

# Exhibit 31

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:23-CV-897

IN RE:  
CAMP LEJEUNE WATER LITIGATION  
This Document Relates To:  
ALL CASES.

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Video-recorded deposition of ARI KELMAN, PhD,  
Volume 1, at U.S. Attorney's Office, 501  
I Street, Suite 10-100, Conference Room 10-159,  
Sacramento, California, commencing at 2:11 p.m.  
PST, Tuesday, April 1, 2025, before  
Lorrie L. Marchant, California CSR No. 10523.

Stenographically reported by:  
LORRIE L. MARCHANT, RMR, CRR, CCRR, CRC  
California CSR No. 10523  
Washington CSR No. 3318  
Oregon CSR No. 19-0458  
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Also present:

Steven Cathy, Videographer

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I N D E X

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1 Sacramento, California

2 Tuesday, April 1, 2025; 2:11 p.m. PST

3 THE VIDEOGRAPHER: We are now on the  
4 record. My name is Steven Cathy, and I am a  
5 videographer for Golkow, a Veritext division.

6 Today's date is April 1st, 2025, and the  
7 time is 2:11 p.m.

8 This video deposition is being held at  
9 501 I Street, Suite 10-100 in Sacramento,  
10 California.

11 We are here in the matter of Camp Lejeune  
12 Water Litigation, for the United States District  
13 Court, Eastern District of North Carolina. The  
14 deponent is Ari Kelman, PhD.

15 Will counsel please identify themselves,  
16 starting with the noticing attorney?

17 MR. HUGHES: Sure. This is John Hughes  
18 appearing remotely, virtually. I'm with Wallace &  
19 Graham. I'm with the plaintiffs. I'll be asking  
20 the questions for the plaintiffs.

21 With regard to other folks on the  
22 plaintiffs' side that are on, I'll name the ones I'm  
23 aware of. And then if the court reporter or  
24 videographer, whoever, wants to just call out any  
25 other e-mail addresses they see that might be

1 plaintiffs' side, they can identify themselves.

2 But Jerry Ensminger is probably on by  
3 phone, muted, to listen along.

4 Mike Partain is on, I think, by phone,  
5 muted, to listen along, or will be.

6 And then Zina Bash, plaintiffs' leadership  
7 counsel, she is on as well, plaintiffs' leadership  
8 group.

9 MS. HURT: This is Cindy Hurt for the  
10 United States.

11 MR. GIBBONS: Hanley Gibbons for the United  
12 States.

13 And I believe my colleague Jessica Ans is  
14 also on online, but she can't hear currently.

15 THE VIDEOGRAPHER: All right. Will the --  
16 oh, sorry.

17 Will the court reporter please introduce  
18 herself and now swear in the witness?

19 THE STENOGRAPHER: My name is  
20 Lorrie Marchant. I am a California Certified  
21 Shorthand Reporter. My CSR license number is 10532.

22 I'll go ahead and swear you in.

23 ///

24 ///

25 ///

1                                   ARI KELMAN, PhD,  
2       FIRST DULY SWORN/AFFIRMED, TESTIFIED AS FOLLOWS:

3                                   EXAMINATION BY MR. HUGHES

4                                   BY MR. HUGHES:

5           Q.    Good earlier afternoon, Dr. Kelman. This  
6    is John Hughes. I'm in the later afternoon at  
7    5:00 p.m. in North Carolina.

8                    I want you to know I tried to fly out  
9    there. My flight got canceled, so we're going to  
10   try to do this 21st century style.

11                   Can you hear me okay?

12           A.    I can hear you very well. Thanks very  
13   much.

14           Q.    All right. If you don't understand  
15   something I'm saying, tell me. I'll try to say it a  
16   better way.

17                   If you need to take a break at any time for  
18   any reason, just say it, and you can take a break.

19                   I'd like to start by just going through the  
20   exhibits starting on the first one.

21                   MR. HUGHES: Can somebody pull up the first  
22   exhibit on our list, which is from Dr. Kelman's  
23   book?

24                   (Marked for identification purposes,  
25   Exhibit 1.)

1 THE VIDEOGRAPHER: Sorry. I'm getting some  
2 interferences.

3 Is there a cell phone nearby?

4 MR. HUGHES: What's that?

5 THE VIDEOGRAPHER: I'm getting a little bit  
6 of interference.

7 MS. HURT: Let's go off the record for --

8 THE VIDEOGRAPHER: Okay.

9 MS. HURT: -- a moment.

10 MR. HUGHES: Sure.

11 THE VIDEOGRAPHER: We are going off the  
12 record at 2:15 p.m.

13 (Recess taken from 2:15 to 2:16.)

14 THE VIDEOGRAPHER: We are back on the  
15 record at 2:16 p.m.

16 BY MR. HUGHES:

17 Q. Dr. Kelman, can you see what we've marked  
18 as Exhibit 1 in this matter?

19 A. I can, yes.

20 Q. Okay. Does it appear to be a page from  
21 your book on the Sand Creek massacre?

22 A. Yeah, it appears to be from the footnotes,  
23 yes.

24 Q. Okay. And would it reflect -- would it be  
25 fair to say it shows an example of how you can



1 document a communication with an information sourced  
2 or a witness in a manner that stops short of what  
3 we'll call a full-fledged oral history?

4 MS. HURT: Objection to form.

5 THE WITNESS: Sorry. Do you mind repeating  
6 the question or ...

7 BY MR. HUGHES:

8 Q. Sure.

9 Do you see anywhere it references a note  
10 from a conversation with somebody that you had on  
11 the phone?

12 A. I'm not sure that it was on the phone. I  
13 do see that it's referencing a conversation.

14 Q. Okay. Do you remember anything about that  
15 conversation?

16 A. Nothing at all, to be honest with you.

17 Q. Okay. Can you tell from the note what the  
18 media was of the conversation, i.e., was it a  
19 telephone or Zoom or in person or something  
20 different?

21 MS. HURT: Objection to form.

22 THE WITNESS: No, I can't tell what medium  
23 the conversation would have taken place in. Based  
24 on the timing, it wouldn't have been Zoom. There  
25 was no Zoom.

1 I think this would have had to either have  
2 been -- I suspect that this was on the phone.

3 BY MR. HUGHES:

4 Q. Okay. All right. So would you agree that  
5 a historian, as long as they identify it correctly,  
6 can use communications with other individuals that  
7 stop short of the parameters of an oral history, and  
8 they can still use that information and cite that  
9 information even though it's not recorded and it's  
10 not in a permanent archive?

11 MS. HURT: Objection to form.

12 THE WITNESS: I think I'm understanding  
13 your question.

14 I think it is okay for a historian to use a  
15 variety of different kinds of information that they  
16 collect orally if they cite their source properly.

17 In this case, you'll note that I am clear  
18 that the notes are in the author's possession. So  
19 I'm distinguishing in this case between this  
20 conversation that I had with Glenn Morris and other  
21 oral histories that I conducted which were placed in  
22 archives and I had complete transcripts.

23 BY MR. HUGHES:

24 Q. Understood. Understood.

25 Let's put up the second exhibit, which is

1 your report.

2 Do you have a copy of your February 2025  
3 report with you, or no?

4 A. I don't have one with me, no.

5 (Marked for identification purposes,  
6 Exhibit 2.)

7 BY MR. HUGHES:

8 Q. Okay. Can you see the cover page of it on  
9 the -- on the screen?

10 A. I can, yes.

11 Q. All right. And it's dated February 7th,  
12 2025, at the bottom?

13 A. I don't see the bottom right now.

14 Thanks, whoever is doing that.

15 Q. Do you see that?

16 A. Yes. Now, I see that it's dated  
17 February 7th, 2025.

18 MR. HUGHES: Okay. Can we go to the  
19 first -- page 1? So go another page from there.

20 Yeah, at the top there. Leave it there.

21 BY MR. HUGHES:

22 Q. Okay. So let's go through this together  
23 for a little bit.

24 So at the start of the report, you say that  
25 (as read):

1                   "The United States Department of  
2                   Justice contacted me in January 2025  
3                   about the possibility of reviewing  
4                   Dr. Longley's report of December 7th,  
5                   2024, with limited focus on his  
6                   methodology, unquote."

7                   Do you see that language?

8           A.     I do.   But I believe the court reporter may  
9           have a question.   I apologize.

10           THE STENOGRAPHER:   No, that's fine.   No,  
11           it's fine.

12           THE WITNESS:   Oh, no.   She says it's fine.

13           I -- if it's all right, would it be -- I  
14           don't know who's controlling the exhibits.   Is it  
15           possible to zoom in just to -- to make this a little  
16           bit bigger?

17           That's extremely helpful, whoever was able  
18           to do that.   Thank you.

19           Yes, I saw that sentence.

20           BY MR. HUGHES:

21           Q.     Okay.   So walk me through it.

22                   Did the U.S. DOJ contact you in  
23           January 2025?

24           A.     Yes.

25           Q.     Who contacted who, if you remember?

1 A. I believe that Mr. Gibbons contacted me.

2 Q. Okay. Had you worked with him before?

3 A. No, I had never worked with him.

4 Q. Okay. Your CV indicated you had done some  
5 expert witness work before with the DOJ; correct?

6 A. Yes. That's correct.

7 Q. Okay. And let me just bring up a few of  
8 the cases and just learn a little bit about them.

9 The first one listed, and we don't have to  
10 go to the page, but it's Frank Labruzzo and others  
11 versus United States Court of Federal Claims,  
12 Orpheum Street, Inc.

13 Do you remember anything about that case?

14 A. Yes.

15 Q. What was it about, if you remember?

16 A. Flooding in and around the city of  
17 New Orleans.

18 Q. Okay. And you've written on New Orleans  
19 before in your academic career; yes?

20 A. Yes, I have.

21 Q. Okay. And so what was the gist, if you can  
22 remember, of what your -- you know, what your  
23 retention role was in that case and what you said?

24 A. I was hired by the Department of Justice to  
25 offer expert testimony about flooding in and around

1 the city of New Orleans. And I believe that the  
2 case was -- I believe that the plaintiffs dropped  
3 their claim.

4 Q. Okay. Do you -- did the case go on long  
5 enough that you -- your work matured at some sort of  
6 opinion or do you remember?

7 MS. HURT: Objection to form.

8 THE WITNESS: In that instance, I don't  
9 believe that I wrote an expert report.

10 BY MR. HUGHES:

11 Q. Okay. Fair enough.

12 Do you remember in that case whether you  
13 looked at any documents?

14 A. I did.

15 Q. Okay. And in that case, did you interview  
16 any witnesses or take any oral histories?

17 A. I did not.

18 Q. Okay. The second case we have  
19 Mississippi -- State of Mississippi versus  
20 United States Court of Federal Claims.

21 Do you remember anything about that one?

22 A. I do, yes.

23 Q. Tell me what that one was about, if you  
24 can.

25 A. Again, that was about flooding on the

1 Mississippi River system and takings.

2 Q. Okay.

3 A. Sorry.

4 (Stenographer interrupted for clarification  
5 of the record.)

6 BY MR. HUGHES:

7 Q. Okay. And you're not a lawyer, but I take  
8 it, terrible pun, that you have a basic sense of  
9 what a "taking" is; yes?

10 MS. HURT: Objection to form and  
11 foundation.

12 THE WITNESS: I have a layperson's  
13 understanding of what a taking is.

14 BY MR. HUGHES:

15 Q. Okay. And then a primitive understanding,  
16 you know, the idea of -- that the government finds  
17 it necessary to take someone's land; and, therefore,  
18 there can be litigation about what the land is worth  
19 and can they really do it and so forth.

20 Does that sound consistent with your sort  
21 of lay view of what takings law is?

22 MS. HURT: Objection to form and  
23 foundation.

24 THE WITNESS: Broadly speaking, yes. But I  
25 think a takings case can move beyond just property.

1 But, again, I only have a layperson's understanding.  
2 I apologize.

3 BY MR. HUGHES:

4 Q. No, no, no. That's interesting, the idea  
5 of takings beyond certain property tax.

6 A. Sorry, you -- you said -- I apologize. May  
7 I clarify?

8 I think you said "land." You said takings  
9 of land. And what I was trying to say is that it  
10 could include other kinds of property.

11 Q. Right. Right. And I'm -- yeah. I'm just  
12 commenting back that's interesting to me, the  
13 concept it could be on physical land. That may be  
14 true. I'm not very good at property law.

15 But in this case, do you know if you did a  
16 written report, the Mississippi case?

17 A. Yes, I did.

18 Q. Okay. And did you interview anybody or  
19 take any oral histories in connection with your  
20 retention as an expert for that case?

21 MS. HURT: Objection to form.

22 THE WITNESS: No, I did not.

23 BY MR. HUGHES:

24 Q. Did you review historical documents in  
25 connection with your work in that case?



1 A. Yes, I did.

2 Q. Okay. The next one, Big Oak Farms versus  
3 United States, do you remember anything about that  
4 case?

5 A. Yes, I do.

6 Q. What can you tell me?

7 A. Again, that was a case about flooding on  
8 the Mississippi River System.

9 Q. Okay. And did you get as far as a report  
10 in that one, if you recall?

11 A. I did, yes.

12 Q. And can you tell me, you know, the basic  
13 gist of the report, if that's possible?

14 A. It was a report about flooding on and  
15 around the Mississippi River System over a period of  
16 approximately 150 years.

17 Q. Okay. All right. And then in that case,  
18 would you have reviewed historical printed  
19 documents?

20 A. Yes.

21 Q. Okay. In that case, for purposes of that  
22 report, did you interview any living individuals or  
23 witnesses or conduct any oral history interviews?

24 MS. HURT: Objection to form.

25 THE WITNESS: No, I did not.

1 BY MR. HUGHES:

2 Q. Okay. The last case, Ideker, spelled  
3 I-D-E-K-E-R, Farms, that one I found a copy of an  
4 order in that case.

5 Can you tell me what that case was about,  
6 if you can recall?

7 A. Again, the case was about flooding on the  
8 Mississippi River System.

9 Q. Were all these the Mississippi River  
10 System, these last three, or were any of them the  
11 Missouri River?

12 A. The Mississippi River System includes the  
13 Missouri River. The Missouri flows into the  
14 Mississippi River.

15 Q. Fair enough.

16 And in the Ideker case, did you produce a  
17 written report?

18 A. I did.

19 Q. Okay. And you reviewed historical  
20 documents?

21 A. I did, yes.

22 Q. Okay. You did not interview any  
23 eyewitnesses or plaintiffs, living individuals, for  
24 purposes of your report; correct?

25 MS. HURT: Objection to form.

1 THE WITNESS: I don't think I did, no.

2 BY MR. HUGHES:

3 Q. Okay. Do you remember if -- for the Ideker  
4 case -- if you were able to look at any depositions  
5 or testimony, written transcripts of testimony, of  
6 the claimants, or the plaintiffs, in the case before  
7 you did your report?

8 MS. HURT: Objection to form.

9 THE WITNESS: I was.

10 BY MR. HUGHES:

11 Q. Okay. Did you address the depositions in  
12 your report? Do you remember?

13 A. Can you -- when you say "address," I'm --  
14 can you clarify what you mean? I'm sorry.

15 Q. Yeah. If I was to pull the report -- which  
16 I may have done. I just -- I don't recall it right  
17 now -- would I find citations or reliance list  
18 entries to deposition testimony or to trial  
19 transcripts of testimony?

20 A. Yes, you would.

21 Q. Okay. Thanks.

22 In this case, to go back to page 2 of your  
23 report, which is in front of you -- or I think  
24 that's page 1 of your report -- you reference the  
25 contact involves reviewing Dr. Longley's report of

1 December 7th, 2024; correct?

2 A. Yes. That's right.

3 Q. Okay. And in your words, "with the limited  
4 focus on his methodology"; correct?

5 A. Yes.

6 Q. Okay. Since the date of that report --  
7 well, let me strike that.

8 At any time have you been able to review  
9 Dr. Longley's next report that was from  
10 January 13th, 2025?

11 A. I -- I'd need to see it. I have looked at  
12 other reports of Dr. Longley's, but I don't -- I  
13 don't know the dates offhand. I apologize for that.

14 Q. Okay. That's fair.

15 But the December 7th, 2024 report is not  
16 the only one from Dr. Longley that you've looked at  
17 for this case?

18 A. That's correct.

19 Q. Okay. So I'll represent, and I'll get to  
20 them as exhibits, but Dr. Longley did a second  
21 report dated January 13th, 2025, and then he did a  
22 third report dated February -- I'm sorry,  
23 March 17th, 2025. And those reports, among other  
24 things, tried to directly address some of the  
25 criticisms that were raised by you and Dr. Brigham.

1           Do you have any critiques of Dr. Longley's  
2       second or third reports?

3           A.    I don't have them in front of me right now.  
4       So I -- I think I know which was the second and  
5       which was the third, but I -- I'm not positive.  
6       I'm -- again, I'm sorry about that.

7           Q.    No. That's fine. That's perfectly fine.  
8       We'll get to them and go through them.

9           Okay. But as of this written report that  
10      you signed on February 7th, 2025, the only report  
11      you talk about from Dr. Longley is the one from  
12      December 7th, 2024; right?

13           MS. HURT: Objection to form.

14           THE WITNESS: Yes.

15           MS. HURT: Hey, John, can we show the  
16      witness the actual -- the reports that you're  
17      talking about?

18           I think that would be clearer for everyone.

19           MR. HUGHES: Yeah, let's introduce them and  
20      show them to him; okay? That's a good idea.

21           Okay. So let's go -- hang on.

22           Okay. So Exhibit 2 was Dr. Kelman's  
23      report, which is February 7th, 2025.

24           If we can -- first, let's show Dr. Kelman  
25      the report from Dr. Brigham dated December 9th,

1 2024. That's Exhibit No. 3. If you can pull that  
2 one up first.

3 (Marked for identification purposes,  
4 Exhibit 3.)

5 MR. HUGHES: And can you go through the  
6 first pages of it so that Dr. Kelman can see it?

7 BY MR. HUGHES:

8 Q. And my question, Dr. Kelman, is simply, do  
9 you recall looking at this report from Dr. Brigham?

10 A. I do, yes.

11 Q. Okay. Okay. Then let's also pull up  
12 Exhibit 4.

13 (Marked for identification purposes,  
14 Exhibit 4.)

15 MR. HUGHES: That's going to be  
16 Dr. Brigham's report. That's the report for the  
17 DOJ, like you, and it's dated February 7th, 2025.  
18 And my -- and skim -- if you can show him the first  
19 page.

20 BY MR. HUGHES:

21 Q. My question is the same.

22 Have you seen that report before? If you  
23 know.

24 THE WITNESS: Sorry, can we scroll back up?  
25 Is it -- is this Dr. Brigham's report that I'm

1 looking at?

2 I -- if I could see the cover page really  
3 quickly.

4 BY MR. HUGHES:

5 Q. Brigham.

6 A. Okay.

7 Q. Yeah.

8 A. Yeah. Thank you.

9 Sorry. Could you restate the question?

10 Q. Sure.

11 So were you aware that Dr. Brigham did two  
12 reports?

13 A. Yes.

14 Q. Okay. Have you seen both of his reports  
15 before?

16 A. Yes.

17 Q. Okay. And I'll represent to you the one  
18 you're looking at now is Dr. Brigham's second  
19 report, which is dated February 7th, 2025.

20 And, obviously, when I say "reports," I  
21 just mean reports for this particular case.

22 MR. HUGHES: Can we pull up Exhibit No. 5?  
23 (Marked for identification purposes,  
24 Exhibit 5.)

25 ///

1 BY MR. HUGHES:

2 Q. This next one, Dr. Kelman, is -- this is  
3 the plaintiffs' historian expert, Dr. Longley. This  
4 is his first report from December 7th, 2024. You  
5 reference that one in your report.

6 So fair to say you've seen this before;  
7 yes?

8 A. Yes.

9 Q. Okay. And I'll just note, at the end of  
10 it, I pasted on the reliance list. In real life,  
11 the reliance list, I think, for his report was  
12 served a week later. But I added the reliance list  
13 on to you.

14 Okay. Let me now show you Exhibit 6.  
15 (Marked for identification purposes,  
16 Exhibit 6.)

17 BY MR. HUGHES:

18 Q. I'm going to give the poor helpers here a  
19 workout.

20 Exhibit 6 is Dr. Longley's report from  
21 January 13th, 2025.

22 If you look at the first pages of that, do  
23 you know if you've seen that one before?

24 A. Yes.

25 Q. Okay.



1 (Marked for identification purposes,  
2 Exhibit 7.)

3 BY MR. HUGHES:

4 Q. And then Exhibit 7 is Dr. Longley's report  
5 from March 17th, 2025.

6 If you go in on that one a few pages, does  
7 it start to get to some images?

8 Let's see. There's a fair amount of text  
9 at the beginning.

10 There's some images.

11 Do you remember seeing this one before?

12 A. I do.

13 Q. Okay. Okay. All right. Sitting here  
14 today -- let's go back to your report, which is  
15 Exhibit No. 2 and going back to the first page of  
16 it.

17 Okay. All right. If you look at the --  
18 halfway down the screen, numbered paragraph 1, you  
19 talk about "oral histories, interviews, depositions,  
20 other information conveyed verbally."

21 Do you see that?

22 A. I do.

23 Q. Okay. And one thing you say a couple of  
24 lines later is that (as read):

25 "Oral histories must meet a higher

1           methodological standard than interviews  
2           or depositions."

3           Do you see that language?

4           A.    I do see that.

5           Q.    Okay. And as I read your report, tell me  
6           if I got it right or not.

7                   What I understand is that an oral history,  
8           among other things, it's supposed to be put in a  
9           permanent archive; right?

10           MS. HURT: Objection to form.

11           THE WITNESS: Yes, that's correct.

12           BY MR. HUGHES:

13           Q.    Okay. Tell me some of the other things  
14           about oral histories as a category that would make  
15           them distinct from what we've categorized as  
16           interviews, for example.

17           A.    When conducting an interview, a historian  
18           might not archive the material because it doesn't  
19           rise to that higher standard that I mention in this  
20           paragraph.

21                   If you think back to the citation to the  
22           endnote from my book, I tried to make it clear to  
23           the reader that the notes for that were in my  
24           possession. I think I said "in the author's  
25           possession." By that I meant that they were in my

1 possession.

2 And what I was signaling to the author is  
3 that I hadn't met the same standard that -- sorry.  
4 What I was trying the signal to the reader, excuse  
5 me, was that I hadn't met the same standard that I  
6 had met elsewhere when I was relying upon oral  
7 histories. I hadn't met that same methodological  
8 standard.

9 The point in doing that is to be as  
10 transparent as possible with the reader of the work  
11 so that they're aware of exactly how the sources  
12 have been collected and how they've been treated.

13 Q. Okay. What would be a way that you would  
14 distinguish the category of oral history from the  
15 category of a deposition?

16 A. I think I discuss this -- sorry, I do not  
17 think. I discuss this in my report. And what I say  
18 in the report is that historians and lawyers are  
19 both seeking information, but the way in which  
20 they're seeking information is quite different.

21 Historians, based on what I would describe  
22 as professional standards among people who do this  
23 kind of work, should try and put their subject at  
24 ease. They should try and conduct the oral history  
25 in such a way -- and now I'm quoting an oral

1     historian named Michael Frisch. They should be  
2     sharing authority.

3             When a deposition, for example, the one  
4     that we're doing right now, is conducted generally  
5     speaking the power dynamic is very different.

6             Q.    Yes, sir. That's true.

7             A.    Yeah.

8             Q.    Yes, sir. Go on. Keep going. Yeah.

9             A.    And while you may be trying to convey to me  
10    an impression that you're friendly, and you  
11    certainly do seem quite friendly, the goal here is  
12    to try and get information from me that I might not  
13    want to share with you. And so we are not on  
14    anything like a -- an even or a level playing field,  
15    even leaving aside that we're doing this via Zoom  
16    and whatnot.

17            Q.    So procedurally, the format in which I get  
18    to ask the questions and you only get to answer  
19    would seem to be a power -- a structural power  
20    imbalance or distortion right at the start; right?

21            MS. HURT: Objection to form.

22            THE WITNESS: Yeah. The -- the power  
23    dynamic between us is not equal. You hold more  
24    power than I do.

25    ///

1 BY MR. HUGHES:

2 Q. Maybe.

3 But as to the goal, why are you not sure  
4 that the goal of this deposition is not, in fact, to  
5 get at the truth?

6 A. I -- can you point to me where I said that  
7 in my report? I don't believe I did.

8 Q. No, it's not in your report. But just in  
9 talking about the idea of a deposition, one thing  
10 you said that I wanted to test a little bit was  
11 something like I would want to get you to say things  
12 that would -- I mean, one interpretation of  
13 deposition procedure that I represent the  
14 plaintiffs, I want to get things that help the  
15 plaintiffs. Your client, the DOD, may not want to  
16 disclose them.

17 And so it's adversarial and extractive in  
18 that sense; right?

19 That's one way of looking at it.

20 MS. HURT: Objection.

21 BY MR. HUGHES:

22 Q. Another way of looking at it would be that  
23 I'm an officer of the Court. I want to get at the  
24 truth. You're under oath. You're a historian. You  
25 want to get at the truth. And my best way, perhaps

1 paradoxically, to represent my client zealously is  
2 not, in fact, to try to extract hidden things from  
3 you but to get at the truth.

4 Does that make any sense?

5 MS. HURT: Objection to form.

6 I'm not sure there was a question there.

7 MR. HUGHES: The question was at the end.  
8 "Does that make any sense?"

9 BY MR. HUGHES:

10 Q. Does it, Dr. Kelman, or not?

11 A. It does. I'm going to -- I'm going to ask  
12 you for a moment, if you'll bear with me. I'm  
13 trying to try and see if I can construct an analogy  
14 that will be helpful.

15 Q. Yes, sir.

16 A. When you are conducting a deposition with  
17 me, we do not have an equal power dynamic. You  
18 are -- I'm going to use your language. It's an  
19 extractive process.

20 When a historian is conducting an oral  
21 history, again, Michael Frisch would suggest that  
22 they -- that the historians should share authority.  
23 It should be an equal -- or at least there should be  
24 a sense of an equal dynamic between the two.

25 What I would go on to say is that where

1 things become disputatious for a historian or where  
2 they become argumentative, if you prefer, is not at  
3 the point of the collection of the oral history, but  
4 at the point of the analysis of the oral history  
5 first by the person conducting the oral history.

6 So the -- the interrogatory element of the  
7 process happens after the fact; and then, beyond  
8 that, there's an additional disputatious component  
9 of the process, and that's between historians.

10 So when -- I'm going to point back to the  
11 footnote that -- of mine that you -- excuse me.  
12 It's an endnote.

13 I'm going to point back to the endnote of  
14 mine that you presented as an exhibit earlier --

15 Q. Yeah.

16 A. -- where I made it clear that that was an  
17 interview and that the notes were in my possession.

18 What I was doing with that kind of a  
19 citation style is trying to make it clear to other  
20 historians that they weren't going to have an  
21 opportunity to look at the material that I had  
22 collected. And in doing that, signaling that there  
23 is -- I don't know how to put this all that well,  
24 but there's effectively a hierarchy of source  
25 material that I'm using and, therefore, a kind of a

1 hierarchy of skepticism that they might want to  
2 apply to my work.

3 And that if the notes are in my possession  
4 rather than being in a repository, in an archive,  
5 they're likely to be more skeptical, because I think  
6 I -- I suggest in my report historians aren't a  
7 particularly trusting bunch. We don't -- we don't  
8 just allow other historians to make claims. We want  
9 to be able to test one another's claims. And the  
10 way that we do that is by looking at the materials  
11 that we've used when we -- when we arrive at  
12 conclusions.

13 Q. Okay. On that last point, have you had any  
14 instances where, as a historian, you had a citation  
15 in a draft paper, say, and a peer of yours or a  
16 reviewer corrected you and said, "That citation is  
17 wrong," and you then iterably -- irritably made that  
18 correction? Has that ever happened to you?

19 MS. HURT: Objection to form.

20 THE WITNESS: Do you mind if I -- if I --  
21 if I do my best to say what I think you're asking?

22 Is -- are you asking --

23 BY MR. HUGHES:

24 Q. Yes, please.

25 A. Okay. Are you asking, have I ever in the



1 course of my work shared a draft of something with a  
2 colleague who has said to me, "You've misused that  
3 source or you -- or you've got something wrong with  
4 your sourcing"?

5 Q. Okay. Sure.

6 A. I don't believe that's happened to me.  
7 I -- I have had people say to me -- I've had people  
8 argue with me about how I interpret sources.  
9 That -- that's the nature of historiography. We,  
10 historians, disagree with one another quite  
11 frequently over matters of interpretation, which is  
12 why we have a particular -- it's called "scholarly  
13 back matter." Right?

14 It's why we have citation practices that  
15 are widely shared. It's -- it's the methodological  
16 underpinning of the profession.

17 Q. I understand. What I mean is something  
18 more basic.

19 A. Oh, okay.

20 Q. So in my world, I will draft a brief. I  
21 will cite to a particular page. I will spell a case  
22 name. Sometimes I will get a comment back from  
23 somebody that reads it saying, "You got the case  
24 name wrong, or it was actually -- the page wasn't  
25 83. It was 84." And then I will correct it.

1           My assumption was that that happens in your  
2 world too, and that's why the question was phrased  
3 in terms of drafts.

4           A.    I see.

5           Q.    And my point being, would you agree, that  
6 in the process of -- I'm not saying in your final  
7 product that's gone through editors and gone out to  
8 the world as a published book or something that  
9 there is -- that someone calls you and says, "Hey,  
10 you've got the wrong citation, or you've got the  
11 wrong page or the wrong name." But at least in the  
12 stage of drafts and working papers, surely that's  
13 happened to you before. That's my question.

14                Has it?

15           MS. HURT:  Objection to form.

16           THE WITNESS:  I have had people tell me  
17 that I've not -- yes, I've had people tell me that  
18 I've miscited something in draft form, yes.

19           BY MR. HUGHES:

20           Q.    Okay. And would you agree that, all else  
21 being equal, we can enhance the accuracy of our  
22 citation practices as a historian if we have more  
23 time and more resources to garner the cites and  
24 check the cites? Would you agree with that?

25           MS. HURT:  Objection to form.

1           THE WITNESS: I don't -- I apologize.  
2       I'm -- I'm not sure that time and resources are  
3       necessarily the -- are the operatives that really  
4       matter, are the variables that matter. I -- it just  
5       depends.

6           BY MR. HUGHES:

7       Q.     Okay.

8       A.     Sorry.

9       Q.     No, no.

10           Then what are the variables? To reduce --  
11       let me tell you what I'm getting at.

12           Were you aware that Dr. Brigham and his  
13       firm were paid over \$800,000 for their reports to  
14       date in the Lejeune case? Were you aware of that  
15       before I just told it to you?

16       A.     I was not.

17       Q.     Okay. And were you aware before I just now  
18       tell it to you that Dr. Brigham had a staff,  
19       including PhDs, of over 12 people, assisting him,  
20       going through archives, checking citations, making  
21       sure it was all correct before he sent out his  
22       report? Were you aware of that?

23       A.     Not the specifics, no.

24       Q.     Okay. Would you agree with me that  
25       somebody with over 12 assistants and a budget of

1 almost a million dollars might have a better shot at  
2 getting all of his cites accurate on the first round  
3 than somebody working alone under a vastly lower  
4 budget?

5 MS. HURT: Objection to form.

6 THE WITNESS: I wouldn't agree with that  
7 necessarily, no. I guess I -- this was what I was  
8 getting at earlier --

9 BY MR. HUGHES:

10 Q. Okay.

11 A. -- is that --

12 Q. Okay.

13 A. -- I often have worked without any staff  
14 whatsoever and with very, very little money or  
15 resources at my disposal. And I'd like to believe  
16 that I've done good work, at least at the point at  
17 which it's been published.

18 I'll -- I'll expand a little bit and say,  
19 again, I have been told about drafts, that I have  
20 gotten things wrong. And that's why I share drafts  
21 with some of my best colleagues, because they catch  
22 errors that I make. That is part of the -- what I  
23 think of as the historian's craft.

24 Q. Okay. Are you aware that according to  
25 Dr. Brigham, Dr. Longley's first report had some

1 errors in it? Are you aware of that?

2 A. Yes.

3 Q. Okay. And one error was the use of a photo  
4 of President Nixon as someone that went to Lejeune  
5 when, in fact, according to Dr. Brigham, Nixon never  
6 went to Lejeune.

7 Were you aware of that?

8 A. Yes.

9 Q. Okay. And then are you aware that in a  
10 subsequent report, Dr. Longley acknowledged the  
11 mistake and endeavored to correct it by  
12 acknowledging it and then putting in photos of  
13 President Kennedy at Lejeune and President Reagan at  
14 Lejeune to support his hypothesis that presidents  
15 and luminaries periodically visited Lejeune and  
16 would have drawn crowds? Were you aware of that?

17 MS. HURT: Objection to form.

18 THE WITNESS: I was aware of that, that  
19 in -- and, again, if you'll forgive me, I'm going  
20 to -- I'm going to draw another analogy. But if  
21 what you're suggesting is that Dr. Longley's  
22 report -- and I -- I regret that I don't have the  
23 date in front of me, but his first report was a  
24 draft and that he effectively relied on Jay Brigham  
25 the way that I've relied on other colleagues to

1 provide him with feedback, that seems like a  
2 different process to me.

3 Because when I reach out to colleagues --  
4 and, again, this is based on what you were saying  
5 earlier -- I would agree with you, I do so with  
6 drafts before I get to the point of publication or  
7 the point of having a final product that I expect to  
8 be read and understood by other historians or any  
9 reader as being polished enough that it's ready for  
10 the sort of broad critique and engagement that I  
11 would imagine and would hope would meet some of my  
12 written work.

13 BY MR. HUGHES:

14 Q. Okay. Do you believe that publication of a  
15 book is the same thing as providing -- serving an  
16 expert report in a case?

17 A. No. Publishing a book is publishing a  
18 book, and writing an expert report is writing an  
19 expert report. What I -- what I would say, though,  
20 is that, at least in my own work, they're governed  
21 by the same professional standards.

22 And I would -- I think I would go on to  
23 add -- well, I'm going to leave it there. They are  
24 governed by the same professional standards as far  
25 as I'm concerned.

1 Q. Okay. Have you ever worked with  
2 Jay Bringham or his firm before?

3 A. I have, yes.

4 Q. Tell me about that. When did you work with  
5 him before?

6 A. On each of the cases for which I've been  
7 employed as an expert witness by the Department of  
8 Justice, I've been -- I'm -- I may be misusing a  
9 term of art here, so forgive me, but I've  
10 effectively been a subcontractor to Morgan, Angel,  
11 Bringham.

12 Q. Okay. What is the amount, roughly, that  
13 you've billed and been paid in this case to date for  
14 your work, if you know?

15 A. I bill \$350 an hour. And I believe that I  
16 have been paid after taxes to date approximately  
17 \$7500, \$7,500.

18 Q. Okay. Did you do the work on your report  
19 alone in terms of having other, like, you know,  
20 staff or graduate students or paid assistants  
21 involved?

22 A. I had access to a colleague at Morgan,  
23 Angel, Bringham, but I did the work on my own.

24 Well, I -- I need you to define your terms,  
25 actually. I don't know what you mean by "did the

1 work."

2 I -- I did the -- I did the research and  
3 writing on my own.

4 Q. Okay. All right. Did you -- did you know  
5 who Dr. Kyle Longley was before this case?

6 A. I believe that -- yes.

7 Q. Okay. And who is Dr. Kyle Longley, as best  
8 as you know?

9 A. So in my experience, Dr. Longley is a  
10 Facebook friend. There's a large community of  
11 historians who are on Facebook. That gives you some  
12 sense of just how old and past it we all are. And I  
13 knew that -- I believe that Dr. Longley was the  
14 director of the Lyndon Johnson Library at one point.  
15 And I also knew him as a diplomatic historian.

16 Q. Okay. All right. In your report on  
17 page 1, one thing you say is that if you receive  
18 additional evidence or information, you may -- your  
19 opinions may be subject to change.

20 Have you received any information regarding  
21 Dr. Longley since you received his December 2024  
22 report that would lead you to change or add to any  
23 of your opinions?

24 MS. HURT: Objection to form.

25 THE WITNESS: I -- I wouldn't change the



1 substance of my opinions. I would say that  
2 Dr. Longley's response to my report -- I believe it  
3 was -- it was a response to my report and  
4 Dr. Brigham's report -- left me with more questions  
5 than answers, particularly given that I believe that  
6 after having written his report, he then conducted  
7 an oral history. And it was conducted with two  
8 individuals, and he shared that as well.

9 And, again, in sum, I left all of those  
10 additional materials with more questions rather than  
11 answers. I was surprised that he conducted that  
12 oral history after the fact. I -- I'm not -- in  
13 this moment, I can't recall another example of a  
14 historian having engaged in that kind of a practice  
15 where they choose to conduct an oral history after  
16 they've already generated work product. It -- it  
17 left me with a sense that I wasn't confident about  
18 the methodology that he was employing in that  
19 regard.

20 And then in his response to my report, I  
21 was -- there are some instances in which I thought  
22 he had, either willfully or not, misread my report,  
23 though I -- I don't recall those specifics at the  
24 moment.

25 ///

1 BY MR. HUGHES:

2 Q. Okay. In his first report, Dr. Longley  
3 cited -- in his reliance list, he cited oral history  
4 from retired Master Sergeant Jerry Ensminger.

5 Dr. Longley, however, then did a second  
6 report from January 2025, and that had additional  
7 information.

8 Are you familiar with the fact that --  
9 (inaudible)

10 (Stenographer interrupted for clarification  
11 of the record.)

12 BY MR. HUGHES:

13 Q. -- that in lawsuits, in litigation, an  
14 expert may do more than one report?

15 A. I was not aware of that until this case.

16 Q. Okay. So you -- have you ever done a  
17 rebuttal report in a case after you did a first  
18 report, or no?

19 MS. HURT: Objection to form.

20 THE WITNESS: I have not.

21 BY MR. HUGHES:

22 Q. Okay. Have you ever done a supplemental  
23 report after a first written report in a case?

24 A. I have not.

25 Q. Okay. And have you ever done a corrected

1 report after you did a first report in a case?

2 A. I have not.

3 Q. Okay. I think you've done at least one  
4 errata sheet -- well, I don't know.

5 Have you ever done an errata sheet after  
6 issuing a report in a case?

7 MS. HURT: Objection to form and  
8 foundation.

9 THE WITNESS: I don't recall having done  
10 one, but it is possible.

11 BY MR. HUGHES:

12 Q. Okay. Would it surprise you to know that  
13 experts from time to time in lawsuits have done  
14 supplemental reports after their first report?

15 A. Not after my involvement in this case, no.

16 Q. Okay. In this case are you aware that  
17 there are three phases of discovery for what's  
18 called the "Track 1 Plaintiffs"?

19 Are you aware of that or not?

20 A. No.

21 Q. Okay. In this case, to -- just to make  
22 clear, were you aware that of a total group of  
23 hundreds of filed plaintiffs, 25 have been selected  
24 as what's called the Track 1 Plaintiffs, and the  
25 reports that Dr. Longley has done to date are only

1 for the Track 1 Plaintiffs?

2 Were you aware of that before now?

3 MS. HURT: Objection to form and  
4 foundation.

5 THE WITNESS: I don't know that -- I was  
6 not aware of the specifics until you just stated  
7 them.

8 BY MR. HUGHES:

9 Q. Okay. And were -- are you aware that after  
10 the Track 1 Plaintiffs, as the case proceeds, that  
11 unless there's a resolution, there would then  
12 presumptively be discovery of what's called the  
13 Track 2 Plaintiffs?

14 Were you aware of that fact?

15 MS. HURT: Objection to form and  
16 foundation.

17 THE WITNESS: I was not aware of that.

18 BY MR. HUGHES:

19 Q. Okay. Do you know which reports from you  
20 or from Dr. Brigham were filed in what's called  
21 Phase I discovery and Track 1 versus Phase II  
22 discovery and Track 1? Do you know either way?

23 A. I don't know about my report or about  
24 Dr. Brigham's report.

25 Q. Okay. Would you agree that there's an

1 aspect to healthy historical methodology, a  
2 historian's methodology that is accretive; it  
3 gathers up, it accumulates over time, like layers?

4 MS. HURT: Objection to form.

5 THE WITNESS: I believe that I wrote in --  
6 it wasn't my last book, but it was the book prior to  
7 that, the title of which is A Misplaced Massacre,  
8 something like that to describe the historian's  
9 methodology, particularly what's known as the  
10 historiography, which is the conversation that  
11 happens between historians over time, sometimes  
12 across generations, that it is similar to the  
13 process of accretion, that we gather lots of  
14 information and -- or I think what I might have said  
15 is that we excavate layers of information and  
16 eventually that it does accrete into something like  
17 historical knowledge.

18 BY MR. HUGHES:

19 Q. Okay. I'm going to show you Dr. Longley's  
20 reports in a second, but do you recall that  
21 Dr. Longley's first report overwhelmingly cited to  
22 historical documents versus citing to interviews or  
23 purported oral histories?

24 MS. HURT: Objection to form.

25 THE WITNESS: Am I -- I'm sorry. I'm going

1 to restate the question just to make sure I've got  
2 it, I -- if that's okay.

3 Am I aware --

4 BY MR. HUGHES:

5 Q. Yes.

6 A. -- that Dr. Longley's first report was  
7 largely rooted in written documents rather than in  
8 oral histories? Is that the question?

9 BY MR. HUGHES:

10 Q. Yes, sir.

11 A. I don't know that I did -- and that was  
12 poorly phrased on my part.

13 I did not do an analysis of  
14 Dr. Longley's -- I didn't do a statistical analysis  
15 of -- of the sorts of sources that Dr. Longley used  
16 so that I would be able to say to you with any kind  
17 of accuracy how many of them were written versus  
18 oral histories. I was aware that he used both.

19 Q. Okay. So when I -- and just to follow up  
20 on that, when I looked at Dr. Longley's reliance  
21 list for his first report, I found that over  
22 90 percent of the reliance list items were written  
23 documents and not oral histories or interviews.

24 Does that sound consistent with your  
25 recollection of what Dr. Longley was citing to in

1 his first report?

2 MS. HURT: Objection to form.

3 THE WITNESS: So when I was doing my work,  
4 again, I wasn't so much concerned with the relative  
5 number of written versus oral sources. And so I  
6 don't know whether that's consistent with my  
7 perception or assumption. I was more focused on the  
8 methodology that he was using with regard to oral  
9 histories and also written sources.

10 BY MR. HUGHES:

11 Q. Okay. And then in Longley's second report,  
12 he had a reliance list item of "oral history notes  
13 and e-mail reflecting discussions with Ensminger"  
14 and then a citation to "oral history notes with  
15 Partain."

16 In that situation, there were also  
17 documents produced that summarized those  
18 discussions.

19 And so are you aware, do you agree, that  
20 between the first report and the second report  
21 Dr. Longley added to his citations; in other words,  
22 now he did new interviews where instead of just  
23 saying "I did an interview," he also provided a  
24 written summary of the interview?

25 Does that sound correct to your

1 recollection?

2 MS. HURT: Objection to form.

3 THE WITNESS: Sorry. We're having some --  
4 we're having some issues with the lights here.  
5 We've just solved that issue.

6 So you -- I may have -- you might have had  
7 a hard time seeing me there for a moment, which  
8 probably improved things on your end.

9 BY MR. HUGHES:

10 Q. Not at all.

11 A. So may I ask, so --

12 Q. Yeah.

13 A. -- you were referencing, just a moment ago,  
14 differences between the first and second of  
15 Dr. Longley's reports, and you were asking if I was  
16 aware that he had either conducted some additional  
17 oral histories or that he had taken additional notes  
18 between those two; is that correct?

19 Q. Right.

20 A. I'm afraid I don't recall the specifics,  
21 but I -- but I believe that's right.

22 Q. Okay. So -- thank you.

23 And I'll show you the reports in a second,  
24 and we'll take a break in a second.

25 But here's the timeline I'm going to try to



1 show you, that Dr. Longley did his first report. It  
2 was December 7th, 2024. It cited to oral history  
3 from Sergeant Ensminger, retired Sergeant Ensminger.  
4 It didn't have any documents.

5 You and Dr. Brigham critiqued it.

6 Dr. Longley then did a second report  
7 January 13th, 2025, in which he now had a written  
8 document, a summary dated January 7th, 2025, of a  
9 new discussion with Mr. Ensminger that now had a  
10 summary and a discussion with Mr. Partain that now  
11 had a summary.

12 Then in his third report, Dr. Longley went  
13 further and actually did an audiovisual recording of  
14 the interview, an interview with Ensminger and  
15 Partain, which was then produced. The date of that  
16 interview was March 10th, 2025.

17 And so what I'm getting at is, can you see  
18 how that itself reflects a methodology of a  
19 historian --

20 MS. HURT: Objection --

21 BY MR. HUGHES:

22 Q. -- that they did their first thing, they  
23 got critiqued, they did additional work, and now  
24 they've done even additional work?

25 Do you -- do you see my point there, or is

1     that something that doesn't make sense to you?

2             MS. HURT:  Objection to form.

3             THE WITNESS:  I understand your point, but  
4     I would disagree with it.

5             Again, the -- when historians circulate  
6     drafts to one another, they're drafts.  They're not  
7     reports that are going to be entered into evidence  
8     or they're articles or books that are going to be  
9     published.  The goal at that point is to solicit  
10    critiques from trusted or sometimes not particularly  
11    trusted colleagues so that the work can be improved.

12            And when I say "not particularly trusted  
13    colleagues," I want to be clear.  I'm not being  
14    flippant or glib there.  I have colleagues who will  
15    share work with people with whom they strongly  
16    disagree over major interpretive issues because they  
17    want the feedback from those colleagues so that  
18    either they can improve their work or so that  
19    they'll at least understand the critiques that are  
20    likely to appear once the work appears in print.

21            What -- what you seem to be describing  
22    would be a process where I would publish something.  
23    Someone would critique it.  I would then publish  
24    something very similar to that original work, but  
25    augmented by the critiques, perhaps the same person

1 would critique it again more substantively or along  
2 similar lines. And then I would publish a third  
3 thing.

4 I'm not familiar with scholars who have  
5 used that kind of process or method. It's not to  
6 say that it's never happened. I just don't -- I  
7 just don't know of any who have done that, and I  
8 would -- I -- I wouldn't -- it doesn't -- it doesn't  
9 seem to meet the standards of the profession.

10 We're supposed to make sure that we feel  
11 comfortable with the work that we're putting out  
12 into the world that we publish and that --  
13 understanding that it is very likely to be critiqued  
14 because, again, we're not a very trusting bunch,  
15 historians, that is. And so that's why we go  
16 through that process often.

17 And you are right about this, here I  
18 definitely agree with you, that we solicit feedback  
19 in draft form so that we can feel comfortable that  
20 by the time we get to publication, we're ready to --  
21 where we feel comfortable with what we're putting in  
22 print.

23 BY MR. HUGHES:

24 Q. Okay. And, once again, you're analogizing  
25 an expert report served in a case to a publication

1 put in print; yes?

2 A. Well, what I'm saying is that the same  
3 methodological standards of the profession, in my  
4 view, should hold; that when I wrote this report for  
5 the Department of Justice, I held myself to the same  
6 standard that I would hold myself to when I am doing  
7 other work, including publishing a scholarly article  
8 or a book manuscript, even though writing a book  
9 might take longer -- likely would take longer.

10 Q. Okay. What can oral history be used for?

11 A. I -- oral history can be used in a variety  
12 of different ways as a source for scholars who are  
13 producing analyses of past events, so for  
14 historians.

15 Oral histories can also be used by  
16 non-historians who are interested in learning about  
17 the perspective or the viewpoint or the experiences  
18 of an individual whose story has been collected by  
19 an oral historian.

20 Oral histories can be used by journalists  
21 and other writers, non-scholars, that is, if they're  
22 looking for sources into an event or events.

23 I'm sure there are other uses as well.  
24 Those are -- those are just the ones that are coming  
25 to me immediately.

1 Q. Okay. Substantively, for example, an oral  
2 history project could be done with regard to the  
3 memories of a massacre; correct?

4 MS. HURT: Objection to form.

5 THE WITNESS: I think that would be  
6 possible. But I -- I think that you may be pointing  
7 to what I understood to be a mischaracterization in  
8 Dr. Longley's response to my report.

9 My book on the Sand Creek massacre uses  
10 oral histories not to try and gain insight from the  
11 subjects of my oral histories into what happened at  
12 the massacre itself. I spoke with people who were  
13 alive when I conducted those oral histories, as you  
14 might imagine, about their experiences trying to  
15 memorialize the Sand Creek massacre. There was no  
16 one alive at the time that I conducted my oral  
17 histories who had experienced the massacre itself;  
18 and so, therefore, I didn't try and gain insight  
19 into what had happened at the massacre based on oral  
20 histories that I conducted.

21 BY MR. HUGHES:

22 Q. Okay. Would you agree that, for example,  
23 in the situation of the Vietnam War, it would be  
24 possible to take oral histories of surviving service  
25 members for purposes of documenting information

1 about what happened in the Vietnam War?

2 MS. HURT: Objection to form.

3 THE WITNESS: So what I would suggest is  
4 that when somebody is conducting an oral history,  
5 they have a responsibility -- and the term of art  
6 that I used, and I drew this -- I'm fairly sure that  
7 I drew it from Marc Bloch, who wrote a -- sort of a  
8 methodological primer called The Historian's  
9 Craft -- that historians have a responsibility to  
10 interrogate their sources. It's not the kind of  
11 interrogation that the police do with a suspect.

12 What that means is to apply certain  
13 standards, analytical and methodological standards,  
14 to the -- to the sources that we use, to understand  
15 the potential biases, the perspectives, the goals  
16 that an individual -- that the person who produced a  
17 source might have had, that's perhaps especially  
18 true with oral histories. Certainly the -- the  
19 people who write about oral histories, people like  
20 Don Ritchie and others, indicate that historians  
21 should be especially careful.

22 So what I would say is that if I were  
23 interested in speaking with a veteran of the -- of  
24 the conflict in Vietnam, I would be interested in  
25 learning from them about their experiences in that

1 conflict. But as to the specifics of your question,  
2 I would be wary of asking them broad questions about  
3 the war in Vietnam. I would -- I would want to be  
4 asking them about their experiences specifically.

5 BY MR. HUGHES:

6 Q. Okay. Let's narrow the topic.

7 If the topic was not the war in Vietnam but  
8 the use of Agent Orange in Vietnam, is that a topic  
9 where an oral history project may be fruitful?

10 MS. HURT: Objection to form.

11 THE WITNESS: I -- I'm going to give you --  
12 I apologize in advance. I'm going to give you a  
13 somewhat long answer, and I hope -- I hope it will  
14 make sense why in a moment.

15 We're losing the lights here again. We're  
16 just going to take a second. I'm going to -- I'm  
17 going to just pause for a moment.

18 BY MR. HUGHES:

19 Q. I promise I'm not manipulating the lights  
20 from this end.

21 A. So I'm going to rephrase your question  
22 again, just to --

23 Q. Yes.

24 A. -- refresh my -- my memory, and you can  
25 tell me if I've got it wrong. But the question was,

1 would it be -- would it be possible or would it be  
2 helpful to use oral histories to understand the --  
3 the use of Agent Orange during the conflict in --  
4 the Vietnam War; is that right?

5 Q. Yes, sir.

6 A. So I'm going to start by saying, we're  
7 outside of the scope of my expertise. I am not a  
8 historian of the Vietnam War, but I could imagine  
9 that it could be useful to do that. And the reason  
10 for that is -- and, again, I warned you that I'm  
11 going to give you a somewhat long answer, but I  
12 promise that it won't be digressive.

13 Oral histories used to be treated with a  
14 great deal of skepticism by most professional  
15 historians. Professional historians were concerned  
16 that the people who provided oral histories often  
17 had flaws in their memory or they had a particular  
18 bias or perspective that -- that limited the utility  
19 of oral histories.

20 As time has passed, though, I would say  
21 over approximately the last 40 to 50 years, many,  
22 perhaps even most -- I've not done a survey. And  
23 so, again, I don't -- I don't have good data on  
24 this, but many, perhaps even most historians now do  
25 understand or accept that there's considerable



1 utility in the use of oral histories.

2 I'm one of those historians, by the way, as  
3 we've noted. I've used oral histories in my own  
4 work. And the reason for that is that oftentimes  
5 people who provide oral histories can offer a  
6 perspective that would not have been captured  
7 otherwise in the written record.

8 And so that's why I said a few moments ago  
9 that if I were interested in answering broad  
10 questions about the United States's intervention in  
11 Vietnam, I personally would not likely go to oral  
12 histories. I would go to written records, to  
13 diplomatic correspondence, to presidential  
14 libraries, to see what kinds of documents are there.

15 But if I were interested in the experiences  
16 of individuals, I might use oral histories.

17 Q. Okay. If I was narrowly interested in the  
18 experiences of individuals who physically handled  
19 Agent Orange in Vietnam or who physically were in  
20 the field and saw what they believed to be  
21 Agent Orange visually in their vicinity, okay, if  
22 that was the topic, would you agree that  
23 interviewing survivors of Vietnam may shed light on  
24 such a topic?

25 MS. HURT: Objection to form.

1           THE WITNESS: In that instance, it sounds  
2 like you are seeking the perspectives of individuals  
3 about their own experiences. And so, again,  
4 acknowledging that this is beyond the scope of my  
5 expertise, I would say, broadly speaking, yes, it  
6 might well be appropriate to use oral histories.

7           BY MR. HUGHES:

8           Q. Okay. What if you had a cohort of service  
9 members who were stationed at Camp Lejeune between  
10 1955 and 1985 and you have basic military records  
11 that can be digitized and searched that would place  
12 the identities of the service members in the  
13 different regions of Camp Lejeune during that time  
14 period; okay?

15           And let's say the goal of your oral history  
16 project would be to find out whether the Marines  
17 that were stationed at a place like Montford Point  
18 would regularly travel to Hadnot Point, or not, or  
19 whether, say, Marines that were stationed at  
20 Tarawa Terrace would use the local Tarawa Terrace  
21 commissary versus going down to the Hadnot Point  
22 commissary; okay?

23           And the purpose of that oral history  
24 project would be in connection with assessing  
25 whether individuals were exposed to water from two

1 water systems that were contaminated, the Tarawa  
2 system and the Hadnot system.

3 Would you agree with me that in that  
4 situation, oral histories or interviewing the  
5 survivors may be a useful way to learn more  
6 information on that topic?

7 MS. HURT: Objection to form.

8 THE WITNESS: So what you said at the end  
9 of the question there was "may be a useful way."

10 BY MR. HUGHES:

11 Q. Yes.

12 A. And my answer to that is that as someone  
13 who has worked with oral histories but does not have  
14 expertise in Camp Lejeune or -- forgive me, I don't  
15 even know the locations -- but that what I would say  
16 is that there may be utility in speaking with  
17 individuals who had the experiences that you  
18 described, who served at Camp Lejeune or lived at --  
19 on base, but that, again, the methodological  
20 prescriptions or the methodological standards of the  
21 profession would still apply in that case.

22 I would want to be very, very cautious  
23 about understanding the potential biases, the  
24 perspectives, the goals, of the individuals with  
25 whom I was speaking so that I could -- and, again,

1 I'm using that same term of art here -- so that I  
2 could interrogate my oral histories. As I mentioned  
3 to you, that's a process that for oral historians  
4 generally happens after the fact.

5 So you, in this deposition, might choose to  
6 drill down on some of my answers. You might -- I  
7 think you used the word "extractive" earlier. You  
8 might try and extract information from me.

9 Oral historians, because they share  
10 authority, generally at the moment of conducting an  
11 oral history are unlikely to drill down in that way,  
12 though they are encouraged to ask follow-up  
13 questions. But then they have a responsibility to  
14 treat their oral histories, the source that they  
15 have collected, to treat it with considerable  
16 skepticism.

17 Historians are trained to be very, very  
18 skeptical of their sources. And what -- if you'll  
19 forgive me, I'll -- I'll tell you a very quick story  
20 about an interaction that I had with one of my  
21 mentors in graduate school who -- and it speaks to a  
22 question you asked me earlier -- who looked at a  
23 draft of something I wrote. And he said, "This is  
24 very interesting, Ari, but you're relying on this  
25 source here." He said, "This source is telling you

1 almost exactly what you want to hear. You need to  
2 be extraordinarily suspicious when a source is  
3 telling you what you want to hear."

4 And so what I would say of the collection  
5 of oral histories of individuals who were stationed  
6 at or lived on base at Camp Lejeune, I want to be  
7 very, very careful about interrogating those sources  
8 carefully, about -- about employing unusual  
9 skepticism in my approach to them.

10 Q. Okay. Let me ask you, in taking oral  
11 histories, is -- does it always have to be one  
12 person doing the interview or can it be more than  
13 one, in your experience?

14 A. You're using a prescriptive statement,  
15 "Does it always -- does it always have to be."

16 (Simultaneous speakers - unclear.)

17 THE WITNESS: And then you said "in my  
18 experience."

19 So let me just -- let me answer real quick  
20 and say, I have never conducted an oral history  
21 jointly with another scholar, but I believe that it  
22 happens.

23 BY MR. HUGHES:

24 Q. Okay. Well -- okay. Thank you.

25 Have you ever --

1 MS. HURT: Hey, John -- oh, sorry. John, I  
2 was going to see if we could take a break soon. So  
3 I -- just keep it in mind for when you get done with  
4 this line of questioning.

5 MR. HUGHES: Oh, no, no. This is all fine.  
6 This has been -- I'm very -- I'm very glad that  
7 we're doing this deposition. Let's take our first  
8 break. Let's take a five-minute break and then pick  
9 it back up after everyone can go and stretch and  
10 maybe use the restroom. And then we'll start back  
11 up in five minutes.

12 Is that okay?

13 MS. HURT: Yes. Thank you.

14 THE WITNESS: Thank you.

15 MR. HUGHES: Thank you.

16 THE VIDEOGRAPHER: We are going off the  
17 record at 3:26 p.m.

18 (Recess taken from 3:26 to 3:39.)

19 THE VIDEOGRAPHER: We are back on the  
20 record at 3:39 p.m.

21 BY MR. HUGHES:

22 Q. Dr. Kelman, do you know whether the oral  
23 history tool has been used to date in any prior  
24 lawsuit or litigation?

25 MS. HURT: Objection to form.

1 THE WITNESS: I don't know.

2 BY MR. HUGHES:

3 Q. Okay. For the Sand Creek book, I read --  
4 there was somewhere where you gave a number of how  
5 many oral histories roughly you and your folks  
6 conducted.

7 Do you remember what that number was  
8 approximately?

9 A. It was just me. I didn't have any folks,  
10 unfortunately. And it was right around 100 oral  
11 histories.

12 Q. Well, the fact that it was just you might  
13 have been for the best in terms of, you know, that  
14 you know what you're doing.

15 But for 100 oral histories, can you give us  
16 a ballpark sense of how much time that took and what  
17 it cost to do?

18 A. I conducted the oral histories over several  
19 years, but not steadily. So each oral history took  
20 somewhere between -- I believe the shortest one that  
21 I conducted was approximately half an hour,  
22 40 minutes. The longest lasted almost three and a  
23 half hours. I tried very, very hard not to conduct  
24 more than three or four oral histories over the  
25 course of a day, just because I would grow tired.

1                   And --

2           Q.     Yes.

3           A.     -- in terms of cost, I was a salaried  
4     employee of different universities at that time. So  
5     I don't -- I don't -- I never figured out an hourly.  
6     I wasn't paid very much at that point in my career.  
7     So it probably would have just depressed me.

8           Q.     Yes, sir. Yes, sir.

9                   Okay. What's the largest oral history  
10    project you've ever heard of, out of curiosity?  
11    Like, do we know whether there's been any oral  
12    history projects where it was more than a thousand  
13    people?

14          A.     I don't know the precise numbers. The  
15    large oral histories that -- oral history projects  
16    that I know about, there's the Southern Oral History  
17    project, I believe it's called. That was actually  
18    out of the University of North Carolina.  
19    Jacquelyn Dowd Hall and others were in charge of  
20    that.

21                  And then larger still would have been the  
22    Federal Works project, which was under the New Deal  
23    during the Great Depression. That was historians  
24    and anthropologists and other ethnographers working  
25    with all kinds of people. And it may well be that



1 they collected well over a thousand oral histories.

2 There's also Steven Spielberg, and I don't  
3 remember all of the partners, but it's the  
4 United States Holocaust museum or memorial. And  
5 Yad Vashem did a massive oral history project with  
6 survivors of the Holocaust. And, again, that may  
7 well have been thousands of people.

8 Q. Okay. Let me -- all right. You've written  
9 of the Jewish experience. And I'm saying that as  
10 somebody -- I'm not Jewish myself, but one topic  
11 area you've written on is Jewish experience.

12 Is that fair to say?

13 A. No. That was another error in -- in  
14 Dr. Longley's response to my report. There are --  
15 there are, believe it or not, two Ari Kelmans.

16 I write about the various topics that  
17 you've seen on my CV.

18 The other Ari Kelman writes about the  
19 Jewish experience in the United States.

20 Q. Oh, wow. Okay.

21 So you have written about Sand Creek. You  
22 have not written about the Jewish experience; is  
23 that correct?

24 A. I have not written about the Jewish  
25 experience, that is correct.

1 Q. Okay. All right. With regard to  
2 Sand Creek, is it fair to say you did a -- you took  
3 a number of oral histories, and it was regarding a  
4 historical event that was before the time of birth  
5 of the oral historian; is that correct?

6 MS. HURT: Objection to form.

7 THE WITNESS: I took oral -- I conducted  
8 oral histories with people who were alive after the  
9 Sand Creek massacre, yeah.

10 The Sand Creek massacre happened in 1864.  
11 And I conducted the oral histories for my project  
12 between 2000 and -- boy, 2002 and 2007, roughly  
13 speaking.

14 And so the people that I was working with  
15 had not experienced the massacre itself. They had  
16 participated in the project to memorialize the  
17 massacre.

18 BY MR. HUGHES:

19 Q. Okay. And have you ever participated in an  
20 oral history project where the people you  
21 interviewed were eyewitnesses to the actual  
22 historical event?

23 A. Well, the people that I interviewed were  
24 eyewitnesses to the actual historical event. The  
25 historical event that I was writing about was the

1 memorization of the Sand Creek massacre. My book is  
2 about collective memory and processes of  
3 memorization and the production of historical  
4 knowledge.

5 So the people that I conducted oral  
6 histories with were firsthand -- they were providing  
7 firsthand accounts of their experiences.

8 Q. Okay. I understand that.

9 When you compile oral histories, are there  
10 steps you take to make sure that in the questions  
11 you're asking you're not too biased?

12 A. Yes.

13 Q. What kinds of steps do you take to make  
14 sure that you're not too biased?

15 A. Well, I don't know what "too biased" means.  
16 I -- what I would say is that historians acknowledge  
17 that everyone has biases, and what we try and do is  
18 control for that bias.

19 So let me give you an example from my own  
20 work. There were subjects with whom I conducted  
21 oral histories that I liked and there were other  
22 subjects that I liked less. And it was incumbent  
23 upon me as an oral historian not to allow my  
24 preferences for one person versus another to inflect  
25 or to shape the kinds of questions that I was

1 asking.

2 Q. Okay. In this case are you aware generally  
3 that there's a dispute regarding claims of water  
4 contamination at the Camp Lejeune base?

5 A. I'm aware of that only in the most general  
6 sense, yes.

7 Q. I understand.

8 And I will tell you that in the  
9 Camp Lejeune case, one issue regards the contention  
10 that some of the water systems were contaminated by  
11 things like chlorinated solvents, while other water  
12 systems for the base were not contaminated.

13 Were you aware generally of that fact  
14 before I told it to you just now?

15 MS. HURT: Objection to form.

16 THE WITNESS: Again, only in the most  
17 general sense, yes.

18 BY MR. HUGHES:

19 Q. And without looking at Dr. Brigham and his  
20 reports, you'll recall that Dr. Brigham looked at  
21 issues like whether service members who were at a  
22 site like Montford Point that had a uncontaminated  
23 water system would spend time down at Hadnot Point  
24 which had a contaminated water system.

25 Do you remember that kind of general

1 discussion in Dr. Brigham's reports?

2 MS. HURT: Objection to form.

3 THE WITNESS: Very generally, yes. But  
4 that was beyond the scope of what I was being asked  
5 to opine about.

6 BY MR. HUGHES:

7 Q. I understand.

8 But you were asked to opine about topics  
9 related to oral history; right?

10 A. Yes.

11 Q. Okay. And the topic regarding oral history  
12 I'm asking you to look at now is the topic of -- let  
13 me represent to you that the statute that these  
14 cases are pending under allows the Court to award  
15 any appropriate relief.

16 Were you aware of that fact, that the  
17 statute allows the Court to award any, quote,  
18 appropriate relief, unquote, before I told you that  
19 right now?

20 MS. HURT: Objection to form and  
21 foundation.

22 THE WITNESS: No, I was not aware of that.

23 BY MR. HUGHES:

24 Q. Okay. Are you aware that in some other  
25 types of cases, from time to time courts have

1 awarded what's called equitable relief such as in  
2 the form of a information gathering or monitoring  
3 program for people who were exposed to a toxic  
4 environmental situation? Were you aware of that  
5 before I just said it to you now?

6 MS. HURT: Objection to form and  
7 foundation.

8 THE WITNESS: I was not.

9 BY MR. HUGHES:

10 Q. Okay. I want your assistance -- I want to  
11 ask you, because you've taught about it and you know  
12 about it, if the Court were to order an oral history  
13 project for Camp Lejeune, and if the topic of the  
14 oral history was things like activities that would  
15 place a service member in one region of the base,  
16 like Montford Point or Camp Johnson, versus another  
17 region of the base, like Hadnot Point or  
18 Tarawa Terrace, okay, if that was a subject -- a  
19 topic for the oral history, would you agree with me  
20 that that's something -- that's a topic that oral  
21 history, if it's done the right way, might help to  
22 give us information about?

23 MS. HURT: Objection to form and  
24 foundation.

25 THE WITNESS: I'm sorry, but we're so far

1 out of the scope of my expertise, I don't -- I don't  
2 even think I can I give you a useful answer. I just  
3 don't know.

4 BY MR. HUGHES:

5 Q. Okay. All right. If it were to be found  
6 that, yes, oral histories could be conducted of  
7 Lejeune service members who are still alive and who  
8 can be identified on the base, would you agree that  
9 such oral histories should be kept in a permanent  
10 archive?

11 MS. HURT: Objection to form.

12 THE WITNESS: If interviews are going to be  
13 called oral histories, they should be archived.

14 BY MR. HUGHES:

15 Q. Okay. Are you aware of the fact that on  
16 the U.S. Marines website, there are examples of oral  
17 histories that were taken around the year 2000 and  
18 the oral histories were of service members that gave  
19 experiences going back to World War II? Were you  
20 aware of that fact?

21 A. No.

22 Q. Okay. Do you agree with me that, depending  
23 on what the topic is, it may be useful to take oral  
24 histories of people that were eyewitnesses to  
25 events, notwithstanding the fact that the events

1 might have occurred over 20 years ago?

2 MS. HURT: Objection to form.

3 THE WITNESS: Could you repeat the  
4 question?

5 BY MR. HUGHES:

6 Q. Sure.

7 I gave you the example and cited in one of  
8 Dr. Longley's reports that on the U.S. Marines  
9 official website there are some transcripts of what  
10 are called "oral histories"; okay?

11 And what you said is you weren't aware of  
12 that fact until I told you; correct?

13 MS. HURT: Objection to form.

14 THE WITNESS: I wasn't aware -- yes.  
15 That's fine.

16 BY MR. HUGHES:

17 Q. All right. And those oral histories,  
18 they're dated as having been taken I believe around  
19 the year 2000. And they interview service members  
20 that talk about life on bases as far back as the  
21 1940s.

22 And so that leads me to the question, which  
23 I'm asking you, of would you agree that oral  
24 histories can be useful even if there's a time gap  
25 between when the events occurred and when the



1     historian is being interviewed?

2             MS. HURT:   Objection to form.

3             THE WITNESS:  It kind of depends what you  
4     mean by "useful."  I could imagine situations in  
5     which there might be some utility in collecting  
6     those kinds of oral histories.

7             As someone who has done oral history, I  
8     would be very skeptical of oral histories that are  
9     conducted with individuals about events that took  
10    place, it sounds like you're saying, as much as 40,  
11    50, 60 years earlier.  That would be an  
12    extraordinary passage of time.  And a lot could  
13    happen between the events that the individual is  
14    being interviewed about and the point at which they  
15    are being interviewed.

16            It would then be incumbent upon the  
17    historian, the oral historian, to be very, very  
18    careful with the use of those sources.

19            BY MR. HUGHES:

20            Q.     I understand.

21            So let me give you an example.  On the U.S.  
22    Marines website, there's an interview -- a  
23    transcript of an interview with Master Sergeant  
24    Ralph Freeman.  The interview was dated 1999.  And  
25    part of what Mr. Freeman talked about was his

1 experiences at Camp Lejeune in 1943.

2 And so there with the time period running  
3 40 or more years, would you agree with me that there  
4 can still be utility to undertaking oral history  
5 interviews, depending on the subject?

6 MS. HURT: Objection to form.

7 THE WITNESS: So I mentioned to you earlier  
8 that the Sand Creek book that I wrote is really  
9 about memory and collective or public memory. And  
10 what I would say in this instance is that you might  
11 want to conduct an oral history with someone about  
12 an event that had transpired I think 56 years  
13 earlier, it sounds like. But you would need to be  
14 very, very, very skeptical of the kind of  
15 information that you would get about the event in  
16 question.

17 You could learn a great deal about an  
18 individual's perspective on their own experiences.  
19 You could learn a great deal about what had happened  
20 to them in the intervening years. You could learn a  
21 great deal, depending on the kinds of questions that  
22 you might ask, about their perspective on the past  
23 or about their perspective on their own memory. And  
24 you might -- I suppose you might be able to learn  
25 something about the events in question.

1 But as an oral historian, as I say, I would  
2 be very skeptical.

3 BY MR. HUGHES:

4 Q. Okay. What if the scope of the oral  
5 history was extremely limited?

6 Let me give you a hypothetical.

7 What if what was collected in the first  
8 instance was confirmation of basic personal data,  
9 like the person's name, the fact that they had been  
10 at Camp Lejeune, that they recall being there in a  
11 time period between the '50 and the '80s; okay? And  
12 then the fact that they consent to having a sample  
13 taken of their DNA and their blood and samples are  
14 then taken; okay?

15 In other words, can you envision a  
16 situation in which we could have abbreviated oral  
17 information, like what I just summarized, coupled  
18 with obtaining scientific data, like DNA samples or  
19 blood samples?

20 MS. HURT: Objection to form and  
21 foundation.

22 THE WITNESS: So thinking only about the  
23 examples that you just described, I think that using  
24 oral history in those instances could have utility,  
25 yes.

1 BY MR. HUGHES:

2 Q. Okay. And it occurs to me that oral  
3 history is a subcategory of something very large  
4 that we could call discourse or textuality.

5 Would you agree with that?

6 MS. HURT: Objection to form.

7 THE WITNESS: I honestly have no idea.  
8 Sorry.

9 BY MR. HUGHES:

10 Q. Okay. For example, if we call oral history  
11 loosely something like an interview of predetermined  
12 topics that try to be balanced. It's recorded.  
13 There's consent. It's put in an archive. It's  
14 transcribed. Perhaps the historian is given a  
15 chance to review it and redact it or correct it.  
16 Let's call that a classic oral history.

17 Is that okay as a general description of an  
18 oral history in a formal sense?

19 A. Yes.

20 Q. Okay. Good.

21 Now, on the other hand -- and in that  
22 sense, an oral history, it's a form of communication  
23 between two people, the interviewer and the  
24 interviewee.

25 Would you agree with that?

1 A. Yes.

2 Q. Okay. And the communication in this  
3 instance is oral, it's verbal; right?

4 A. Yes.

5 Q. Okay. But we could imagine -- let's  
6 imagine somebody who's nonverbal. One could imagine  
7 a variant which is strictly e-mails back and forth.  
8 That would be a form of communication that could  
9 gather information.

10 That's not what we mean by this formal  
11 category of oral history; correct?

12 MS. HURT: Objection to form.

13 THE WITNESS: E-mails are not oral  
14 histories, no.

15 BY MR. HUGHES:

16 Q. All right. All right. And I think -- am I  
17 right that you've looked at issues of neuroscience,  
18 but you felt that that wasn't really your wheelhouse  
19 to write about them, or am I thinking of the wrong  
20 Ari Kelman?

21 A. You've got the right Ari Kelman. That's  
22 right, I -- I spent some time reading the literature  
23 on cognitive neuroscience of memory and then decided  
24 that I was insufficiently expert in questions of  
25 disciplinary knowledge. And so I did not ended

1 up -- end up writing about those issues.

2 Q. Okay. In looking at the Sand Creek  
3 incident, would it be fair to say that one issue  
4 that is highlighted by those events is -- I'm not  
5 sure how to put it -- how texts regarding history  
6 can be suppressed or lost.

7 Would you agree with me on that?

8 MS. HURT: Objection to form.

9 THE WITNESS: I'm thinking.

10 I don't know that I agree with that  
11 precisely, no.

12 BY MR. HUGHES:

13 Q. Okay. What about the concept that one area  
14 for a historian, properly, to look at is the history  
15 of lost and suppressed information?

16 MS. HURT: Objection to form.

17 THE WITNESS: Historians do look at lost  
18 and suppressed information, yes.

19 BY MR. HUGHES:

20 Q. Okay. All right. In this case has anyone  
21 apprised you of the fact that there's an issue  
22 regarding the existence or loss of what are called  
23 historical well logs for Camp Lejeune?

24 MS. HURT: Objection to form and  
25 foundation.

1 THE WITNESS: No.

2 BY MR. HUGHES:

3 Q. Okay. Do you know whether logs were  
4 historically kept reflecting the operation of supply  
5 wells for the water treatment plants at Camp Lejeune  
6 in the 1950s through the 1980s?

7 MS. HURT: Objection to form and  
8 foundation.

9 THE WITNESS: I do not know that, no.

10 BY MR. HUGHES:

11 Q. All right. Do you know whether in or about  
12 the mid-1990s a water treatment plant employee named  
13 Bert Mont (phonetic) retrieved a trove of water  
14 treatment plant logs that were being, in the process  
15 of, thrown out? Were you aware of that situation  
16 before I just told you?

17 MS. HURT: Objection to form and  
18 foundation.

19 THE WITNESS: I was not aware of that  
20 before you mentioned it, no.

21 BY MR. HUGHES:

22 Q. And were you aware that the Court has  
23 established a document repository in this case?

24 A. I'm not sure I know what you mean by "a  
25 document repository." I apologize.

1 Q. Okay. Are you aware that the Court in this  
2 case has entered an order requiring a document  
3 depository or repository to be established?

4 MS. HURT: Objection to form.

5 THE WITNESS: I wasn't aware of that, no.

6 BY MR. HUGHES:

7 Q. Okay. And were you aware that some of the  
8 documents in that depository or repository are well  
9 logs and water treatment plant logs with information  
10 that dates from as early as the '40s and from as  
11 late as 1995?

12 MS. HURT: Objection to form and  
13 foundation.

14 THE WITNESS: No, I was not until you  
15 mentioned it.

16 BY MR. HUGHES:

17 Q. Okay. And were you aware that,  
18 unfortunately, these well logs and water treatment  
19 plant logs appear to -- when it comes to specific  
20 historical supply well data, they appear to be  
21 focused on the New River water treatment plant and  
22 the Camp Geiger water treatment plant as opposed to  
23 being focused on other water treatment plants? Were  
24 you aware of that before I told you?

25 MS. HURT: Objection to form and



1 foundation.

2 THE WITNESS: I was not aware of any of  
3 that before you told me.

4 BY MR. HUGHES:

5 Q. Okay. Were you generally aware that the  
6 two water treatment systems that are alleged to be  
7 contaminated by perchloroethylene, trichloroethylene  
8 degradation products, and benzene, that those  
9 communities and water treatment plants were  
10 Tarawa Terrace and Hadnot Point?

11 MS. HURT: Objection to form.

12 THE WITNESS: Did you ask if I was  
13 generally aware of that? Sorry, I ...

14 BY MR. HUGHES:

15 Q. Yes. Yes, just generally.

16 A. Generally, yes.

17 Q. Okay. Were you aware that the historical  
18 well logs showing the historical use of the water  
19 supply wells for the Hadnot Point water treatment  
20 plant for the period from the '50s to the '80s are  
21 apparently completely lost or destroyed?

22 MS. HURT: Objection to form and  
23 foundation.

24 THE WITNESS: I was not aware of that until  
25 you told me right now.

1 BY MR. HUGHES:

2 Q. Okay. And do you know whether the  
3 Department of the Navy had the primary duty to  
4 preserve those records?

5 MS. HURT: Objection to form and  
6 foundation.

7 THE WITNESS: No.

8 BY MR. HUGHES:

9 Q. Okay. Do you know if Mr. Mont is still  
10 alive?

11 A. I don't even know who that is. I'm sorry.  
12 Is that the person you mentioned earlier?

13 Q. Yes, it is. Yes, sir.

14 A. Oh. No, I don't. No.

15 Q. Okay. Would you agree that if the  
16 still-living individuals that used to work at the  
17 water treatment plants could be interviewed,  
18 identified and interviewed, today that may help us  
19 understand what happened to the well logs for  
20 Tarawa Terrace and Hadnot Point?

21 MS. HURT: Objection to form and  
22 foundation.

23 THE WITNESS: I'm sorry. We're so far  
24 outside of my area of expertise, I wouldn't be able  
25 to give you a helpful answer.

1 BY MR. HUGHES:

2 Q. Respectfully, I don't think we are. The  
3 point I'm making is that, first, you're an expert at  
4 history.

5 You're a historian by trade; correct?

6 A. Yes.

7 Q. Okay. And you have the sense of issues  
8 that are fruitful or useful for a historian to  
9 investigate or not; correct?

10 MS. HURT: Objection to form.

11 THE WITNESS: Yes.

12 BY MR. HUGHES:

13 Q. Okay. And if at Camp Lejeune there was an  
14 issue regarding the loss or destruction of the well  
15 logs for the supply wells for the two key  
16 contaminated water systems, that issue might be  
17 something -- that's an issue of lost or missing  
18 documents -- that's the kind of issue a historian  
19 may be able to fruitfully investigate; correct?

20 And I know you say it's outside of your  
21 area. That's not what I mean. I know you weren't  
22 retained for it. That's my point.

23 But you will agree with me that researching  
24 issues of lost or suppressed documents falls within  
25 a historian's wheelhouse, does it not?

1 MS. HURT: Objection to form and  
2 foundation.

3 THE WITNESS: It falls within the  
4 wheelhouse of some historians. As I mentioned to  
5 you earlier, it's not the kind of work that I've  
6 done.

7 BY MR. HUGHES:

8 Q. Okay. In the Sand Creek massacre incident,  
9 there was a participant involved named Chivington;  
10 correct?

11 A. Yes.

12 Q. Chivington had his own message as to what  
13 he wanted history to remember about Sand Creek; fair  
14 to say?

15 A. Yes.

16 Q. Okay. Fair to say that in some respect,  
17 the message of indigenous people, including  
18 descendants of people associated with the massacred  
19 population, in some instances were not as preserved  
20 or as popularized historically as were the  
21 statements and the texts of John Chivington;  
22 correct?

23 A. From the period between 1864 and, roughly  
24 speaking, 1990, yes, that's correct.

25 Q. Okay. In this case, that you were not

1 asked to look at the issue of when the internal  
2 documents at Lejeune first detected the water  
3 contamination; correct? You were not asked to look  
4 at that historical issue; right?

5 A. That's correct.

6 Q. Okay. You were not asked to look at  
7 whether as early as 1980 internal documents showed  
8 the word "solvents" in handwritten capital letters  
9 with exclamation points specifically with regard to  
10 one of the Camp Lejeune finished water systems;  
11 correct?

12 MS. HURT: Objection to form and  
13 foundation.

14 THE WITNESS: It is correct that I was not  
15 asked to opine on that, yes.

16 BY MR. HUGHES:

17 Q. Okay. And, in fact, were you even aware  
18 that circa 1980 there was an internal document  
19 maintained at Camp Lejeune that reflected a warning  
20 internally to the effect of solvents in the finished  
21 water?

22 MS. HURT: Objection to form and  
23 foundation.

24 THE WITNESS: I was not aware of that, no.

25 ///

1 BY MR. HUGHES:

2 Q. Okay. Now, are you aware of how many years  
3 after that internal document, how many years after  
4 that, did the issue of Lejeune water contamination  
5 become broadly public? Do you have any  
6 understanding of how long after 1980 it became a  
7 broadly publicized issue?

8 MS. HURT: Objection to form and  
9 foundation.

10 THE WITNESS: No, I don't have the  
11 specifics on that.

12 BY MR. HUGHES:

13 Q. Okay. All right. Do you know if the ATSDR  
14 agency's timeline picks up circa 1989 and 1990 with  
15 regard to its work on the Lejeune water  
16 contamination? Were you aware of that fact?

17 MS. HURT: Objection to form and  
18 foundation.

19 THE WITNESS: No, I was not.

20 BY MR. HUGHES:

21 Q. Okay. Are you aware of whether laws like  
22 CERCLA and internal regulations called NAVMEDs  
23 imposed a duty on the Navy and the Marines to  
24 maintain relevant documents, and that statutes  
25 requiring the maintenance of relevant documents

1 included CERCLA as a federal statute and it included  
2 historical NAVMED regulations? Were you aware of  
3 that?

4 MS. HURT: Objection to form and  
5 foundation.

6 THE WITNESS: No.

7 BY MR. HUGHES:

8 Q. Okay. And were you aware that if the facts  
9 regarding the rescued documents, which were saved by  
10 Mr. Mont from the garbage apparently in the  
11 mid-'90s, that if those facts allow for an inference  
12 that the Tarawa Terrace and Hadnot documents were  
13 also still around as late as 1995 --

14 MS. HURT: Objection to form --

15 BY MR. HUGHES:

16 Q. -- in that case -- in that case, if the  
17 facts show that, are you aware of whether that would  
18 show what's called spoliation of evidence?

19 MS. HURT: Objection to form and  
20 foundation.

21 THE WITNESS: No.

22 BY MR. HUGHES:

23 Q. Okay. If the facts showed that Mr. Mont  
24 rescued a batch of water treatment plant records  
25 that related to Geiger and New River and that had

1 data as -- from as early as the '40s and as late as  
2 1995, if the evidence showed that he rescued those,  
3 would you agree that if he had not rescued them,  
4 that would have been spoliation?

5 MS. HURT: Objection to form and  
6 foundation.

7 THE WITNESS: I'm not even sure I followed  
8 you. I apologize.

9 BY MR. HUGHES:

10 Q. Okay. The point I'm trying to make is that  
11 when we look at the issue of lost or missing  
12 records, from a legal perspective we have to look at  
13 intent or culpability or negligence.

14 And so I'm trying to ask you from a  
15 historian's perspective, when I look at Sand Creek,  
16 I hear -- I read things about how -- preferred  
17 narratives and suppressed facts by populations that  
18 were disadvantaged. And so what I draw from that is  
19 you would agree that that's a proper topic for a  
20 historian.

21 And what I want to establish here, one  
22 thing, is that you have not been made aware that  
23 there are issues of lost and destroyed documents and  
24 suppressed information regarding Camp Lejeune and  
25 the water pollution, and you have not been asked to



1 research any of those; correct?

2 MS. HURT: Objection to form and  
3 foundation.

4 THE WITNESS: That's correct.

5 And we just lost your video. I'm not sure  
6 if that's ...

7 MR. HUGHES: I need to plug in.

8 THE WITNESS: Okay.

9 MR. HUGHES: Let's take the second  
10 five-minute break; okay?

11 MS. HURT: Okay.

12 THE VIDEOGRAPHER: We are going off the  
13 record at 4:13 p.m.

14 (Recess taken from 4:13 to 4:22.)

15 THE VIDEOGRAPHER: We are back on the  
16 record at 4:22 p.m.

17 BY MR. HUGHES:

18 Q. Okay. If you can pull up Exhibit 6, the  
19 Longley report dated January 13th, 2025.

20 MR. HUGHES: Can you go to page 2 of this  
21 report?

22 Keep going a little bit further down.

23 Okay. Yeah, stop there.

24 BY MR. HUGHES:

25 Q. Dr. Kelman, do you see where it talks about

1 a cover story on Camp Lejeune from the April 1955  
2 issue of Leatherneck magazine?

3 A. Oh, yeah, I do. Yes.

4 Q. Okay. And do you see where it has the  
5 block quote that starts with (as read):

6 "From the air, Camp Lejeune looks  
7 like a small city surrounded by suburbs"?

8 A. I do see that.

9 Q. Okay. Have you had a chance to review this  
10 part of Dr. Longley's second report before, to your  
11 knowledge?

12 A. I've looked at it, yes.

13 Q. Okay. And were you able to look at his  
14 source material there, the Leatherneck issue?

15 A. No.

16 Q. Okay. Do you have any reason to dispute  
17 the accuracy of his block quote from the back issue  
18 of Leatherneck?

19 A. I haven't looked at the source material, so  
20 I have no reason to dispute it.

21 Q. All right. And would you agree that that's  
22 an example of source material that's not an oral  
23 history?

24 A. I'm looking at Dr. Longley's footnote. It  
25 appears to come from a publication called the

1 Leatherneck. And so, no, it's not an oral history.  
2 It seems to be a written source.

3 Q. All right. And do you have any criticism  
4 of his methodology in terms of using that written  
5 source, the Leatherneck issue, as we can see at  
6 page 2 of his report?

7 A. Would you scroll down so that I could take  
8 a look at the -- at footnote 3, please?

9 Oh, oh. We went past it.

10 That's all right. I saw it, though, as we  
11 were scrolling past.

12 No, I don't have any reason to criticize  
13 that.

14 Q. Okay. And we can see these -- there's a  
15 footnote to Leatherneck; right?

16 A. Yep. Yes.

17 Q. Okay. It's a backdate- -- it's a back  
18 issue dated from April 1955 according to the  
19 footnotes; right?

20 A. That's what the footnotes indicate, yes.

21 Q. Okay. It also indicates that that  
22 particular issue is available publicly online, and  
23 it gives a -- an Internet address; correct?

24 A. It looks like it's available at the  
25 Internet Archive, yes.

1 Q. All right. If we go to page 4 of this  
2 report, see the last paragraph talks about that --  
3 in the last full paragraph it says that for his  
4 December 7th, 2024 report and his rebuttal report,  
5 he obtained and reviewed oral histories,  
6 Congressional testimonies, and depositions. And he  
7 says he interviewed people such as --

8 A. We -- we seem to be in a different spot  
9 than you are, sir. Sorry.

10 Q. Okay.

11 MR. HUGHES: Can you go to the bottom of  
12 page 4? Thank you.

13 BY MR. HUGHES:

14 Q. Do you see the reference to "For my 12/7/24  
15 report"?

16 A. I do now, yes. Thank you. I appreciate  
17 it.

18 Q. Okay. And do you see where he says he  
19 interviewed people such as Ensminger?

20 A. Yes, I see that.

21 Q. Okay. Did you interview any -- any people  
22 for purposes of doing your report for Lejeune?

23 A. No, I did not.

24 Q. Okay. Why not?

25 A. It would have been outside of the scope of

1 the subject for which I was hired to be an expert.

2 Q. Okay. Did you ever ask to be able to do  
3 interviews of eyewitnesses from Camp Lejeune from  
4 the pertinent times for purposes of this case?

5 A. No, I did not.

6 Q. All right. Would you agree that, under  
7 appropriate controls, taking interviews of people  
8 that lived at Camp Lejeune during the pertinent  
9 times and are still alive could provide us with  
10 valuable information regarding the issues for  
11 Camp Lejeune?

12 MS. HURT: Objection to form.

13 THE WITNESS: Under the proper conditions,  
14 using appropriate professional methodologies, yes, I  
15 could imagine situations in which it might be  
16 possible to gain information from subjects of oral  
17 histories.

18 BY MR. HUGHES:

19 Q. Okay. Do you see four lines above the  
20 bottom of 4, it talks about "Mr. Partain published  
21 his master's thesis"?

22 A. Yes, I see that.

23 Q. Okay. Have you been able to look at  
24 Mr. Partain's master's thesis?

25 A. No.

1 Q. And then below it refers to a website  
2 called "The Few, The Proud, The Forgotten."

3 Do you see that?

4 A. Yes.

5 Q. Have you been able to look at the content  
6 of that website before today?

7 A. I'm not 100 percent sure, but I believe  
8 that I looked at it very briefly at one point, yes.

9 Q. Okay. You don't -- do you cite to the  
10 website in your report?

11 A. I do not, no.

12 Q. I take it you don't have any critiques of  
13 the fact that Dr. Longley in this second report is  
14 referring to the master's thesis of Mr. Partain or  
15 the website given that you haven't extensively  
16 reviewed either one; is that correct?

17 MS. HURT: Objection to form.

18 THE WITNESS: I don't have any specific  
19 criticisms of his mentioning Mr. Partain's master's  
20 thesis or this website.

21 BY MR. HUGHES:

22 Q. All right. Do you see page 5 of the  
23 report?

24 A. Not yet.

25 Q. Okay. If you can go down halfway through,

1 do you see the -- yeah, the paragraph in the middle  
2 that says -- begins "The Partain website timeline"?

3 A. I do see that.

4 Q. Have you read this paragraph before?

5 A. Yes.

6 Q. Okay. The paragraph talks about how, if  
7 you look at the Partain website, it shows what one  
8 public historian had assembled as -- historical  
9 knowledge about Lejeune water contamination as of  
10 2012.

11 It then -- then the paragraph goes on to  
12 say, "It raises questions about whether the  
13 documents now cited by Brigham in 2024 were made  
14 available by the government in years past."

15 And so my question to you is, have you  
16 researched any issues like that for purposes of this  
17 case?

18 MS. HURT: Objection to form.

19 THE WITNESS: No.

20 BY MR. HUGHES:

21 Q. All right. Do you have any comment on  
22 Dr. Longley's statement on that page of his report  
23 that there are questions raised about whether the  
24 documents now cited by Brigham were not made  
25 available by the government in years past?

1 MS. HURT: Objection to form and  
2 foundation.

3 THE WITNESS: My comment would be that I  
4 think that your statement was more accurate than  
5 Dr. Longley's. Dr. Longley says here (as read):

6 "The Partain website timeline would  
7 have shown the state of historical  
8 knowledge as of 2012 to any government  
9 specialist who wanted to know."

10 But what you said is that it would have  
11 shown the knowledge of "one public historian." And  
12 I think that that's a more accurate statement.  
13 Beyond that, I don't have comment.

14 BY MR. HUGHES:

15 Q. Okay. And elaborate on that. What you're  
16 saying is that the Partain website timeline, that's  
17 one public historian, but there may be others.

18 Is that what you're saying?

19 A. What I'm saying is the "state of historical  
20 knowledge" is a very, very broad statement. And a  
21 single website is extremely unlikely to encompass  
22 the state of historical knowledge. What it does  
23 encompass or what it may encompass is the state of  
24 an individual historian's knowledge about a subject.

25 And so I think that Dr. Longley's claim



1 here appears to be exaggerated, whereas your claim  
2 or your statement was more accurate.

3 Q. Okay. But what about the substantive issue  
4 that this paragraph raises of, again, the question  
5 of whether the documents provided to Brigham now as  
6 a historian were not made available in years past?  
7 Do you have any comment on that statement?

8 MS. HURT: Objection to form and  
9 foundation.

10 THE WITNESS: That's beyond the scope of  
11 the subject for which I was retained as an expert.  
12 I don't have any comment, no.

13 BY MR. HUGHES:

14 Q. Is it beyond the scope of your expertise as  
15 an expert?

16 A. Could you clarify?

17 Q. Yeah. I understand that you weren't  
18 retained to look at issues like whether documents  
19 were provided in the past versus provided today, but  
20 my question is, that issue, although it's not  
21 something that you were retained for in this case,  
22 it is a topic that you're familiar with, it falls  
23 within your scope of expertise as a historian,  
24 doesn't it?

25 MS. HURT: Objection to form and

1 foundation.

2 THE WITNESS: I'm going to read the  
3 sentences if you'll -- if you'll just give me a  
4 moment, please.

5 BY MR. HUGHES:

6 Q. Yeah.

7 A. I can't speak to any of these facts. I'm  
8 sorry. I -- I just don't know.

9 Q. Okay. Do you see the next paragraph down  
10 referring to the "Yale documents"?

11 A. Yes.

12 Q. Do you know what those are?

13 A. Only broadly.

14 Q. Broadly speaking, what do you think they  
15 are?

16 A. I'm going to read from the report.

17 (As read):

18 "The 'Yale documents' are documents  
19 produced by the government and the VA  
20 years ago in response to a FOIA request  
21 and lawsuit by various nonprofit groups.  
22 These VA documents reflect the use of  
23 subject matter experts retained by the VA  
24 to evaluate veterans' claims including  
25 for cancers claimed to have been caused

1 by Camp Lejeune water exposures."

2 Q. Okay. And so what you're saying is you  
3 don't know anything else besides what the report is  
4 saying; correct?

5 A. Yes, that's correct.

6 Q. Okay. You haven't done any investigation  
7 of your own or research of your own into the topic  
8 of the Yale documents; correct?

9 A. I have not, no.

10 Q. You notice that at the top of page 8,  
11 Dr. Longley references how Mr. Ensminger and  
12 Mr. Partain have testified before Congress.

13 Do you see that?

14 MR. HUGHES: If you can go to the top of  
15 page 8.

16 THE WITNESS: Yes.

17 BY MR. HUGHES:

18 Q. Okay. And you would agree that  
19 congressional testimony is a useful source of  
20 historical information; correct?

21 MS. HURT: Objection to form.

22 THE WITNESS: It would depend on the  
23 question that a historian is asking, and it would  
24 depend on the documents in question. I would say  
25 that it can be a useful source.

1 BY MR. HUGHES:

2 Q. Okay.

3 MR. HUGHES: If you can go to page 13.

4 Thank you.

5 BY MR. HUGHES:

6 Q. Do you see an image of "Youth Activities  
7 Bus Schedules"?

8 A. Yes.

9 Q. Okay. And if you go to the bottom of the  
10 image, do you see a caption that cites it to the  
11 Globe from July 26, 1962?

12 A. Yes.

13 Q. Okay. Have you had a chance to check any  
14 of the cites in this second report by Dr. Longley?

15 A. No.

16 Q. Okay. Are you aware of any inaccuracy in  
17 the citations in this second report by Dr. Longley?

18 A. Given that I haven't checked the citations  
19 in this report, I'm not aware of any inaccuracies.

20 Q. Okay. And have you talked to Dr. Brigham  
21 or any of his folks with regard to the Camp Lejeune  
22 topic?

23 MS. HURT: I'm going to object here and  
24 instruct the witness not to answer under this --  
25 under Case Management Order No. 12, paragraph 3.

1 Those type of -- I'm sorry, Case Management Order  
2 17, paragraph 3. Those type of communications are  
3 protected from disclosure.

4 MR. HUGHES: Okay.

5 BY MR. HUGHES:

6 Q. Are you aware of whether Dr. Brigham and  
7 his team went and fact-checked the citations in  
8 Dr. Longley's second report?

9 A. I don't know.

10 Q. Okay. Would you agree that this bus  
11 schedule, assuming it is from the Globe in 1962, is  
12 an example of useful information regarding travel  
13 around Camp Lejeune during the year 1962?

14 A. Assuming that it's an accurate source, it  
15 appears to be useful information about the bus  
16 schedule. And so, yes.

17 Q. Okay. So, for example, in the middle  
18 column towards the bottom, it references Bus No. 17.

19 Can you see that, or is that too small to  
20 make out?

21 A. I can see it. Thank you for asking.

22 Q. Yes, sir.

23 And it references Midway Park to  
24 Tarawa Terrace School.

25 Do you see that?

1 A. I do.

2 Q. Okay. Do you know whether the  
3 Tarawa Terrace School drew upon the Tarawa Terrace  
4 water treatment plant in 1962?

5 A. No, I don't know that.

6 Q. Do you know whether the Tarawa Terrace  
7 water treatment plant was contaminated with  
8 chlorinated solvents released by a nearby dry  
9 cleaners as of 1962?

10 A. No.

11 Q. Okay. Do you -- would you agree that the  
12 information on Bus No. 17 may be useful in  
13 evaluating whether school children attended the  
14 Tarawa Terrace School in 1962?

15 MS. HURT: Objection to form and  
16 foundation.

17 THE WITNESS: I'm afraid I -- I don't know,  
18 honestly. I -- all I'm seeing is a bus schedule. I  
19 don't know who would have ridden the bus. I don't  
20 know -- so, no, I don't know that.

21 BY MR. HUGHES:

22 Q. Okay. Fair enough.

23 And you'd agree that what we're looking at  
24 here is not oral history evidence; correct?

25 A. No. This appears to be a written record.

1 Q. Okay. And do you have any criticism of  
2 Dr. Longley's methodology in using that document in  
3 his second report?

4 A. Without having appropriately vetted this  
5 document, I have no criticism.

6 Q. Okay. And sitting here today, if you'll  
7 notice at the bottom of page 13 in the text, it says  
8 (as read):

9 "I outlined this topic in detail at  
10 pages 16, 26, 28, and 29 of my 12/7/24  
11 Report."

12 Do you see that sentence?

13 A. I do see that sentence.

14 Q. And the topic he's referring to, per the  
15 sentence before, is Marine dependents relying on  
16 buses for school and in the summer months; correct?

17 A. That's what he's written.

18 Q. Okay. Sitting here today, without going  
19 back over the reports, do you recall whether you  
20 have any criticisms of Dr. Longley's methodology as  
21 it relates to his information on the school buses  
22 and the bus schedules in his original December  
23 2024 report?

24 MS. HURT: Objection to form.

25 THE WITNESS: I did not have any criticisms

1     that I included in my report of his use of that  
2     evidence.

3             BY MR. HUGHES:

4             Q.     Okay.  If we go to the next page, do we see  
5     an image in the middle page, page 14, of a rock band  
6     at Camp Lejeune in 1983?

7             A.     I do see that.

8             Q.     Okay.  And do you see a reference to  
9     Liversedge Field on the left, first sentence?

10            A.     Yes, I see that.

11            Q.     Okay.  Do you know whether Liversedge Field  
12     is in the Hadnot Point region?

13            A.     I don't know that.

14            Q.     All right.  Would you agree that speaking  
15     to -- if we went and spoke to individuals that lived  
16     at Lejeune in 1983, one question we could ask them  
17     would be if they recall going to any music concerts  
18     on the base in 1983?  Would you agree that that's a  
19     question that we could ask them?

20            MS. HURT:  Objection to form.

21            THE WITNESS:  Again, I'm not being glib,  
22     you could ask that question of anyone; but, yes,  
23     certainly you could ask it of people who lived at  
24     Camp Lejeune at that time, whether they had been to  
25     a concert, including this one.



1 BY MR. HUGHES:

2 Q. Okay. If you were asked to go and take any  
3 interviews of living individuals who were at  
4 Camp Lejeune back in the '50s to the '80s time  
5 period, is that something that you would consider  
6 yourself to have the expertise to do?

7 MS. HURT: Objection to form.

8 THE WITNESS: Can you restate the question?  
9 Sorry.

10 BY MR. HUGHES:

11 Q. Yeah.

12 Do you have the expertise to interview  
13 individuals that were at Camp Lejeune in the '50s to  
14 the '80s that are still alive if you were asked to  
15 do that?

16 A. I could conduct the interviews. I wouldn't  
17 have the appropriate context or historiographical  
18 background to be able to make much of their answers.

19 And so my ability to serve as a helpful  
20 historian, as somebody who was positioned to offer  
21 appropriate historical analyses or conclusions,  
22 would be very limited.

23 Q. Okay.

24 A. But I could conduct the interviews.

25 Q. I understand.

1           And so one thing it sounds like you're  
2       saying, sitting here today, we've gone over many  
3       examples of things at Lejeune, that they're outside  
4       the scope of your retention, you haven't looked at  
5       them; correct?

6           A.     We've discussed a number of subjects that  
7       are outside the scope of my expertise, yes.

8           Q.     Okay. And I think what you're saying is,  
9       to do effective oral interviews or oral histories  
10      specific to this Lejeune topic, you would want the  
11      interviewer to have a really good foundation in what  
12      the matter is about, what the facts were. They  
13      would need to research and study up on this and  
14      learn the written documents.

15                 Is that fair to say?

16                 And you haven't done that; correct?

17           MS. HURT:   Objection to form.

18           THE WITNESS:   So if you'll recall earlier,  
19      I talked about the necessity of interrogating  
20      sources for historians, that that's part of the --  
21      that that's part of the methodological standard.  
22      And the ability to do that kind of work of  
23      interrogation -- again, I'm using the historian's  
24      term of art here -- that depends on knowing the  
25      historiography and understanding the context in

1     which the historian is working.

2             I don't have that requisite knowledge to be  
3     able to appropriately interrogate sources about  
4     specific facts or information.  And that's why I  
5     think my utility in that regard would be quite  
6     limited.

7             BY MR. HUGHES:

8             Q.     Okay.  Would you agree that when we  
9     interview eyewitnesses to historical events, one  
10    item of information that they may have for us would  
11    consist of old photographs and old documents that  
12    they've kept?

13            MS. HURT:  Objection to form.

14            THE WITNESS:  It's certainly possible that  
15    that's the case.

16            BY MR. HUGHES:

17            Q.     Okay.  If you look at -- can you go to  
18    page 22 of this report from Dr. Longley?

19            Do you see at page 22 a photo from  
20    Mike Partain?

21            Do you see that?

22            A.     I do.

23            Q.     Okay.  And I'll represent that if he was  
24    deposed, what Mr. Partain would say is that's a  
25    photo taken of his mother.  To his understanding,

1 she was at the naval hospital. And on the bottom  
2 left side, you can see a glass of water and an  
3 infant formula bottle.

4 Do you see those details in the photo of  
5 what looks like a glass of water and a formula  
6 bottle on the bottom left?

7 A. I'm afraid it's a little bit hard for me to  
8 make out. I -- I believe you, that that's what I'm  
9 seeing there.

10 Q. Okay. You also see what looks like a  
11 mother in the center with an infant; correct?

12 A. I do. Cute baby.

13 Q. Okay. The bed looks likes it could be  
14 institutional, such as a hospital bed. It appears  
15 to have an incline in it, like it can sit up to some  
16 extent; correct?

17 A. It does appear to have an incline.

18 Q. Okay. In fact, we can see what looks like  
19 closed venetian blinds and then a window air  
20 conditioning unit perhaps.

21 Do you see that?

22 A. I see the venetian blinds quite clearly.  
23 That may well be an air conditioner window unit.

24 Q. Okay. And you would agree that those are  
25 examples of information which we see in the visual

1 image, not in any text; correct?

2 MS. HURT: Objection to form.

3 THE WITNESS: I would agree that we just  
4 derived that information by looking at the image.

5 BY MR. HUGHES:

6 Q. Okay. And so will you agree with me that  
7 in the context of interviewing people that were  
8 eyewitnesses to a historical event, one thing we may  
9 want to ask for is whether they kept any photos or  
10 records that date back to the event; is that fair to  
11 say?

12 MS. HURT: Objection to form.

13 THE WITNESS: It's possible that one could  
14 do that. I never have, but it -- but I don't think  
15 there's any reason not to.

16 BY MR. HUGHES:

17 Q. Okay. All right. If you look at the  
18 bottom of page 22, there's references to Terry Dyer  
19 in the last paragraph.

20 MR. HUGHES: If you can go down a little  
21 bit on the page.

22 BY MR. HUGHES:

23 Q. Do you see the reference to Terry Dyer on  
24 the first line of the last paragraph?

25 A. Yes, I do.

1 Q. Okay. And then do you see how four lines  
2 or five lines down there's a footnote 28?

3 A. I see that, yes.

4 Q. Okay. And the footnote cites to a  
5 deposition transcript of Terry Dyer from 2024, and  
6 it gives a couple of page numbers; right?

7 A. I see that footnote, yes. And it does  
8 include that information.

9 Q. Okay. Now, would you agree with me that  
10 the category we call "deposition testimony" is a  
11 different category that's distinguishable from the  
12 category we call "oral histories"?

13 MS. HURT: Objection to form.

14 THE WITNESS: Yes, I agree with you.

15 BY MR. HUGHES:

16 Q. Okay. And we've talked about some of the  
17 reasons earlier. But one reason is, for example,  
18 that we would like oral histories to be kept in an  
19 archive, and it may be that there's no rule  
20 requiring depositions to be kept in an archive.

21 Would that be fair to say is one example of  
22 a difference between depositions and what we call  
23 oral histories?

24 A. Yes.

25 Q. Okay. But would you agree that even though

1 deposition transcripts are different from oral  
2 histories, deposition transcripts are still texts  
3 that may have relevance and usefulness to the  
4 methodology of a historian?

5 A. I would agree. I think we talked earlier  
6 that it can be appropriate for historians to use  
7 depositions as sources so long as they are clearly  
8 cited and it is clear to the reader that they are  
9 depositions. And also, again, as I discuss in my  
10 report, that the historian is approaching those  
11 documents with appropriate care.

12 Q. Understood.

13 And so here you'll note that in the  
14 footnotes it does identify this information as  
15 coming from a deposition; right?

16 A. Yes.

17 Q. Okay. And are you aware of the fact that  
18 in many depositions, the attorney for the other side  
19 of the case, for lack of a better word, has an  
20 opportunity to question the witness once the  
21 deposing attorney finishes? Were you aware of that?

22 MS. HURT: Objection to form.

23 THE WITNESS: I don't know the specifics,  
24 but I know that opposing counsel sometimes collects  
25 depositions of the -- from the same witness.

1 BY MR. HUGHES:

2 Q. Okay. Looking at this paragraph regarding  
3 Terry Dyer in Dr. Longley's second report, do you  
4 have any criticism of it sitting here today?

5 A. I'm going to take a moment to read it,  
6 please.

7 Q. Yes, sir.

8 A. Could we scroll down a little bit more,  
9 please?

10 Thank you.

11 Oh. No, no, no. That's a bit too far. I  
12 apologize. I just wanted to see the full footnote.

13 No, I -- based on what I am seeing at this  
14 time, I don't have any criticisms.

15 Q. Okay. Thank you.

16 Let me also show you -- I lost my visual  
17 again.

18 Let's do this: Let's -- I think we should  
19 stop it now and hold it open. I think I have, like,  
20 at least another hour, but I can do it after we do  
21 Dr. Longley, perhaps, like, in a week or two or  
22 three.

23 Can we go off the record and talk about it?

24 MS. HURT: Yeah, we can go off the record  
25 and talk about it.



1 THE VIDEOGRAPHER: Okay.

2 MR. HUGHES: Okay.

3 THE VIDEOGRAPHER: We are going off video?

4 THE STENOGRAPHER: Yeah.

5 THE VIDEOGRAPHER: Okay. We are going off  
6 the record at 4:51 p.m.

7 (Recess taken from 4:51 to 5:00.)

8 THE VIDEOGRAPHER: We are back on the  
9 record at 5:00 p.m.

10 MR. HUGHES: Dr. Kelman, I spoke with  
11 counsel for DOJ off the record, and we're going to  
12 end it for today. We're going to pick it back up at  
13 a time and date that's convenient for you in the  
14 next two -- couple of weeks. I will have about one  
15 hour of questions left. It will be following the  
16 documents I've already circulated to counsel.

17 And I appreciate your patience in this  
18 matter. So -- and we can do it at any time that  
19 suits you.

20 And so that's what we'll do. And I  
21 appreciate your time today.

22 THE WITNESS: Thank you. I appreciate your  
23 patience. Have a great evening.

24 THE VIDEOGRAPHER: Okay.

25 MR. HUGHES: Yes, sir. Thank you.

1 THE VIDEOGRAPHER: Before we go off the  
2 record, Mr. Hughes, would you like to buy a copy of  
3 the video?

4 MR. HUGHES: It's under the normal court  
5 order for our side. You know, we get a transcript  
6 and a video of everything, I think.

7 THE VIDEOGRAPHER: Okay. Ms. Hurt and  
8 Mr. Gibbons, do you need a copy of the video?

9 MS. HURT: I don't need a copy of the video  
10 right now.

11 THE VIDEOGRAPHER: Okay.

12 MS. HURT: I do -- I would like to have a  
13 rough of the transcript.

14 THE VIDEOGRAPHER: Okay.

15 All right. We are going off the record at  
16 5:02 p.m. This is the end of today's proceedings.

17 (Proceedings adjourned at 5:02 p.m. PST.)

18 ---oOo---

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DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury under  
the laws of the State of California that the  
foregoing is true and correct.

Executed at \_\_\_\_\_ on \_\_\_\_\_.  
(Place) (Date)


\_\_\_\_\_  
ARI KELMAN, PhD

## STENOGRAPHER'S CERTIFICATE

I, LORRIE L. MARCHANT, Certified Shorthand Reporter, Certificate No. 10523, for the State of California, hereby certify that ARI KELMAN, PhD was by me duly sworn/affirmed to testify to the truth, the whole truth and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place herein named; that the deposition is a true record of the witness's testimony as reported to the best of my ability by me, a duly certified shorthand reporter and a disinterested person, and was thereafter transcribed under my direction into typewriting by computer; that request [ ] was [ X ] was not made to read and correct said deposition.

I further certify that I am not interested in the outcome of said action, nor connected with, nor related to any of the parties in said action, nor to their respective counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of April, 2025.



-----  
LORRIE L. MARCHANT, RMR, CRR, CCRR, CRC  
Stenographic Certified Shorthand Reporter #10523

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.



VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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