient that was seen at Dignity the day before for a serious procedure walks into the closest urgent care and it's not a Dignity urgent care and that patient wants to go back to the hospital to see his or her doctor, they consider that a Dignity patient transport.

And so the numbers you got about the transports that AMR has done for Dignity facilities don't include these random patients that aren't at Dignity facilities, correct?

A. That would make sense.

Q. And so what information has Dignity provided you about what kind of numbers they're talking about about these other patients out there?

A. I've heard -- and not only from Dignity, I've heard I think in this hearing anywhere from the 11,315 to 18,000, and what I've told everybody is let's concentrate 11,315 and see what materializes. We'll work from there. You know, just -- just like you said earlier, the good thing is we're in Clark County. I can send ambulances up here. If something happens and we need to raise in year two -- I can send ambulances here real quick.

Q. And how many of your 33 ambulances there are you going to be able to give up and still fulfill your obligations in -- in Clark County?

A. I could send -- We have ambulances that go to special events. We have ambulances that do a bunch of different things. Need be, I could send five down here on a daily basis, and I'm not saying I would. You just asked me how many I could.

Q. Speaking of special events, do you intend to offer yourself up for special event work if you get a CON

in Arizona?

A. Haven't really contemplated it yet. But, you know, what my goal is first year, laser focus, do Dignity's calls, and we've got to go from there. Like I said, I've heard too many things to start telling you where -- where we're going to go. We've got to take this slow and sure. That's how we built Community Ambulance in Las Vegas. You don't plan your next thing until you're really good at what you do. And that seemed to work for us there, and we're doing really good. So I want to do the same thing here.

Q. Okay. So what Dignity says it wants you to do is cover all of its patient population. And it has to take all of Maricopa County because it has patients in every zip code. So I'd like to talk to you about some of those rural -- rural zip codes and what inquiries you've made in order to plan your operations to fit with what Dignity says it wants. Okay? So how many patients do you expect to transport of Dignity patients out of Gila Bend, which is the 85337 zip code?

A. I don't really have an idea.

Q. What about the far west of Buckeye, which is 85326?

A. I think there's a few, but I don't know that we're going to be doing those.

Q. What -- what about Point of Rocks, 85322?
A. I don't know.
Q. What about the Black Canyon area, which Interstate 17 runs right through? And I know personally there's lots of accidents there. 85342, that zip code, how many Dignity patients do you expect to do out of that area?
A. I feel silly, but I have to keep saying I don't know.
Q. What about far, far west Buckeye, which is 85343?
A. I don't know.
Q. Wickenburg, 85358?
A. I've heard anywhere from 14 to 18 patients out there, but I don't plan on transporting any of them.
Q. What about far, far west Wickenburg, 85390?
A. I think that would fall into that 14 to 18 number. But once again, I don't --
Q. What about Tonopah, 85354?
A. (No oral response.)
Q. And then the super rural areas, we've got the Fort McDowell area, 85264. How many Dignity patients do you expect to be transporting out of there?
A. I have not seen -- And I guess maybe I'll say it like this rather than go through all that. I have not seen a map by zip code of how many patients I should

expect, so if you are asking me, I don't know.

Q. And I'm only bringing up zip codes because Dignity's witnesses -- you've been sitting here -- kept referring to "Patients in every zip code, we need to transport. That's why we're going for all of Maricopa."

So I'm going to run one more super rural area by you. 85320, the Aguila area, how many Dignity patients do you expect to transport out of there?

A. I'm unsure at this time.

Q. And do you know if there's any Dignity facilities in any of these rural and super rural zip code areas that I've asked you about?

A. I'm going to give you what I believe is the correct answer, but I may be wrong. I don't think they have any currently today.

Q. So what analysis have you personally sat down and done to make sure you're going to be able to cover 100 percent of the transports that Dignity has testified it wants you, RBR, to be able to cover?

A. The answer to that is I cannot guarantee anything without data. I can take the 11,315 number and make assumptions based on my 30-year EMS career. Is that going to be a hundred percent? No. I can't tell the future. I'm not a fortune-teller. I'm going to do the best I can to handle as many as I can.

Q. Would you agree with me that it will be physically impossible for you to do 100 percent of this body of Dignity patient transports within 30 minutes if all of them are considered urgent?

A. Oh, yeah.

Q. And would you also agree with me that it is statistically impossible for any urgent care in Maricopa County to have only urgent transports?

A. Yes.

Q. So going through my questions that Mr. Richardson already answered that I won't ask you to answer also.

You spoke about fair market value rent, but you -- as stated in the ARCR, you don't have any personal information about that?

A. No.

Q. But is that --

A. I'm going by Dignity's reference to fair market value for the -- for the space they're going to be providing us.

Q. But you personally don't have any information --

A. No.

Q. -- about that?

So when I looked at your ARCR, it basically indicates you're not going to have any medical supplies in your inventory because there's no cost of goods sold

listed on your ARCR. And if you want to confirm that, we can pull that up and look at it.

MR. MURPHY: Please do.

MS. FICKBOHM: DHS-12 at page 7. Scroll down a little bit.

BY MS. FICKBOHM:

Q. Cost of Goods Sold, and it says zero. Very last line. Do you see that?

A. Uh-huh.

Q. And then that moves to page 2, line 14, is what it references. Page 2, line 14, that comes up cost of goods sold is zero.

So that basically -- Do you understand that basically means you're representing you're not going to have any supplies purchased ahead of time that are in inventory?

A. That is unrealistic. We will have supplies purchased and in inventory. I think what they're referencing there -- like I said, I wasn't involved in this -- is the fact that we're not going to charge for supplies, so I think they misunderstood or mis- -- whatever.

Q. So basically, your sale price of those goods is going to be zero?

A. Right.

Q. But the goods themselves -- bandages -- bandages -- and even if it's bandages, gauze, and tubing, it costs something, right?

A. Yes.

Q. Okay. And you have to have it stocked or your ambulance is going to have to basically run to Walgreens at the end of every call to get new stuff, right?

A. That would be funny. But yes.

Q. So are you aware of who the other entities in Maricopa County that hold CONs with interfacility transport authority are?

A. I believe so.

Q. Okay. So who do you think they are?

A. There's several AMR companies.

Q. Okay.

A. There's ABC. Then there's Maricopa.

Q. Who else?

A. That's all I know of.

Q. Okay. So you don't -- You're unaware of the fact that Buckeye Valley Rural Volunteer Fire Department has --

A. You're a hundred percent right. North County also. Don't they do --

Q. And who else?

A. Those are the only ones that I know of.

Q. Daisy Mountain?
A. I didn't know that.
Q. Sun Lakes Fire Department?
A. I didn't know that.
Q. City of Mesa?
A. I didn't know that.
Q. And do you know the volume of interfacility transports these other entities do?
A. No, I do not.
Q. So you were here when the witness from Laveen General Hospital testified, correct? Matt Karger?
A. Yes.
Q. Okay. So tell us what your plan is to meet what Laveen General Hospital desires insofar as access to ambulance transports.
A. We are going to meet the interfacility arrival times.
Q. Would you agree with me, from listening to the testimony in this hearing, that what some of the staff at urgent cares and freestanding ERs and hospitals that aren't Level 1 trauma centers desire isn't necessarily in line with what the contractual response times that you have agreed to with Dignity are?
A. Possibly. They're going to need to be educated, because that's what we're going to do.

Q. And would you agree with me your experience -- you've been in this industry a long time, that especially when you've got an urgent care center that's maybe a little understaffed and really, really busy, that it's the "I want it now" philosophy?

A. Yes.

Q. You see that in Las Vegas, right?

A. Yes. And what I've done -- You just brought up understaffed. Henderson Hospital, it's not part of the Dignity Health system. They sometimes don't have certain specialties on call. So I tell them, "Do me a favor. Call me. Let me know what's going to happen. I'd like to put an ambulance over there." I try and do preplanning rather than reacting.

Q. Thank you so much.

And isn't that optimally how a system should work?

A. Yes.

Q. Somebody walks into an urgent care. They know when they look at this guy, he's going to need to go somewhere. Wouldn't it be great if they could just pick up the phone before they do all the processing they have to do at their end and say, "Look, we're definitely going to have a transfer in, like, at least -- you know, 15 -- 15 or 20 minutes. Can you start somebody rolling our

way?"

A. I -- I would expect that from anybody. Once they realize they're going to have a transport, they should let us know.

Q. As opposed to waiting until they've got the patient all worked up and their doctor signed off, the accepting doctor signed off, and then they look out the window and go, "I want somebody right there now"?

MR. MURPHY: Objection.

BY MS. FICKBOHM:

Q. Correct?

MR. MURPHY: Objection. It's hypothetical -- it's a hypothetical, it's a vague, and ambiguous question not based on any facts, any testimony at all.

ALJ EIGENHEER: You may answer the question.

Overruled.

THE WITNESS: I know this is going to sound silly, but I almost forget it. I think you're asking about shouldn't they call immediately. Was that --

BY MS. FICKBOHM:

Q. No. Just from a general operating perspective, don't you agree that it's better if you get what I would call a prealert -- "We've had somebody walk in. We know they're going to be moving. We've talked" -- You know,

they've asked a few questions. It's, like, "We can't do this here" -- if they would pick up the phone and call the ambulance transport company then and say, "We're going to start to work this guy up for transfer. Can you get somebody rolling our way?" as opposed to their doctor does the little eval- -- the evaluation they have to do, contact the receiving facility, get the receiving facility's permission to bring them to make sure they're not on divert or whatever, and then once all of the urgent care's paperwork is in order, then picking up the phone or looking out the window going, "I wish there was an ambulance there right now"? Isn't it better to do prealert?

A. Yeah. I don't know that I would call them prealert. I think once you know you need an ambulance, call a ambulance.

Q. And -- and do you know whether in Maricopa County that is the norm or the exception?

A. I don't know.

MS. FICKBOHM: Can we pull up Community Ambulance 186 again, Your Honor? And can we shrink it down just a little bit so we can see the edges? Nuances are difficult here.

BY MS. FICKBOHM:

Q. You would agree with me there are facilities that

will have ambulance transports that are outside of this green area?

A. Yes.

Q. For example, there's an urgent care pretty far north, almost where that blue line touches the edge of the map at 36889 North Tom Darlington Drive. Are you familiar with that one?

A. No.

Q. Okay. It's not a Dignity facility. But if there's a Dignity patient there, a person who had had surgery the day before that walks into the urgent care because all their stitches have ruptured and they need to get back to their doctor, you're not going to be able to get up there in 30 minutes, are you?

A. No.

Q. And if that's an urgent transport of a Dignity patient, even if you have four ambulances currently available to do transports, you're not going to be able to get in there in 30 minutes?

A. No.

Q. And the Abrazo facility way out in Buckeye, which is off that red road to the west, you're not going to be able to get out there in 30 minutes?

A. Probably not.

Q. And the NextCare Urgent Care in Goodyear that is

almost -- you can kind of see those faint roads in the southwest corner that are kind of rounded.

A. Uh-huh.

Q. It's out in that direction. Kind of above the key. You're not -- Yeah, there. You're not going to be able to get out there in 30 minutes, are you?

A. No.

Q. So if there's Dignity patients out there that require urgent transports, who's going to do them?

A. Well, hopefully -- That's why we call it an EMS system. We can all work together on patients like that. We're all there for patient care, so whoever's got an ambulance closest, they're going to go.

Q. So going back to my question I started with about what Laveen General Hospital desires, what's -- what needing studies analysis have you done about whether or not -- what you're going to be able to do if RBR gets a CON to meet the desires of Laveen General Hospital?

A. I have not looked at any individual hospital. I looked at it as a system.

Q. What about the 30 minutes or less for every single transport out of the Ahwatukee and Queen Creek urgent cares that Ms. Kells oversees? She wants 30 minutes or less on every single transport from those two facilities. How are you going to do that?

A. I'm not.

Q. So as you sit here today, you're not telling the Department of Health Services that you're going to be able to get to both those facilities in 30 minutes no matter what?

A. I think we established a little earlier there's no way we're doing 100 percent of Dignity Health patients, so --

Q. So are you just going to do the ones that you can get to and leave it -- leave it to the other providers to pick up the ones that are too hard to get to?

A. Not at all. But if you're talking an urgent patient -- urgent, in my mind, is someone's having a stroke; someone's having a heart attack. I don't care what color the ambulance is. We've got to get the closest resource to that patient so that patient can get to a hospital, period.

Q. Is that closest resource going to be 911?

A. In the situation of a stroke or an event -- We're going to do what we have to do to get that patient taken care of.

Q. And sometimes that might be a 911 ambulance, right?

A. It may be.

Q. And have you factored in how long-distance

transports might impact your system status management plan?

A. No. To be perfectly honest, no. I started talking about them today saying we're going to have to really think about this.

Q. Have you asked Dignity how often it is they have a patient that's -- is required to go to a facility, for example, in Flagstaff?

A. I don't have -- I wish I had that information.

Q. Or transports that are done to Las Vegas?

A. I don't have the information.

Q. But you would agree with me if one of your five ambulances that are running 24/7 goes on a long-distance transport, that's going to change your system status management for a long time?

A. Yeah, I mean, if you're going to go to Vegas from here, you're going to probably be gone 14 hours, 5, 5, and then you're going to need a few minutes to off-load, get something to eat.

Q. A few minutes? Okay.

So in Las Vegas, it only takes a few minutes to off-load patients?

A. No, it doesn't. I only wish. I only wish.

Q. Yeah, that offload time can be a long time.

A. Absolutely.

MS. FICKBOHM: I don't have any more questions. Thank you for your time.

THE WITNESS: Thank you.

ALJ EIGENHEER: Cross?

MR. BELANGER: Yeah, a little bit of clarification.

CROSS-EXAMINATION

BY MR. BELANGER:

Q. On the five ambulances that you discussed, four ambulances are -- are proposed to be staffed 24/7, 12 hours a shift, correct?

A. Correct.

Q. So that's -- you're going to have two crews for -- let's just take the first ambulance. Two crews: one 7 a.m. to 7 p.m., one crew 7 p.m. to 7:00 a.m. And they would flip-flop. One week, one would three days and the other would be four days. Then the other week, one would be four days, three days --

A. Correct.

Q. Okay. Did you say that each employee -- Like so in the week that they're working four shifts, is that 48 hours or is that --

A. Yeah, that's 48 hours.

Q. I want to make sure I wrote the numbers down

correctly.

A. That -- that would be 48 hours.

Q. And then the other one they're doing three shifts, it would be 36?

A. That's correct.

Q. Okay. You've referred to EMS Advisors a number -- well, a couple of times.

A. Couple.

Q. You were here during Mr. Richardson's testimony. He referred to EMS Advisors at least a dozen times in terms of response to substantive questions. Do you -- do you recall that?

A. I remember hearing that term a lot.

Q. Like, for example, you said, when Ms. Fickbohm asked you about wages that would be paid to EMTs or paramedics, you don't have that information, but you got it from EMS Advisors.

A. Yeah, the average in the Val- -- in Maricopa, yes, I got that from EMS Advisors.

Q. They're not listed as witnesses in this hearing, are they?

A. No, not that I know of.

Q. We're not going to hear from them?

A. Probably not.

Q. The document ABC-63 --

MR. BELANGER: Could we see that again, Judge?

BY MR. BELANGER:

Q. This was -- as I understand it, this was a document that was back and forth between persons that prepared the ARCR --

MR. BELANGER: Who was the gentleman yesterday? Was it Steve Evans? Mr. Evans.

MR. McGOLDRICK: Mike Evans.

MS. FICKBOHM: Mike.

BY MR. BELANGER:

Q. You don't know -- It's not you that appears in any of the red, blue, or green? That's not you?

A. I can say for certainty I am nowhere on that document.

Q. Correct. You say you think it might be Mr. Richardson possibly?

A. Possibly, yes.

Q. But he said it wasn't him.

A. I can't speak for anybody else.

Q. No idea, right? So -- so the persons that were going back and forth with substantive information to respond -- to actually prepare your ARCR, you and Mr. Richardson have no idea who was involved in this document?

A. I can tell you that I have no idea. I can't speak for anybody else.

Q. Could it have been somebody from EMS?

A. It -- it could have been. It could have been a bunch of people. I don't know.

Q. You have no idea? Okay.

The fifth ambulance that's going to be on for 12 hours -- So four would be 24/7, and one ambulance would be 12/7, right? How does the crew work on that one in terms of, like, for example, two shifts -- maybe it's self-evident. But there's two shifts for an ambulance that's going to be 24/7 -- two crews, I mean. Would it be one crew the same -- Explain to me how that's going to work on the fifth ambulance.

A. So you would have one crew working on the beginning of the week, one crew working at the end of the week. One week, one would work four days; the other one would work three, then vice versa.

Q. It would be just one crew, though?

A. Correct.

Q. Well -- Okay. Gotcha.

MR. BELANGER: I don't have any other questions. Thank you.

THE WITNESS: Thank you.

ALJ EIGENHEER: Cross?

MS. HOFMEYR: Thank you, Judge. I'll be quick.

CROSS-EXAMINATION

BY MS. HOFMEYR:

Q. Ms. Fickbohm mentioned a little earlier the Laveen Dignity Health facility. If Dignity wanted you to post an ambulance at Laveen 24/7, would you do it for them?

A. I'd have to look at the call volume, to be honest with you.

Q. Just a little bit of clarification on a question from Ms. Fickbohm. She had asked you about how many of your ambulances in Nevada are out of service or unavailable due to maintenance or repair or other reasons on any given day. You answered yes, but you didn't give an actual number. Do you have an actual number?

A. I'm sorry. Can you repeat the last part of that? Out of service for what reason?

Q. It's just out of service or unavailable for repairs or any other reason on a given day.

A. So maybe if I put it this way, you might -- that might be a better answer. On any given -- We have 33 ambulances. The max number of ambulances that I have out at any given time is 21 plus special events. So

whatever -- If I have two special events that day, that means I have 10 ambulances. Two or three of them may be, you know, being PM'd or out for mechanical, so that would leave me 7. You know, if I had 5 -- That number changes every day, I guess is what I'm trying to tell you and give you an answer.

Q. Mr. Rogers, do you get a salary from RBR?

A. No.

Q. Do you get a salary from AMG?

A. Yes, I do -- Well, no, see this is -- I don't know if that's considered a salary or not. I get a management fee -- my portion of the management fee.

Q. Okay. So the -- the 3 and a half percent of gross revenue management fee is one thing. Over and above that, do you receive any salary from either RBR or AMG?

A. No.

MS. HOFMEYR: Judge, could we put up ABC-82? And go to page 13.

BY MS. HOFMEYR:

Q. Can you take a look at this document, Mr. Rogers, and tell us which company is this for, whether it's for RBR or AMG?

A. 21 crew plus 1 (24-hour) Stateline -- This is RBR. Should be an RBR document based on the headers.

Q. Okay. So would you agree with me that if it

looks like from --

Well, before I ask that question, I can see there's a reference to "Total Salaries - Executive" with a number 1.

A. Yes.

Q. Who is that?

A. Brian Anderson, our general manager.

Q. These are for 2016, so --

A. Yes, it would still be Brian Anderson, our general manager.

Q. All these categories underneath that, I see there's some overlap between those and the categories you recited at the beginning of the people that reported to you. Does that look right? Operations, communications, clinical, finance, IT, special events, HR, business development?

A. Yes.

Q. And would you expect to see these in Arizona?

A. Just like we did in -- in southern Nevada, we didn't have this staff when we first opened. You grow into it.

Q. You do plan to at some point have these in Arizona?

A. Hopefully we get that big and we do all this staff, yes.

Q. How big were you at this point?
A. Today?
Q. At September 2016.
A. We had just had a major growth, so now you're probably talking 80 transports a day. You're probably talking 250 or -60 employees. I'm just guessing. That's estimates.
Q. Okay. And would you agree at the bottom of that is a column that -- the top number is 18, 24, 2. At the bottom, it says "Total Salary & Wages"?
A. I'm sorry.
MS. HOFMEYR: I'm sorry. It's below it, Judge. If you could scroll slightly.
THE WITNESS: Okay.
BY MS. HOFMEYR:
Q. 71 paychecks, is that what that number is?
A. Yes.
MS. HOFMEYR: Judge, could we pull up ABC-47? If you go to page 2 of that document.
BY MS. HOFMEYR:
Q. Is this an organization -- organizational flowchart for Nevada or Arizona?
A. Nevada.
Q. And that's current?
A. Yes.

Q. Do you expect at some point it will look like this in Arizona?

A. Once again, I hope so.

Q. On page 3 of this document --

MS. HOFMEYR: Judge, if you could just scroll down one page.

BY MS. HOFMEYR:

Q. -- is this a -- if you could look at that document and tell us if that's for RBR as well.

A. I believe so.

Q. Have you seen this document before?

A. No.

MS. HOFMEYR: Judge, I would like to admit ABC-47.

ALJ EIGENHEER: Any objections?

MS. FICKBOHM: None here.

ALJ EIGENHEER: ABC-47 is admitted.

MS. HOFMEYR: Would you give me one second, Judge?

ALJ EIGENHEER: Yes.

MS. HOFMEYR: No further questions. Thank you.

ALJ EIGENHEER: Thank you. Cross?

MR. RAY: Yes. Thank you, Judge.

CROSS-EXAMINATION

BY MR. RAY:

Q. Good afternoon. Mr. Rogers, I'm representing the Bureau of EMS and Trauma Systems.

A. Good afternoon.

Q. Good afternoon. You've been here all week.

A. Yeah.

Q. I only have a few questions. I wanted to clarify something. When Ms. Fickbohm asked you a question about certifying compliance or ensuring that you're meeting the Bureau's responsibilities, I recall your testimony being something to the effect that when you submit your annual ARCRs, that you are -- that you will certify all of your -- that you're in compliance across the board with ambulance requirements. Did I misunderstand you?

A. I -- I may have misspoken. What I was -- meant to say was when we submit the ARCR, I have to sign a letter of attestation, assuming -- because I believe we would -- assuming that we met our contractual requirements, including arrival times for the whole year.

Q. Okay. I think you're a little bit confused. The ARCR does not, as a document, reference your response times or arrival times. It actually is a financial record of the operation of your ambulance service over a year-to-year period. Does that make sense?

A. Yes. And maybe I misspoke. I understand that -- what that ARCR is, but my understanding was when we turned in the ARCR, I also have to turn in another document saying that I attest to -- that -- assuming we did it, I'm not going to lie -- assuming that we met the arrival times all year and that that's how that's reported to you. If I'm wrong, I apologize. That's what I was under the impression of.

Q. Okay. I'm not sure what you're referring to when it comes to compliance with arrival times.

But assuming you get -- get a CON and assuming you execute a contract with arrival times and assuming that contract is approved, is it your testimony that the applicant will agree to be bound by the Department for those arrival times that are referenced in the contract as part of its annual duties and responsibilities as a ground ambulance service?

A. Absolutely, sir.

Q. You were referring to page 5 of an earlier exhibit that had your response time and arrival time compliance standards, correct?

A. Correct.

Q. Okay. And you referenced your compliance requirement was 90 percent. So, for example, if you agree to be somewhere inside of -- or, within 30 minutes and

zero seconds, it would be 90 percent of the time.

A. That would be correct.

Q. Okay. Do you know if your contract with Dignity has a 90 percent compliance requirement?

A. To be honest with you, as we're sitting here today, I can't say that.

Q. Okay. Would it be important for you to have a fudge factor -- Kevin's terminology -- so the 90 percent requirement would allow you to remain in compliance even though 10 -- 9 percent of the time you were out of compliance on those 30-minute calls?

A. Absolutely, sir.

Q. Okay. If you don't have that fudge factor built into your contract, would that be something you would need?

A. Yes, sir.

MR. RAY: Ah, thank you.

BY MR. RAY:

Q. Your contract, I believe, has been put up there. Do you see a fudge factor built into that?

A. Absolutely not. I knew that was going to happen when you brought this up.

Q. How about this one?

A. 90 percent -- 90-plus percent of the transports in each category.

Q. Now, look at the first line -- Okay. So you are looking at the asterisk?

A. Yes.

Q. And does that apply to all of the categories above?

A. It's each of the categories, so I would assume that each one of those categories have to be above 90 percent.

Q. And those would include the times on the page above?

A. I would think that's a continuation.

Q. Okay. Do you know what a scheduled transport is?

A. I know there's different definitions, but a schedule that is -- when you call, you say, "Be here at 16:00 hours," we're there at 16:00 hours. That would be a scheduled transport, in my mind.

Q. And if it's an unscheduled transport, what does that mean?

A. An unscheduled transport means you have a routine patient that needs to get from Point A to Point B.

Q. And do you know how that will work under this contract?

A. I think that depends on where that Point A is or not. Because if it's from facility to facility, it's one thing. If it's not -- if it falls out of that, then it's

another thing, right?

Q. I'm not sure I understand your answer.

A. So my understanding is that interfacility transports, they're different than the convalescent transports. Convalescent is if it's outside of a facility, urgent care or stand-alone ER. So if we had to take somebody from someone's home, that would be a convalescent. If it was interfacility, that would be from an urgent care to another medical -- probably a higher level of care.

Does that answer your question or no? You looking like maybe I didn't answer your question. I apologize.

Q. That's okay. It may have been a poor question.

So on this contract, you see scheduled ambulance?

A. Yes, I do.

Q. And it requires a 75-minute advance notice. What does that mean?

A. So I guess the best way I could explain this is by giving you an example. 75 minutes, if you want to be picked up at that same 16:00 hour, you would have to be calling by no later than 14:45. That's what that means to me.

Q. Okay. Do you -- So under that definition, could

an urgent ambulance service call be a scheduled ambulance call?

A. I'm trying to think if there's a catch there, but I think I'm going to say no.

Q. All right. When you were asking -- when you were answering questions from Ms. Fickbohm, I think I either missed one of your answers or you skipped the question.

So you -- you will have six ambulances to start with in Arizona year one?

A. Correct.

Q. Your intention is to have five active ambulances, one in reserve?

A. That's correct, sir.

Q. If you have all five active ambulances, if they're running calls, do you activate the sixth one? Or what would be your staffing plan? Do you bring one from Nevada?

A. It's going to take too many hours to bring one from Nevada.

Q. I agree.

A. The -- the problem is we're going to be at level zero. And it depends what that unit -- You know, if it's in the shop, at four, so to speak, there's nothing I can do, so that would -- that would depend --

Q. I agree.

A. -- on whether it got done with its PM. Is it available for me to use or not? If it is, then yes, we would actually try to do what I call a scramble truck and get it out there. If it's not available, well, then we're at level zero, and hopefully our EMS partners will help us out. Bringing someone from Nevada is not -- not an answer.

Q. Okay. Let's talk about -- let's talk about a transport to a Level 1 hospital. I'm sure you're aware that there are times when hospitals are extremely busy here in Maricopa County.

A. That is my understanding.

Q. Whether it's flu season, whether it's retirees returning to the Valley, you may have delays in getting your ambulance off-loaded. Do they have those similar delays in Vegas?

A. Oh, yeah.

Q. Okay. So how does it work in Las Vegas? What ambulances get off-loaded first? What would be the priority if you have ambulances stacked up waiting to get patients in?

A. So two things to take into consideration. One is patient acuity, and assuming that everybody -- all the acuity is equal, then it's first in, first out.

Q. FIFO?

A. FIFO.

Q. Okay. What would you anticipate in Arizona, same question?

A. I guess I would anticipate the same thing.

Q. Okay. So here's my -- my concern. The hospital you take them to being a Dignity facility, Dignity is the majority owner of this ambulance service. Can you foresee a scenario where your ambulance service would receive faster off-loading than other ambulance services, all patient-level acuity being the same?

A. I tell you this with a surety coming from where this happens every day in southern Nevada. My answer would be emphatically no. If we start playing favorites, we're going to cause craziness within the system, and that's not right.

Q. Has that ever happened in Nevada?

A. No. We don't let it happen.

Q. And have you had any conversations with Dignity here about that scenario?

A. To be perfectly honest, no, I haven't. But you just brought that to my attention, and I'm going to make sure that it doesn't happen, because that would be unfair.

MR. RAY: All right. Thank you for your testimony. I have no other questions.

THE WITNESS: Thank you.

ALJ EIGENHEER: Redirect?

MR. MURPHY: Just one or two, Your Honor.

ALJ EIGENHEER: Okay.

REDIRECT EXAMINATION

BY MR. MURPHY:

Q. Why is Community Ambulance handling, as you testified earlier, 70 percent of Dignity transports in Clark County?

A. So, you know, I've been listening to a lot of this. In Henderson, Nevada, we have an exclusive franchise agreement, so I just want you to remember that. Dignity has three facilities: two in Henderson, one in Clark County. So the two in Henderson, they don't have any choice but to call us. It's mandated by the city. The one in Clark County has a choice. And they feel like they should be fair, and they give AMR calls; they give us calls. It happens on a daily basis. And I know this may sound strange in this room, but I can tell you from my experience that Dignity's going to do what's best for Dignity. That the hospital comes first, and then we're going to -- just like we're going to come first when it comes to EMS. I have a fiduciary responsibility to run an ambulance company. They have a fiduciary responsibility to run a hospital.

MR. MURPHY: Thank you.

ALJ EIGENHEER: I have one quick question I meant to ask somebody earlier.

So do you not have a Unit 13 because it's bad luck?

THE WITNESS: Yeah. That's me.

ALJ EIGENHEER: Okay.

THE WITNESS: I told them we will not have a Unit 13. I'm just like that. I couldn't let them do a 13.

ALJ EIGENHEER: Okay. Just curious.

Okay. You may be excused. Thank you.

Next witness?

MR. MURPHY: We are -- we are going to stick with our five-day commitment, Your Honor. And Mr. Humble's not here today. And we'll stick with that five-day commitment and rest our case.

ALJ EIGENHEER: Okay.

MR. McGOLDRICK: Hallelujah.

ALJ EIGENHEER: Anybody want to get started?

MS. HOFMEYR: Yeah, we'll begin with ABC's case. I'm joking.

MR. MURPHY: You're like the person that wants to talk about the syllabus on the first day of school.

ALJ EIGENHEER: "Teacher, Teacher, you forgot to give us homework."

Okay. Then if there's nothing further, that will conclude today's proceedings. We'll go off the record at this time.

A. (The hearing was adjourned at 4:12 p.m.)

STATE OF ARIZONA)
COUNTY OF MARICOPA)

BE IT KNOWN that the foregoing proceedings were taken before me; that the foregoing pages are a full, true, and accurate record of the proceedings all done to the best of my skill and ability; that the proceedings were taken down by me in shorthand and thereafter reduced to print under my direction.

I CERTIFY that I am in no way related to any of the parties hereto nor am I in any way interested in the outcome hereof.

I CERTIFY that I have complied with the ethical obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206 (J)(1)(g)(1) and (2). Dated at Phoenix, Arizona, this 11th day of November, 2018.

MERI COASH, RMR, CRR
Certified Reporter
Arizona CR No. 50327

I CERTIFY that Coash & Coash, Inc., has complied with the ethical obligations set forth in ACJA 7-206 (J)(1)(g)(1) through (6).

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