

EXHIBIT 8

RUTH ANN HOLMES

December 7, 2011

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1 Ludington, Michigan
 2 Wednesday, December 7, 2011
 3 11:18 a.m.

5 RUTH ANN HOLMES,

6 was thereupon called as a witness herein, and after
 7 having first been duly sworn to testify to the truth,
 8 the whole truth and nothing but the truth, was
 9 examined and testified as follows:

10 MR. KOLKEMA: Let the record reflect that
 11 this is the deposition of Ruth Holmes to be taken
 12 pursuant to the Michigan -- or, I'm sorry, Federal
 13 Court Rules for all purposes.

14 EXAMINATION

15 BY MR. KOLKEMA:

16 Q. Could you identify yourself for the record.

17 A. Ruth Ann Holmes.

18 Q. Nurse Holmes, have you ever had your deposition taken
 19 before?

20 A. Yes.

21 Q. I'm going to ask you some questions. I'm sure you're
 22 familiar with the drill.

23 A. Somewhat. It's been quite a few -- a long time ago.

24 Q. If there's anything -- most importantly, if there's
 25 anything that I -- that is unclear, let me know.

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1 A. Okay.

2 Q. I'm sure your -- your attorney will do the same.
 3 Objections will be made, so on. I don't always ask a
 4 good question. And also try to answer yes, no as
 5 opposed to, you know, head nods and head shakes and
 6 other gestures.

7 Could you -- where are you currently
 8 employed?

9 A. Memorial Medical Center.

10 Q. How long have you been employed in that capacity?

11 A. Twenty years.

12 Q. Twenty years, okay.

13 A. Ten years in the ER, ten years upstairs.

14 Q. What do you mean by upstairs?

15 A. In the med-surge unit, medical-surgical unit.

16 Q. Surgical, okay.

17 A. Yep.

18 Q. Okay. Where did you go to school?

19 A. College or high school?

20 Q. College.

21 A. Well, I've been to three of them. Central Michigan --
 22 oh, I've actually been to four. Central Michigan,
 23 Nazareth College -- God, I can't remember the other
 24 one -- West Shore -- West Shore, and I forget -- I
 25 can't remember the other one. It was -- it was down

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1 in Kalamazoo. I can't remember the name of it.

2 Sorry.

3 Q. Okay. In your ten years in the ER --

4 A. No, it's like a West Shore, but I can't think of the
 5 name of it. It's out in Oshtemo.

6 MR. KILBANE: Oh, either Battle --

7 Kalamazoo --

8 THE WITNESS: Kalamazoo Valley. Kalamazoo
 9 Valley?

10 MR. KOLKEMA: Oh, okay.

11 MR. KILBANE: I thought it was -- it could
 12 be.

13 THE WITNESS: Unless they changed the name.
 14 It's Kalamazoo Valley, I think, in Oshtemo.

15 MR. KILBANE: Community college, it's right
 16 off of --

17 THE WITNESS: Yeah, community college.

18 MR. VANDER LAAN: Where did you get a
 19 degree from, ma'am?

20 THE WITNESS: I have a degree from West
 21 Shore and I have a degree from Kalamazoo Valley.

22 MR. VANDER LAAN: Thank you very much.

23 BY MR. KOLKEMA:

24 Q. What's the one from West Shore?

25 A. My RN degree.

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1 Q. And the one from --

2 A. My LPN.

3 Q. Okay. In your ten years in the ER, have your duties
 4 essentially been the same?

5 A. Yes.

6 Q. Briefly describe what they are.

7 A. Patient care, assessing patients.

8 Q. Was that the case on July 20, 2009? What was your
 9 position on that day?

10 A. RN. Just working in my nursing capacity. For the
 11 record, I don't remember what date I was there.

12 Q. Okay. Sure. Do you happen to know an individual
 13 named Joseph McAdam?

14 A. Yes, I do.

15 Q. How do you know him?

16 A. I know that he used to play basketball here in town,
 17 my kids know him, I know that he has a bar downtown,
 18 and he's been a patient in the ER.

19 Q. Okay. Are you from the Ludington area?

20 A. Yes, I am.

21 Q. Do you recall this incident on July 20, 2009? Do you
 22 have any independent recollection?

23 A. I remember him coming into the ER.

24 Q. Okay. What was his complaint --

25 A. He was brought in --

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1 Q. -- that you recall?
2 A. He was brought in by the police.
3 Q. What, if anything, did you do to review -- or to
4 prepare for today's dep, outside of discussions with
5 your attorney?
6 A. Nothing.
7 Q. Okay. You didn't review any records beforehand?
8 A. Well, with Brian, we -- I saw the record that I did
9 the wound care, which I don't remember doing, but it
10 says in the record that I did it.
11 Q. Okay. How would you describe Mr. McAdam's demeanor, I
12 guess?
13 A. Agitated.
14 Q. Why do you say that?
15 A. He kept screaming he wanted to see his mother --
16 Q. Wanted --
17 A. -- and he was restless on the cart, yelling.
18 Q. Do you have an idea as to where his mother was?
19 A. Uh-huh. She was in custody with the police.
20 Q. Okay. Mr. McAdam's was in police custody, too,
21 correct?
22 A. Yes.
23 Q. His mother was not in the hospital, though?
24 A. She came in the hospital, but he didn't know it. I
25 heard them bring her in to go to lab, but she was not

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1 actually a patient in the ER.
2 Q. Okay. Did you see her on that occasion?
3 A. I did not see her, no. I just heard them come through
4 the back doors.
5 Q. Okay. Anything else that you can recall about his
6 demeanor on that day?
7 A. No.
8 Q. Did you know any of the officers bringing him in?
9 A. I don't remember who they were.
10 Q. Do you know a Deputy Oscar Davila?
11 A. Yes, I do.
12 Q. How about Derek Wilson?
13 A. Yes, I do.
14 Q. How do you know those two individuals other than --
15 A. Just in the ER. Well, actually, Derek I know -- I --
16 Derek gave me a dog, so I know him a little bit with
17 that transaction. He needed to find a home for his
18 dog, and I took it.
19 Q. Okay.
20 A. So other than that, that's all.
21 Q. Was that a situation where you responded to a -- I
22 don't know, something in the paper?
23 A. Well, he had put something out on Facebook, and one of
24 my friends -- at that time, I didn't have Facebook.
25 And one of my friends had told me, and she knew that I

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1 was possibly looking for a dog because my dog was
2 really old and I was looking to get another dog, and
3 this one was older and it wasn't a puppy. And she
4 just told me about Derek. And I called -- he called
5 me, I called him, I don't remember.
6 Q. Okay. So some sort of word-of-mouth?
7 A. Yep.
8 Q. Okay. Do you know when that transaction was?
9 A. It was a year ago this last May. I've had her since
10 last May.
11 Q. Okay. So it's after this incident?
12 A. Yep. Yep.
13 Q. This is July 2009.
14 A. Yup.
15 Q. How about Joseph McAdam; other -- I mean, did you know
16 him? I may have asked you that.
17 A. Yeah, I knew him. I knew he used to play basketball
18 when my kids were little. We used to go to the games
19 and he played, and I've -- I have run into him in the
20 ER, and -- oh, I've maybe been to Michael's once or
21 twice in my life and maybe said hi. That's about it.
22 Q. Did you know Mr. McAdam on a first-name basis, I
23 guess?
24 A. No.
25 Q. Okay. How about Officer Warmuskerken?

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1 A. I'm not sure. I don't know.
2 Q. Okay.
3 A. If he was in the ER, I'm sure I know him. I just
4 don't know all their names.
5 Q. Okay. Did you happen to -- are you aware of any
6 incident in which Mr. McAdam was Tasered while in the
7 ER?
8 A. No, I'm not.
9 Q. What exactly did you do?
10 A. For the record, I did his wound care. I don't
11 remember doing it, but it says I did.
12 Q. Okay. And what page does that begin on? You're
13 looking at Exhibit 1 from Ms. Luft's deposition.
14 There's some circled numbers in green.
15 A. This is it right here, I think. Yep, this is me.
16 Q. Okay. Wound care would begin on page, what is it, 3
17 or 4?
18 A. Oh, level -- wait.
19 Q. That number.
20 A. 5. Page 4, it says on the top.
21 Q. Page 4 of the original document and -- okay.
22 MR. KILBANE: Page 5 on the circled.
23 MR. KOLKEMA: Yeah, on the handwritten
24 number.
25 BY MR. KOLKEMA:

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- 1 Q. And you began at what time?
- 2 A. I don't recall. I'd have to look at the record if it
- 3 tells it here.
- 4 Q. Isn't there a reference of 1:0 --
- 5 A. 1:03, yep.
- 6 Q. Okay. Do you know if, in the way this form is
- 7 structured, you would have had any contact with him
- 8 before that time? That was terribly worded, I guess.
- 9 All I know is what's on the form.
- 10 A. I know at one time, I don't know if it came before or
- 11 came after I did wound care, because I don't remember
- 12 doing wound care, that I went in. And just because of
- 13 the fact that I do know him enough that -- you know,
- 14 like I say, on a first-name basis, I don't know if
- 15 we're actually first-name-basis people that I know
- 16 him, but I know him. He knows me because of my kids.
- 17 And I went in and tried to calm him down, because he
- 18 was -- I said, you know, come on. Let's just calm
- 19 down here. And that wasn't working, so I just left.
- 20 And I don't even remember doing this, so ...
- 21 Q. Okay. Do you have a recollection as to whether he was
- 22 handcuffed or not?
- 23 A. I don't recall. Usually -- usually, on a general
- 24 basis, when the police bring someone in that is upset
- 25 and like that, they are handcuffed, but I do not

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- 1 recall.
- 2 Q. Okay. Do you -- was there ever a time where there was
- 3 somewhat of a scuffle or -- or incident?
- 4 A. He was just loud and rowdy. I mean, I don't think --
- 5 I don't remember anything physically. I just remember
- 6 him yelling, I want to see my mom, I want to see my
- 7 mom, and that's about all I can recall.
- 8 Q. Was he loud to you at all?
- 9 A. I don't recall.
- 10 Q. Were you able to accomplish what you needed to
- 11 accomplish?
- 12 A. To calm him down? No. So I just kind of walked out
- 13 of the room. I mean, I tried. I left.
- 14 Q. What are your -- what techniques did you employ?
- 15 A. I just tried to calm him down. Come on. Let's not
- 16 act this way. I don't know. I don't know, but that's
- 17 what I would normally do. I don't recall the exact
- 18 words that I said to him, but ...
- 19 Q. On Exhibit 1 from Holly Luft's deposition, page 5, the
- 20 same page under wound care, the information that you
- 21 would have inserted here, on this form, would be that
- 22 which is somewhat bold to the right?
- 23 A. Uh-huh.
- 24 Q. Huh? I'm sorry?
- 25 A. I mean, you're saying as a nurse or me, myself?

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- 1 Q. Yeah. My inquiry is, essentially, this information
- 2 over here --
- 3 A. This is me. I put this in. Holly put this in. I
- 4 don't remember it, I don't recall it, but it says I
- 5 did it.
- 6 Q. And just for the record, when you say this, we have to
- 7 kind of, like, identify it.
- 8 A. Oh, the chart. Per the chart.
- 9 Q. The information you did on page 5 is, essentially,
- 10 that which is bold under wound care?
- 11 A. Right. Correct.
- 12 Q. Okay. And all of that would have been information
- 13 coming from Mr. McAdam's?
- 14 A. No. This is coming from me. This is what I did to
- 15 Mr. McAdam's. He didn't have any --
- 16 Q. Okay.
- 17 A. This up here is where you would put in comments by --
- 18 Q. You're not there to take a report --
- 19 A. Right.
- 20 Q. -- from anybody?
- 21 A. Right.
- 22 Q. Gotcha. Overlook that. Anything else in connection
- 23 with this day?
- 24 A. No.
- 25 Q. Do you know how long it would have taken you to do

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- 1 something like this type of wrap, I guess, Kerlex
- 2 Wrap?
- 3 A. Ten minutes would be probably a long time. You know,
- 4 I would think approximately ten minutes.
- 5 Q. All right. Did you --
- 6 A. But I don't remember doing it, so ...
- 7 Q. Aside from his demeanor and being loud and angry and
- 8 vocalizing that he wanted to see his mother, anything
- 9 unusual happen?
- 10 A. I don't recall. I have no memory other than what I've
- 11 told you.
- 12 Q. Do you have any recollection as to whether he was
- 13 demanding an iPhone that was taken?
- 14 A. I don't recall.
- 15 Q. Okay. Did he ever indicate to you that he was
- 16 refusing medical treatment?
- 17 A. I don't recall.
- 18 Q. If you did, what would you have done?
- 19 A. I wouldn't have forced him. I mean, he's a big guy.
- 20 I wouldn't have -- you know, I couldn't have -- I
- 21 didn't tie him down to do wound care. But he must
- 22 have -- I mean, he must have cooperated with me if I
- 23 did this, because --
- 24 Q. The wound care aspect?
- 25 A. Right.