

UNITED STATES OF AMERICA

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

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SECRETARY OF LABOR, :
Complainant, : OSHRC DOCKET NO.
-vs- : 10-1705
SEA WORLD OF FLORIDA, LLC, : REGION IV
Respondent. :
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THE DEPOSITION OF:

FREDY HERRERA

Taken by the Complainant

DATE: JUNE 20, 2011
TIME: 2:05 pm to 4:38 pm
LOCATION: Renaissance Orlando at SeaWorld
6677 Sea Harbor Drive
Orlando, Florida
REPORTER: ELIZABETH A. SPEER, CRR

1 A. Yes.

2 Q. Was that shortly after the accident happened?

3 A. Yes, that day.

4 Q. And you provided them a written statement?

5 A. Yes, I did.

6 Q. Did you also provide them an oral statement?

7 A. Yes.

8 Q. And were those both in the same session?

9 A. Yes. Yes, it was.

10 Q. Okay. So did they record a statement from
11 you and then take a written statement, or other way
12 around?

13 A. Oh, I don't recall which order.

14 Q. Okay. And those both happened like within
15 how many minutes of each other would you estimate?

16 A. A couple minutes.

17 Q. Have you seen your written statement since
18 you gave it?

19 A. Yes, I saw it.

20 Q. Is there anything you would change in the
21 written statement that wasn't accurate?

22 A. No.

23 Q. In your statement do you recall saying that
24 she reached up with her left arm and grabbed her hair?

25 A. Yes.

1 Q. And then you say you noticed her slide into
2 the water with the whale?

3 A. Yes.

4 Q. So do you know why she was grabbing her hair?

5 A. Why she was grabbing her hair?

6 Q. Yeah.

7 A. Because that -- because the whale had sort of
8 either grabbed her hair or -- from my point of view
9 grabbed the hair, so she was grabbing the hair, just
10 trying to pull it off the whale.

11 Q. Pull it out of the whale's mouth?

12 A. Out of the whale, yes.

13 Q. Did you also give a statement where you said
14 the whale had grabbed her arm?

15 A. Well, from my angle, it looked like, you
16 know, it grabbed her arm or the hair, either one of
17 them. That's why.

18 Q. Did you -- did you see when the whale grabbed
19 whatever it grabbed -- that is, did you see it grab her
20 arm or grab her hair?

21 A. Well, from my angle I saw the arm come up and
22 grab the hair. So if -- from my angle from where I was
23 sitting, I saw, you know, it could have been the arm or
24 the hair. So --

25 Q. Now, right before that happened, where was

1 statement that you would change?

2 A. No.

3 Q. You see that you wrote in there that: I did
4 observe Shamu trainer Dawn petting the whale named
5 Tilikum.

6 A. Yes.

7 Q. And then: At the concrete area of the pool
8 when the whale grabbed the trainer's arm and pulled her
9 into the pool and would not let go.

10 A. Right.

11 Q. Is that accurate?

12 A. Yes, it's accurate. I mean, whatever she was
13 -- whatever she was doing, he wouldn't let go. So if
14 she had her arm -- you know, by her hair and
15 everything, he wouldn't let go. And then that's when I
16 saw her going into the pool.

17 Q. Okay. But here the statement says that the
18 whale grabbed the trainer's arm. Do you see that?

19 A. Okay.

20 Q. Do you disagree with what you wrote there,
21 the statement you gave to the sheriffs?

22 A. From -- from my angle, it seemed that, you
23 know, either her arm or her hair was grabbed. So from
24 my angle I saw the arm go up and then grabbed her hair.
25 But I assume he grabbed with the arm.