

EXHIBIT D

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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BARBARA GRADY, individually)	Case No.:
and on behalf of all others)	5:22-cv-00842-JLS-SHK
similarly situated,)	
)	
Plaintiff,)	
)	
vs.)	
)	
RCM TECHNOLOGIES, INC.,)	
)	
Defendant.)	
_____)	

Video deposition of Desiree Disotell, PMK, taken at
501 West Broadway, Suite 900, San Diego, California,
commencing at 9:31 A.M. PST on Wednesday, May 22, 2024,
before NICOLE O'NEIL, Certified Shorthand Reporter 10774,
in and for the State of California.

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DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 before taking a break, but other than that, breaks at any
2 point that you want.

3 A. Okay.

4 Q. I probably forgot some other preliminary
5 statements, but I will be reminded of any that might be
6 applicable as we go.

7 Are you currently employed by RCM Technologies?

8 A. I am.

9 Q. Is it RCM Technologies USA or RCM Technology --

10 A. RCM Technologies Incorporated.

11 Q. What's your current position there?

12 A. Senior HR California labor specialist.

13 Q. How long have you held that position?

14 A. Since September 30 of 2022.

15 Q. Were you with RCM before then?

16 A. No.

17 Q. Did you have a predecessor in that job position?

18 A. No. I did not.

19 Q. Is that a new job position that was open when
20 you came aboard?

21 A. It is.

22 Q. Do you know the reason for creating that
23 position?

24 A. Yes. We were expanding operations in California
25 and the leadership felt it would be a good idea to have

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 somebody on the ground in California.

2 Q. Does RCM Technologies have any kind of office in
3 California?

4 A. Yes. There's a San Diego office.

5 Q. Okay. Where is that located?

6 A. It's on -- it's in Mission Valley. The exact
7 address is escaping me at the moment.

8 Q. Any other offices in California that RCM has?

9 MS. BOYCE: Objection. Vague.

10 THE WITNESS: I'm not sure.

11 BY MR. KONECKY:

12 Q. Not that you are aware of?

13 A. Not that I'm aware of. I believe one closed
14 recently in Anaheim, but I'm not sure about that.

15 Q. Are you aware of any other offices that RCM
16 Technologies has had in California?

17 A. No.

18 Q. Do you know when the San Diego office opened?

19 A. I don't.

20 Q. Before you got there?

21 A. Yes.

22 Q. Who -- can you describe who was working out of
23 the San Diego office of RCM Technologies at the point
24 that you got there in September of 2022?

25 A. Sure. The travel division manager -- or the

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 travel division team.

2 Q. Anybody else?

3 A. No.

4 Q. What is the travel division?

5 A. It's the division of -- it's the part of the
6 healthcare division that manages travel nurses and
7 various other assignments in California.

8 Q. When you say "other assignments," what type of
9 other assignments?

10 A. We have other assignments through the Department
11 of Education for various school districts in California,
12 so the schedulers may work out of the San Diego office
13 part time.

14 Q. Is it nurses that you're making assignments for
15 with the Department of Education or some other type of
16 job?

17 MS. BOYCE: Vague.

18 THE WITNESS: It's a variety of different
19 positions. It might be nurses, therapists,
20 paraprofessionals, behavior therapists.

21 BY MR. KONECKY:

22 Q. So travel nurses and then other assignments
23 through the Department of Education?

24 A. Correct.

25 Q. Any other types of assignments that the

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 healthcare division, the travel division within the
2 healthcare division works on in California?

3 A. Not that I can think of. There may be more.

4 Q. Okay. Can you describe what travel nurses --
5 that position or type of assignment is, at least with
6 respect to RCM Technologies?

7 A. A travel nurse may be assigned to a variety of
8 different clients. It could be a hospital, clinic
9 setting, home healthcare, any number of different clients
10 or assignment locations and requirements.

11 Q. And does each location have -- do you make
12 assignments as part of a contract --

13 MS. BOYCE: Objection. Vague.

14 BY MR. KONECKY:

15 Q. -- with that location?

16 MS. BOYCE: Objection, vague.

17 THE WITNESS: We provide employees for clients,
18 and they may have a variety of locations that they are
19 staffing for, a variety of positions that they are
20 staffing for. It's not necessarily location based. It's
21 client based.

22 BY MR. KONECKY:

23 Q. Do you have a contract -- does RCM have a
24 contract with each of the clients for which it is
25 assigning nurses? Let's stick with nurses.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 A. Yes. That's my understanding.

2 Q. Do you know how many clients RCM has for which
3 you're assigning nurses in California?

4 A. I don't know.

5 Q. Do you have any kind of approximation or
6 estimation?

7 MS. BOYCE: Objection. Calls for speculation.

8 THE WITNESS: I couldn't guess. I really don't
9 know.

10 BY MR. KONECKY:

11 Q. Do you know if it's more than 10?

12 MS. BOYCE: Objection. Vague.

13 Speaking to currently?

14 BY MR. KONECKY:

15 Q. We can start with currently.

16 Currently do you know if RCM has more than 10
17 clients that have contracts with -- that involve
18 assignments or placements of nurses in California?

19 A. I actually don't know.

20 Q. You don't? What about in 2022?

21 A. I don't know.

22 Q. Who else is in the travel division team here in
23 California?

24 A. There's a travel division manager. There's an
25 operations -- there's operations. There's various

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 schedulers and recruiters and there may be -- there may
2 be account managers for different clients.

3 Q. In California how many schedulers -- or
4 approximately how many do you have?

5 MS. BOYCE: Objection. Vague.

6 THE WITNESS: Currently or --

7 BY MR. KONECKY:

8 Q. Why don't we start with currently, and if it's
9 different, let me know how it's changed since you've been
10 there.

11 MS. BOYCE: Objection. Compound.

12 THE WITNESS: I would have to speculate and say
13 approximately three to four schedulers now, and it really
14 has varied depending on client volume and what was going
15 on. The pandemic there may have been more.

16 MS. BOYCE: I just want to remind you of
17 counsel's admonition. If you can provide a good-faith
18 estimate, you can do that. If it's pure speculation, let
19 him know. He doesn't want you to guess.

20 THE WITNESS: Okay.

21 BY MR. KONECKY:

22 Q. The three to four, was that speculation or was
23 that an approximation in terms of how many schedulers
24 there are?

25 A. That's an approximation based on what I've seen

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 THE WITNESS: Not that I'm aware of.

2 BY MR. KONECKY:

3 Q. Do you have an understanding of when the time
4 period during which there was a -- the highest volume of
5 nurses being assigned to do COVID testing?

6 A. I don't know that specific peak within RCM.

7 Q. Was it before you arrived in 2022?

8 A. Yes.

9 Q. When you arrived in 2022, do you know
10 approximately how many clients RCM was working with with
11 respect to assigning nurses for COVID testing in
12 California?

13 A. I don't.

14 Q. Do you know if it was more than five?

15 A. I actually don't.

16 Q. What did the schedulers do for RCM?

17 A. The schedulers would work with the client and
18 the -- our contracted employees to fill in the -- the
19 schedules that the client needs employees for, so they
20 would work directly -- they would sort of be the liaison
21 between the employee and the client and schedule the
22 employee.

23 Q. When you say -- you use the word "contracted."

24 Are contracted employees before -- would that be
25 the nurse, for example?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 A. Correct.

2 Q. What about the recruiters? What is their role?

3 A. The recruiters have more of a sourcing role, in
4 other words, locating and finding nurses either --
5 through various recruiting efforts.

6 Q. Do you know how many recruiters, approximately,
7 RCM has in California in the travel division team?

8 MS. BOYCE: Vague.

9 THE WITNESS: I don't. I would estimate about
10 five.

11 BY MR. KONECKY:

12 Q. And that's current?

13 A. Correct.

14 Q. And was that more in the 2020-2022 range?

15 A. I'm not sure.

16 Q. You mentioned there was a role of operations
17 within the travel division?

18 A. Correct.

19 Q. Is that one person?

20 A. Yes.

21 Q. And who is that currently?

22 A. Chris Cooper.

23 Q. And -- is that a he or a she?

24 A. He.

25 Q. How long has Chris Cooper been in that role in

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 operations, to your knowledge?

2 A. I don't know. It's been several years.

3 Q. Since before you got there?

4 A. Correct.

5 Q. What is his job?

6 A. Primarily to process payroll and handle some
7 onboarding tasks and some administrative things with
8 respect to getting employees into and out of our
9 systems -- systems access.

10 Q. What kind of onboarding, to your understanding,
11 does Mr. Cooper do?

12 A. Providing documentation to new hires.

13 Q. Is he involved in any training of new hires?

14 A. No.

15 MS. BOYCE: Objection. Vague.

16 BY MR. KONECKY:

17 Q. With respect to -- well, let me ask you -- when
18 you say "new hires," does that include the nurses you are
19 hiring to place with your clients or something else?
20 Someone else?

21 A. It would include any of the new hires in the
22 travel division.

23 Q. Does that include nurses that are being placed?

24 A. Correct. Uh-huh.

25 Q. The nurses that are being placed at your

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 client's facilities are W-2 employees?

2 A. Yes.

3 Q. And they are documented as W-2 employees of RCM
4 Technologies?

5 A. Correct.

6 Q. And the nurses that are being placed at client
7 facilities in California, are they all non-exempt
8 employees?

9 A. That's my understanding.

10 MS. BOYCE: Vague. Compound.

11 BY MR. KONECKY:

12 Q. Are they all paid based on the hour?

13 A. I believe so. Yes.

14 Q. Do you know what onboarding documentation
15 Mr. Cooper handles with respect to the nurses that RCM is
16 employing to work at the client facilities or locations?

17 A. Currently or during the time period of the
18 pandemic?

19 Q. Both.

20 A. I don't know what his role, specifically, was
21 during the pandemic time. I'm not entirely sure if he
22 was operations. Currently, a new hire he would send -- I
23 believe it's a welcome e-mail with links -- links
24 and -- links to onboarding documents with the handbook.

25 Q. I'm sorry. What was the last word?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 you're aware, since before you got to RCM until today?

2 A. Well, we've formalized some policies and
3 procedures that were in place at that time and have some
4 additional documents that are now available.

5 Q. Okay. What have you formalized?

6 A. We formalized the meal and rest break policy
7 that we were communicating previously through verbal --
8 verbal discussions upon hire, our welcome e-mails, and
9 various different avenues of communicating what our
10 procedures are, including the client would also
11 communicate their site-specific procedures.

12 When I came onboard we formalized that into a
13 policy, so that is now provided at the link.

14 Q. Okay. At what point did -- did RCM Technologies
15 formalize a meal and rest-break policy that would be
16 applicable to the nurses being assigned locations in
17 California?

18 A. Fall of 2022.

19 Q. Before the fall of 2022, are you aware of any
20 formalized meal and rest break policy that was being
21 provided to nurses assigned to client locations of RCM in
22 California?

23 MS. BOYCE: Objection. Vague.

24 THE WITNESS: Our policy at that time was
25 communicated in writing via assignment e-mails,

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 additionally, through the recruiter's verbal discussions
2 with our nurses as they are deployed. Additionally, the
3 client -- the expectation of the client is that the
4 client would take on the brunt of explaining the
5 day-to-day procedures at the site since they were remote
6 to us.

7 MR. KONECKY: Can I have that answer read back,
8 please?

9 (The record was read.)

10 BY MR. KONECKY:

11 Q. So what is the difference between what you just
12 described, if anything, and the formalized meal/rest
13 break policy implemented in fall of 2022?

14 A. I'm not sure I understand the question.

15 Q. Well, let me back up.

16 Am I correct to understand that -- first of all,
17 let me back up even further.

18 The assignment e-mails, who sent the assignment
19 e-mails?

20 MS. BOYCE: Vague. Compound.

21 THE WITNESS: The assignment e-mails were likely
22 sent by the scheduler or it may have been the recruiter.

23 BY MR. KONECKY:

24 Q. And did each scheduler or recruiter determine
25 for him or herself how to describe the meal and rest

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 period policy, for example -- or whatever other policies
2 are being described in that e-mail or not?

3 A. The assignment e-mails would have had the
4 expectation with respect to California law -- what the
5 law was about taking meal and rest breaks. It would have
6 been emphasized in the assignment e-mails that they
7 needed to take their meal and rest breaks per California
8 law.

9 Q. But my question is slightly different, which is
10 in terms of the language that was being used, did the
11 recruiters make their -- or the recruiters or the
12 schedulers who are sending the e-mails to the incoming
13 nurses, were the recruiters or schedulers using their own
14 words or language, or was there a standard or form type
15 of communication that they were using in their e-mails or
16 something else?

17 A. My understanding was it was a template. The
18 same verbiage was used for all e-mails.

19 Q. Okay. So prior to the formalization of the
20 meal/rest policy in -- for about fall of 2022, one of the
21 ways that RCM Technologies communicated its meal and rest
22 period policies to the nurses was through the assignment
23 e-mails sent by a scheduler or recruiter, and those
24 assignment e-mails had a template that was being used
25 that was the same for all of the e-mails?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. In terms of the requirement and the expectation
2 from RCM Technologies, whether it was conveyed in writing
3 or verbally, was it the same requirement and expectation
4 for all of the nurses?

5 MS. BOYCE: Objection. Vague. Compound.

6 THE WITNESS: As far as I know.

7 BY MR. KONECKY:

8 Q. Yes?

9 A. Yes.

10 Q. In terms of the client piece that -- am I
11 understanding correctly that that piece included how
12 those requirements are being covered in terms of
13 scheduling breaks or otherwise?

14 A. Correct.

15 Q. Any other piece of meal and rest period
16 requirements or expectations that the client would be
17 handling other than how to schedule them?

18 MS. BOYCE: Objection. Vague. Compound.

19 THE WITNESS: Well, it would have been our
20 expectation that had there been an issue with meal or
21 breaks, that the client and the employee -- or the
22 employee -- would bring to our attention if there was an
23 issue with taking the required breaks.

24 BY MR. KONECKY:

25 Q. Anything else other than scheduling coverage or

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 bringing an issue to you that your clients would be
2 responsible for with respect to meal and rest-break
3 policies for the nurses?

4 MS. BOYCE: Objection. Vague. Compound.

5 THE WITNESS: Not that I can think of.

6 BY MR. KONECKY:

7 Q. Are you aware of anything in the
8 contracts -- any of the contracts that RCM has with its
9 clients regarding expectations around meal or rest
10 periods?

11 MS. BOYCE: Objection. Beyond the scope. Calls
12 for a legal conclusion as to the impact of contractual
13 language.

14 THE WITNESS: I'm unsure about that. I don't
15 typically review contracts.

16 BY MR. KONECKY:

17 Q. Have you -- has it ever come to your knowledge
18 or attention in any communications with any clients or
19 any nurses or anybody else at the travel division team
20 that there are any provisions in any contracts that RCM
21 has with its clients that deal with or lay out
22 expectations or requirements with respect to meal and
23 rest periods?

24 MS. BOYCE: Vague. Compound.

25 THE WITNESS: I just don't know.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 BY MR. KONECKY:

2 Q. Nothing you've ever seen or heard. Is that
3 correct?

4 A. Correct.

5 Q. Are you aware of RCM ever proactively serving or
6 monitoring or auditing the practices or procedures that
7 happen at the client locations with respect to the
8 provision of meal or rest periods --

9 MS. BOYCE: Objection. Vague. Compound.

10 BY MR. KONECKY:

11 Q. -- to nurses?

12 A. Well, we rely on our clients and our employees
13 to inform us when there's an issue. If we are alerted to
14 an issue, we would go back and review time records, time
15 sheets, and address whatever issues are brought to our
16 attention. I don't know if that answers your question.

17 Q. It might. Part of it.

18 Other than being alerted to an issue by a client
19 or by an employee, is there -- if and when it
20 occurs -- is there any affirmative or proactive or
21 systematic process that you undertake to either survey or
22 audit or monitor what is occurring at your client
23 locations with respect to meal and rest periods?

24 MS. BOYCE: Objection. Vague. Compound.

25 THE WITNESS: I'm unsure of the process by which

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 an account manager may -- you know, respond to client
2 inquiries -- we don't have a formal process in place to
3 audit, but we respond to issues as they arise -- as we
4 become aware of them. And then usually it's when we are
5 alerted to an issue that we would do the research and do
6 a comparison and see if there's any issues that we need
7 to address.

8 BY MR. KONECKY:

9 Q. If you're not alerted to an issue by your client
10 or employee, am I correct that there's no other process
11 that you have in terms of surveying or auditing or
12 monitoring the practices and procedures at the
13 worksite -- at your client's worksites in terms of meal
14 and rest periods?

15 A. I can't categorically say no, because a client
16 may have a specific requirement that -- that there's a
17 true up of hours or a discussion about the previous
18 periods hours with a scheduler or with an account
19 manager. I don't know specifically if that happens, but
20 it may be a client requirement in order to continue with
21 us as -- you know, their provider of employees. I
22 can't -- I don't know for sure. I don't know.

23 Q. Without speculating or guessing, are you aware
24 of any particular way in which RCM Technologies has
25 surveyed or audited or monitored policies and procedures

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 pertaining to meal and rest periods at the worksites
2 where your nurses work?

3 MS. BOYCE: Vague. Compound. Calls for
4 speculation. Beyond the scope of the categories.

5 THE WITNESS: Unless it's a joint commission
6 requirement, I'm not aware of any, no.

7 BY MR. KONECKY:

8 Q. Are you aware of any joint commission
9 requirements?

10 A. I'm not. That's not my purview. I don't know
11 what their requirements are, but I know they get very
12 involved in our operations.

13 Q. What's a joint commission?

14 A. Joint commission is a certifying body that
15 examines practices -- or policies and practices. And
16 they ask for specific information on our operations in
17 order to certify.

18 Q. Is this a nursing body or some other kind of
19 body?

20 A. Typically in health -- involved in healthcare,
21 yes.

22 Q. But not involved -- not from like, a labor
23 department?

24 A. That I don't know. They ask for a lot of
25 information.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. The joint commission is not a part of the labor
2 commission?

3 A. No.

4 MS. BOYCE: Objection. Calls for speculation.

5 BY MR. KONECKY:

6 Q. Or labor or something like that?

7 A. I don't believe so, no.

8 Q. And you are not aware of any joint commission
9 working with RCM to assess the policies, practices or
10 procedures on the ground at any of the client facilities
11 relating to meal and rest periods?

12 MS. BOYCE: Asked and answered. Calls for
13 speculation.

14 THE WITNESS: I'm unsure. I don't know.

15 BY MR. KONECKY:

16 Q. Nothing that you are aware of?

17 A. Not that I'm aware of.

18 Q. And without speculating or guessing, am I
19 correct that you are not aware of any other surveying or
20 auditing or monitoring of the policies, practices, or
21 procedures used at the client facilities with respect to
22 meal and rest periods, whether coverage or otherwise?

23 MS. BOYCE: Objection. Asked and answered.

24 Compound. Vague.

25 THE WITNESS: I'm not aware of any, no.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 BY MR. KONECKY:

2 Q. Who was the travel division manager?

3 A. Tricia Spangler.

4 Q. How long has she been in that role?

5 A. I don't know.

6 Q. Since before you got there?

7 A. Correct.

8 Q. Has there ever been a -- to your knowledge, a
9 human resource function or division or employee in
10 California for RCM before your arrival in September of
11 2022?

12 MS. BOYCE: Objection. Vague.

13 THE WITNESS: Not that I'm aware of.

14 BY MR. KONECKY:

15 Q. Are you aware of any training of nurses with
16 respect to -- well, with respect to anything, I will
17 start with that. Are you aware of any training that RCM
18 does for the nurses or new hires to work at your client
19 facilities in California?

20 MS. BOYCE: Objection. Vague. Compound.

21 THE WITNESS: I'm not sure of specifically what
22 training they go through. Currently, we do meal and
23 rest-break training. I don't know what other jobs --
24 specific training that RCM would do. The client would
25 typically do some job-specific training at the site.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 BY MR. KONECKY:

2 Q. What is the meal and rest-break training that
3 RCM does for the nurses?

4 A. It's a PowerPoint presentation that discusses
5 meal and rest break policy.

6 Q. And is that done in person or over the internet
7 or something else?

8 A. Typically done virtually over the internet.

9 Q. How long has RCM been doing that?

10 A. Since the fall of 2022.

11 Q. Since you got there?

12 A. Yes.

13 Q. That's something you instituted?

14 A. Yes.

15 Q. Is there any other training that RCM provides to
16 the nurses that it places to locations in California
17 other than the meal and rest-break PowerPoint that you
18 began doing in fall of 2022?

19 MS. BOYCE: Objection. Vague as to "training."

20 THE WITNESS: I don't know what site specific or
21 job-specific training is done. I'm not sure.

22 BY MR. KONECKY:

23 Q. You are not aware of it?

24 A. I'm not aware.

25 Q. Are you aware of any surveying or monitoring or

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 auditing that RCM does of the policies, practices, or
2 procedures, used at the client facilities with respect to
3 how nurses record their time worked or their time worked
4 is recorded?

5 MS. BOYCE: Objection. Vague. Compound.

6 THE WITNESS: Not specifically. No.

7 MS. BOYCE: When we get to a stopping point, I
8 would like to take a break.

9 MR. KONECKY: Sure.

10 BY MR. KONECKY:

11 Q. Are you aware of any auditing or surveys or
12 monitoring that RCM has done for policies, practices, or
13 procedures used at the client facilities in terms of
14 authorizing or permitting overtime to be worked by
15 nurses?

16 MS. BOYCE: Objection. Vague. Compound.

17 THE WITNESS: By our clients specifically?
18 Because our assignment e-mails go over -- usually say
19 overtime must be approved in advance. That would be
20 something that we communicate in an assignment e-mail.
21 The client may communicate it, but I don't know -- I
22 don't have a specific example in mind.

23 BY MR. KONECKY:

24 Q. Are you aware of RCM ever doing any survey or
25 monitoring or auditing of the client -- of any of the

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 clients in California to determine what, if any,
2 policies, practices, procedures they have on the ground
3 for authorizing overtime?

4 MS. BOYCE: Same objection. It's compound.
5 It's vague.

6 THE WITNESS: I'm not aware of any.

7 BY MR. KONECKY:

8 Q. Do you -- meaning RCM Technologies -- obtain
9 meal and rest period policies from your clients and
10 maintain them?

11 A. No.

12 Q. What about any other wage and hour policies or
13 practices or procedures used by your clients? Do you
14 request and/or obtain them from your clients?

15 A. No. Not to my knowledge.

16 Q. You've mentioned some wage and hour policies
17 that RCM may convey to the nurses, such as meal and rest
18 period policy, right?

19 A. Correct.

20 Q. Do you provide those policies to your clients?

21 A. Upon request.

22 Q. But not as a matter of course or ordinary
23 business practice, correct?

24 A. I'm not 100 percent sure, but I would say likely
25 we do not.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. You're not aware of that ever occurring,
2 correct?

3 A. Correct.

4 MR. KONECKY: All right. We can take a break.

5 VIDEOGRAPHER: The time is 10:27. We're off the
6 record.

7 (Brief Recess)

8 VIDEOGRAPHER: The time is 10:41. We're on the
9 record.

10 BY MR. KONECKY:

11 Q. I think this is probably what you said before.
12 Have you had any other job positions with RCM other than
13 senior HR Cal labor specialist?

14 A. No. I have not.

15 Q. What did you do before -- workwise -- before
16 RCM?

17 A. I worked for a company called WellPath, and they
18 provide medical personnel to correctional facilities in
19 California.

20 Q. And how long were you there?

21 A. About a year and a half.

22 Q. Was it an HR role?

23 A. Yes. It was HR business partner.

24 Q. What about before that?

25 A. Prior to that I worked for Scripps.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. What did you do for Scripps?

2 A. Senior HR advisor.

3 Q. How long have you been in HR as a professional?

4 A. I want to say since about 2005, 2005. Nearly 20
5 years.

6 Q. Can you briefly state your educational
7 background?

8 A. I have a Master's in Business Administration
9 from Alaska Pacific University. I have a Bachelor's in
10 Organizational Management through Alaska Pacific
11 University.

12 Q. What were the dates of those approximately?

13 A. Graduated with my MBA in 2004 and with the BA in
14 2002.

15 Q. How often have you visited client sites for RCM
16 since you've been there in 2022?

17 A. I'm not sure -- I don't believe I've visited a
18 client site.

19 MR. KONECKY: This is marked as Exhibit 1. It
20 is entitled, "Notice of Deposition with Document
21 Production Pursuant to Federal Rules of Civil Procedure
22 Rule 30(b)(6) and Rule 34 to Defendant RCM Technologies
23 Inc."

24 It's on a caption of, "Barbara Grady,
25 individually and on behalf of all others similarly

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 situated, Plaintiff, versus RCM Technologies Inc.,
2 Defendant" pleading.

3 (Exhibit 1 was marked for identification.)

4 BY MR. KONECKY:

5 Q. It's a 12-page document, plus the cover page.
6 Have you seen this before?

7 A. Yes.

8 Q. When have you reviewed this?

9 A. I read this as part of the document review in
10 this case.

11 Q. Approximately when?

12 A. Within the last week.

13 Q. What other documents have you reviewed as part
14 of your document review in this case?

15 A. The documents that were requested for
16 production, the list of documents that were provided.

17 Q. Okay. On Page 3 through 4, there's a list of 10
18 subjects for the matters for examination for the
19 deposition as they pertain to the time period covering
20 October 8 in 2017 to present.

21 Do you see this list?

22 A. Yes.

23 Q. And you've reviewed it before?

24 A. Yes.

25 Q. And do you understand you're here to testify

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 with respect to these topics listed here on Page 3 and 4
2 on behalf of RCM Technologies, not just in your personal
3 capacity?

4 A. Yes.

5 Q. And are you prepared to do that?

6 A. Yes.

7 Q. Any reason why you are unable to do that today?

8 A. No.

9 Q. Do you know where RCM is headquartered?

10 A. In New Jersey.

11 Q. Do you know where it's incorporated?

12 MS. BOYCE: Objection. Calls for speculation.

13 Beyond the scope.

14 THE WITNESS: I don't know.

15 BY MR. KONECKY:

16 Q. Can you describe -- have you been to the
17 headquarters in New Jersey?

18 A. I have not.

19 Q. Do you know what states RCM does business in?

20 MS. BOYCE: Objection. Calls for speculation.

21 Beyond the scope.

22 THE WITNESS: I don't know all the states that
23 RCM does business in.

24 BY MR. KONECKY:

25 Q. Do you know -- is there a major set of states

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 know --

2 Q. Would that not be covered by RN or LVN?

3 A. RN, LVN, LPN, CNA. There may be others.

4 Q. Any others that come to mind other than RN, LVN,
5 LPN and CNA?

6 A. No.

7 Q. Does RCM Technologies make any distinction
8 between RN, LVN, LPN or CNA with respect to meal and
9 rest-break policies or expectations?

10 MS. BOYCE: Objection. Vague.

11 THE WITNESS: Not that I'm aware of.

12 BY MR. KONECKY:

13 Q. Same for all the nurses?

14 A. Yeah.

15 Q. Does RCM Technologies make any distinction
16 between RNs, LVNs, LPNs, CNAs or any other type of nurse
17 with respect to its policies or expectations for
18 recording time worked?

19 A. No. All hourly employees would be expected to
20 record -- you know, accurately record time worked,
21 including their meal breaks.

22 Q. Okay. In terms of any of the policies,
23 procedures, or expectations that RCM has about recording
24 time worked, whether scheduled time, unscheduled time,
25 overtime, meal, rest breaks, they are the same for all

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. Typically in your observation RNs tend to have
2 longer shifts?

3 MS. BOYCE: Objection. Misstates the testimony.

4 THE WITNESS: For some clients. Yes.

5 BY MR. KONECKY:

6 Q. In terms of policies and procedures that RCM has
7 with respect to recording time -- whether overtime or
8 unscheduled time or any other kind of time -- those
9 policies and procedures are the same for all the nurses?

10 A. Correct.

11 MR. KONECKY: I am going to mark this as Exhibit
12 2.

13 (Exhibit 2 was marked for identification.)

14 BY MR. KONECKY:

15 Q. I will just for the record say what Exhibit 2
16 is, and then you can read it and then let me know when
17 you're ready for questions.

18 It's a document Bates Stamped RCM00103 through
19 RCM00105. It appears to have some e-mail -- e-mail
20 notices or e-mails on it, but let me know when you are
21 done reading it.

22 A. Okay.

23 Q. Have you seen any of these pages before?

24 A. Yes. I believe they were included in the
25 documents produced.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. What about school sites? Is that another type
2 of setting?

3 A. School settings --

4 Q. What is another type of setting?

5 MS. BOYCE: Objection as to vague.

6 Are you asking specific to sites where folks
7 have travel contracts in place or just any type of
8 setting where somebody could be placed?

9 BY MR. KONECKY:

10 Q. Setting where RCM places -- has placed nurses in
11 California in 2017 to present. Setting types.

12 MS. BOYCE: Thank you.

13 THE WITNESS: Okay. Telehealth, schools -- did
14 I say schools already?

15 BY MR. KONECKY:

16 Q. I think I said -- I don't know if you said yes.
17 Schools would be another setting?

18 A. Yes. I can't think of any others at the moment.

19 Q. Okay.

20 A. Oh, hospitals, clinics, home health. That's all
21 I can think of at the moment.

22 Q. COVID pop-up testing and/or vaccination?

23 A. Correct.

24 Q. School settings?

25 A. Correct.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. And that may include COVID testing and
2 vaccination?

3 A. Could.

4 Q. Telehealth?

5 A. Yes.

6 Q. Hospitals and clinics?

7 A. Yes.

8 Q. And home health?

9 A. Yes.

10 Q. What is telehealth?

11 A. Clients who provide medical services to patients
12 via -- you know, virtually.

13 Q. And home health is, I assume, where the nurse is
14 in the client's --

15 A. In-home care. Skilled nursing facilities would
16 be another one.

17 Q. And so with these service settings -- is that an
18 appropriate name or --

19 A. Sure.

20 Q. With these service settings, has RCM
21 Technologies placed the same nurse in different settings
22 via different contracts over time?

23 MS. BOYCE: Objection. Lacks foundation.

24 THE WITNESS: I believe so. Yes.

25 ///

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 BY MR. KONECKY:

2 Q. Do you know -- how can you quantify by
3 estimation -- not by exact numbers -- by estimation,
4 based on your understanding of the business, how often
5 that occurs?

6 A. I would have no -- I'm not sure I
7 understand -- are you talking about like, how many
8 placements we do per day, per week, per year?

9 Q. Let me say it this way.

10 Do you have an approximation of the percentage
11 of nurses that you place, who you have placed in more
12 than one service setting over time?

13 A. I have no idea.

14 Q. Do you know whether it's more or less than 10
15 percent?

16 MS. BOYCE: Objection. Speculation.

17 THE WITNESS: I don't know. That's probably a
18 good question for Tricia.

19 MR. KONECKY: Fair enough.

20 MS. BOYCE: Tricia thanks you.

21 BY MR. KONECKY:

22 Q. I guess a good question for you would be: In
23 all of these settings, am I correct that RCM
24 Technologies' policies and procedures with respect to
25 meal and rest periods are the same?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. And that's regardless of the site, that policy
2 and expectation?

3 A. Correct.

4 Q. Okay. Back to Exhibit 2. It repeats itself a
5 couple of times -- at least in this exhibit -- on the
6 second page of the exhibit and the third page of the
7 exhibit, RCM00104 and RCM00105. It looks like it's part
8 of Ms. Caldwell's e-mails, but there's a place where it
9 says, "Please read carefully."

10 A. Yes.

11 Q. In yellow. And then it has, "RCM Office Phone
12 Number, Complete Timecard, Meal Breaks, Timecard
13 Protocol," each of those four bullets.

14 A. Yes. I see that.

15 Q. Have you seen that before?

16 A. Yes.

17 Q. Earlier you testified as to some template
18 language that was used prior to 2022 -- prior to the
19 formalization of certain policies by RCM that there was
20 template language used in assignment e-mails. I believe
21 you testified to that. Is this the type of template
22 e-mail that used to be used?

23 A. You know, this is the type of verbiage that I
24 would normally see in an assignment e-mail. It may vary
25 slightly, but typically this is what I've seen before.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. So this would not be unique to Ms. Caldwell or
2 Ms. Grady, but something that you typically see in an
3 assignment e-mail to a nurse about timecard and meal
4 break expectations?

5 A. Correct.

6 Q. Okay. Under "Meal Break," the first bullet
7 says, "If you work five hours or more, a mandatory
8 30-minute unpaid meal break is required to be taken as
9 per state law."

10 Do you see where I am?

11 A. Yes.

12 Q. And that is part of the template that RCM sent
13 out to the nurses?

14 A. Yes.

15 Q. And then the second bullet says, "The meal break
16 will automatically be deducted from total hours and
17 should be documented on your time sheet."

18 Is that also part of the template that RCM has
19 sent out to the nurses?

20 MS. BOYCE: Objection. Vague. Compound.

21 THE WITNESS: That's part of -- this assignment
22 e-mail, yes.

23 BY MR. KONECKY:

24 Q. And then the third bullet says -- well, this
25 assignment e-mail is part of a template of assignment

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 e-mails; correct?

2 A. It's typical -- it's the typical verbiage that
3 you would see. Yes.

4 Q. Okay. And then the last bullet says, "In the
5 event it's very busy and you are unable to take the
6 mandatory meal break, you must obtain manager/supervisor
7 approval and have them initial your time sheet on the
8 date when the meal break was not taken. If the manager
9 approval is not obtained, then the meal break will be
10 deducted."

11 Do you see that?

12 A. I do.

13 Q. And that was also part of the standard template
14 to the nurses?

15 MS. BOYCE: Objection. Vague. Compound.

16 THE WITNESS: Yeah. I see that it's part of
17 this documentation, yes, this template.

18 BY MR. KONECKY:

19 Q. Is this typical documentation for them to send
20 to the nurses?

21 A. Right.

22 Q. In this third bullet, who is the
23 manager/supervisor that's being referenced? Is that a
24 local manager/supervisor at the site or is that an RCM --

25 A. It could be either.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. In this particular e-mail template,
2 there's -- there doesn't appear to be a reference to meal
3 or rest period premium wages that might be paid if a meal
4 or rest period is missed.

5 A. Correct.

6 Q. You're familiar with what those are?

7 A. Yes.

8 Q. Are you aware of any assignment e-mails or
9 policies or procedures or bulletins provided to the
10 nurses before your arrival in September of 2022 that
11 informed nurses of the idea of a meal or rest period
12 premium if meal or rest period has been missed or is not
13 compliant?

14 A. No. If the -- if that was communicated, it
15 would have been communicated verbally.

16 Q. Are you aware of any particular requirement that
17 supervisors, managers, recruiters or schedulers or --
18 communicate information about meal or rest period
19 premiums to the nurses verbally?

20 A. No.

21 Q. Are you aware of any training of managers or
22 supervisors that has been done at RCM for communicating
23 requirements or procedures around meal period premiums or
24 rest period premiums for non-compliant rest/meal periods?

25 A. For which period of time?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. Let's start up until 20 -- September of 2022 at
2 your arrival.

3 A. I'm not aware of training with respect to
4 meal -- communicating the premium requirement, prior to
5 fall of 2022. Likely, you know, communication would have
6 been verbal if it occurred at that time.

7 Q. You are not aware of it occurring?

8 A. Correct.

9 Q. Do you know how RCM bills its clients?

10 MS. BOYCE: Objection. Vague. Compound.
11 Outside the scope.

12 THE WITNESS: What do you mean "how"?

13 BY MR. KONECKY:

14 Q. How does RCM --

15 A. I don't work in billing. I know the system that
16 we use. I don't know the specifics of how clients are
17 billed.

18 Q. What's the system that they use?

19 A. SAP ByDesign.

20 Q. And who is head of billing for clients in
21 California?

22 A. I'm not entirely sure who in our company bills
23 for California clients. It's someone in our operations
24 team, but they would be out of New York.

25 Q. Not New Jersey?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 form.

2 Q. So this is something you were involved with as
3 well?

4 A. Yes.

5 Q. Sometime in the -- after you arrived in
6 September of 2022?

7 A. Correct.

8 Q. And do you know if there was ever an Employee
9 Meal Period Waiver Election Form like this used by RCM
10 before your arrival in September of 2022?

11 A. I'm not sure. I'm not sure.

12 Q. You are not aware of it?

13 A. I'm not aware of any.

14 Q. And to what extent does RCM -- has RCM used this
15 form since your arrival, if at all?

16 A. I will back up a little bit and say, prior to my
17 coming onboard, there may have been numerous situations
18 where the meal period was waived for shifts of less than
19 six hours verbally, so this is a formalization of --
20 again, the formalization of the procedures. Since the
21 fall of 2022 this is more standard and included in the
22 onboarding process, where employees would receive the
23 meal and rest break policy. This form would be attached
24 to that policy, and then we would maintain records of the
25 waivers that we have on file by employee.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. So you mentioned before fall of 2022 there might
2 be a waiver of a meal period verbally. Tell me how that
3 occurred.

4 A. If the shift was -- you know, if they worked no
5 more than six hours per day, they may have elected during
6 that day to waive their meal period.

7 Q. How would they do that? How --

8 A. Just by agreement between the manager and the
9 employee -- the site manager and the employee.

10 Q. So before your arrival in September of 2022,
11 nurses and the local managers from the client --

12 A. Correct.

13 Q. -- would have a verbal discussion, correct?

14 A. Correct.

15 Q. In which they would agree for the -- that the
16 nurse could waive a meal period, assuming they worked a
17 shift of no more than six hours?

18 A. Correct.

19 Q. Or waive the second meal period, assuming they
20 work a shift of no more than 12 hours?

21 A. Correct.

22 MS. BOYCE: Objection. Misstates testimony.

23 BY MR. KONECKY:

24 Q. Are there any records that you are aware of to
25 document these verbal waivers?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 A. Not unless the client maintains them.

2 Q. None that you've seen?

3 A. None that I've seen.

4 Q. Or asked for?

5 A. Correct.

6 Q. Are you aware of RCM ever asking for
7 documentation or records or assessment of verbal waivers
8 of meal periods?

9 A. No.

10 Q. Do you know if there were or have been verbal
11 waivers of rest periods between RCM clients and the
12 nurses?

13 A. I'm not aware of that happening.

14 MS. BOYCE: Objection. Vague as to the term
15 "waiver."

16 We can take a break whenever you want.

17 MR. KONECKY: Let me get through this part.

18 BY MR. KONECKY:

19 Q. Are you aware of any instructions that RCM
20 provided to the nurses that addressed how to verbally
21 waive a meal period?

22 A. Well, we expect on any given shift that the
23 nurse and the onsite supervisor, and if so the scheduling
24 coordinator, would communicate about any challenges that
25 they have on shift. If they are wanting to re -- how do

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 BY MR. KONECKY:

2 Q. Are you aware of any policies, procedures, or
3 instructions that RCM has provided to nurses
4 around -- that specifically address the verbal waiver of
5 a meal period in the context of how that affects the way
6 to fill out a timecard?

7 MS. BOYCE: Objection. Vague. Compound.

8 THE WITNESS: Our instructions on completing
9 timecards have been consistently to record accurately
10 time worked. We do ask that they include their meal
11 break periods on the time sheet as well. And that has
12 remained consistent. There's also a common area for any
13 specific issues that they might encounter, or they are
14 able to provide it on their time sheet as well.

15 BY MR. KONECKY:

16 Q. Okay. My question was -- I'm trying to focus
17 specifically on the issue of verbal waiver of a meal
18 period, which occurs -- or has occurred between RCM --
19 nurse and RCM client.

20 Are you aware of any policy, instruction, or
21 procedure presented to the nurse by RCM of how --
22 addressing how that waiver would impact the way, if at
23 all, they would fill out a timecard?

24 A. Not specifically. No.

25 Q. On this Meal Employee Waiver Election Form that

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 started being used after your arrival in fall of 2022, do
2 you know -- does the employee fill this waiver out
3 each -- for each day or shift in which they are waiving a
4 meal period, or do they complete it once and that would
5 then cover all of their shifts in which a waiver might
6 occur?

7 A. They complete this for every client, and it
8 covers the period for that client.

9 Q. So complete -- and this is sometime after your
10 arrival in the fall of 2022 when you formalized the Meal
11 Period Waiver Election Form, the procedure for the nurse
12 is to fill this out once for each client, and then it
13 covers each shift, each day, with that client?

14 A. Correct. And it may be done yearly, if I'm
15 remembering correctly -- annually, if they remain with
16 the same client.

17 MR. KONECKY: Okay. We can take a break.

18 VIDEOGRAPHER: The time is 11:47. We're off the
19 record.

20 (Brief Recess)

21 VIDEOGRAPHER: The time is 12:03. We're on the
22 record.

23 MR. KONECKY: Having a break here now for some
24 time, I hear you want to clarify something after speaking
25 with counsel.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 ended in 2020 -- that's when it started. The pandemic
2 ended much later.

3 During that time frame, yes, there would not
4 have been contracts in place, to my knowledge.

5 BY MR. KONECKY:

6 Q. During the COVID testing and vaccination time
7 frame?

8 A. Correct.

9 Q. What about current individuals who -- nurses who
10 are assigned to clients to do vaccination or testing,
11 whether COVID or other viruses or diseases, do they sign
12 assignment or travel contracts?

13 A. I'm not entirely sure. That's another question
14 for Tricia probably.

15 Q. Do you know why folks didn't sign travel
16 contracts for COVID testing and vaccinations during the
17 pandemic?

18 A. I don't specifically know why.

19 MR. KONECKY: I will mark this as Exhibit 5.

20 (Exhibit 5 was marked for identification.)

21 BY MR. KONECKY:

22 Q. Exhibit 5 is entitled, "California Timekeeping,
23 Meal Period and Rest Break Policy." It's Bates stamped
24 RCM000063 through 67.

25 Have you seen this document before?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 A. Yes, I have.

2 Q. Do you know who created this document?

3 A. I worked on this document with the assistance of
4 counsel.

5 Q. Okay. When did you work on this document?

6 A. Fall of 2022.

7 Q. And who, if anyone, receives this document?

8 A. All California employees.

9 Q. And in what form?

10 A. We provide -- this document specifically or the
11 content of the document?

12 Q. This document specifically, the California meal
13 rest break.

14 A. This document is provided via e-mail during the
15 onboarding process.

16 Q. Okay. Through the link that you described
17 before earlier in the deposition, the e-mail from
18 Mr. Cooper?

19 A. This, I believe, is provided as a stand-alone
20 attachment in an e-mail.

21 Q. Do you know who the e-mail is from?

22 A. I believe it comes from -- two different
23 possibilities. Coming from either the recruiter or the
24 Bullhorn applicant tracking system that we have.
25 Typically it comes from the recruiter via e-mail directly

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 included information about meal and rest break periods --
2 specifically who to contact about taking breaks. We do
3 expect that clients would provide that specific
4 day-to-day management information either verbally or in
5 writing, so there might have been a site-specific
6 orientation depending on the client.

7 Q. You are not aware of any particular
8 site-specific orientations or procedures or policies
9 provided to the nurses by your clients as you sit here
10 today?

11 A. I don't have any specific information that a
12 client has shared with me. However, it's pretty standard
13 for our employees to expect some sort of orientation and
14 communication about standard operating procedures and
15 day-to-day management while they are onsite, otherwise
16 they wouldn't know how to function during their shift.
17 They would need to be given some information about how to
18 go about their shift.

19 Q. Okay. But, I mean, sitting here today, as the
20 representative of RCM Technologies, you don't have any
21 specific policy or procedure provided by a client to a
22 nurse of RCM regarding meal periods, rest periods, or
23 timekeeping in mind that you have reviewed or that RCM
24 has reviewed? Am I correct?

25 A. Not sitting here today, no.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. Before you were talking about clients, some
2 having time sheets, some having electronic time sheets --
3 I forget the other two -- call in by phone.

4 A. Correct.

5 Q. Am I correct that regardless of how the client's
6 specific timekeeping mechanism, the nurse is still
7 supposed to use, in addition, the RCM time sheet?

8 A. Correct. Most of the time. In the situation I
9 referred to earlier, where the client Ginkgo had an
10 electronic timekeeping system, they did not complete
11 paper time sheets.

12 Q. They did not complete RCM paper time sheets?

13 A. They did not complete RCM paper time sheets. In
14 that particular scenario, it was electronic timekeeping,
15 and electronic feed was sent to our payroll processing
16 team, so it was done completely electronic. That is very
17 rare. We typically operate from RCM time sheets that
18 every employee would complete.

19 Q. Okay. And I know those time sheets may have
20 changed over time, but at any given time it's the same
21 time sheet for all the nurses?

22 A. Correct.

23 MS. BOYCE: Objection. Vague. Compound.

24 BY MR. KONECKY:

25 Q. So the procedure here is, one, to inform you if

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 sheets. We're looking at what's actually on the time
2 sheet week by week to determine whether premium is
3 needed, so it's not a necessary step for the employee to
4 complete one.

5 Q. As long as the time sheet shows no meal period?

6 A. As long as the -- if the time sheet shows that a
7 meal premium may be due and we confirm verbally with the
8 employee and/or the site supervisor that a premium may be
9 due, then we will pay it.

10 Q. What about a rest period premium?

11 A. Once we're alerted that a rest premium may be
12 due -- either by the employer or site supervisor -- then
13 we would pay a rest premium as well.

14 Q. So -- let me just make sure I understand.

15 Earlier in the deposition you talked about an
16 e-mail being sent by Mr. Cooper, I think, that had
17 various links --

18 A. Correct.

19 Q. -- during onboarding, and subsequently you
20 talked about a stand-alone e-mail that had -- that had
21 Exhibit 5, the California TimeKeeping Meal Period and
22 Rest Period -- rest break policy that you helped develop.
23 Which e-mail, if any -- or maybe there's a different one
24 -- did the Meal Period Waiver Form and the Premium
25 Request Form -- which of those two e-mails or if there's

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 A. Let's see if I can explain.

2 The initial conversations with new employees
3 happen through the recruiter/sourcer. The initial e-mail
4 may include some onboarding documentation, but I'm not
5 sure if the recruiter/sourcer are sending onboarding
6 documents and policies or if it's the operations persons
7 sending the policy or if it's sent through our
8 applicant-tracking system Bullhorn. It may be all three
9 ways. It may be -- it may vary depending on the
10 recruiter and the client. It's not completely
11 streamlined. It could come from any of those three --

12 Q. But the employee, as a general matter, will get
13 one e-mail as opposed to three e-mails. It just might
14 come from one of those three sources?

15 A. The employee is going to get at least one
16 e-mail, possibly more than one that has this information.

17 Q. When you say, "this information," tell me what
18 these one or more e-mails will have in terms of
19 information pertaining to breaks, timekeeping and the
20 like.

21 A. The meal and rest break policy would come as an
22 attachment that would include this policy, plus the Meal
23 Waiver Form, and then --

24 Q. The Meal Waiver Form as an attachment?

25 A. Yes, it comes along with the policy, so it's all

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 together. As I was saying earlier, my understanding was
2 that the Premium Request Form was part of that packet. I
3 see now, during production of documents for this case
4 that the Premium Request Form was not included with it,
5 so my sense is that that document has to be requested
6 separately. And I testified that regardless we pay the
7 premiums based on review of time sheets.

8 The welcome e-mail would come from typically the
9 scheduler, because the scheduler is the liaison between
10 the client and the employee. That e-mail has that
11 information that we spoke about earlier with respect to
12 the recording time accurately, the meal period
13 information.

14 Q. The Exhibit 2?

15 A. Yes. Exhibit 2.

16 Q. Okay. And any other documents or links along
17 with the initial e-mail that has the meal and rest break
18 policy attached along with the Meal Waiver Form?

19 A. Not to my knowledge.

20 Q. Okay.

21 MR. KONECKY: Shannon, have you all produced
22 that e-mail that has these attachments?

23 MS. BOYCE: I think we have. I would have to go
24 back and look.

25 MR. KONECKY: Could you look and check? You may

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 A. They may have a variety of roles. It might be
2 checking in patients. It might be organizing supplies,
3 documentation, actually doing the swabs. My
4 understanding would be there are various stations where
5 they might be working, so it could be a variety of
6 different duties.

7 Q. What about at the schools, the COVID testing at
8 the schools?

9 A. I'm not particularly sure how the set up at the
10 school would have been, whether it was COVID testing,
11 incoming staff or incoming students. I would assume
12 something like that, but I don't know specifically what
13 their duties were.

14 Q. Is there any difference in COVID testing for
15 students or staff at a school site as opposed to testing
16 at a pop-up site?

17 A. I'm not really sure. The method of testing or
18 screening might be different.

19 Q. Do you know of any particular differences in
20 terms of what the nurses are there to be doing between
21 COVID testing responsibilities at a school site verses
22 COVID testing responsibilities at a pop up?

23 A. I don't know specifically, no.

24 Q. In terms of nurses at any of the assignments, is
25 it true that they all have to comply with their licensing

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 BY MR. KONECKY:

2 Q. You said you didn't have the same procedure for
3 reviewing the time sheets. When did the procedure for
4 reviewing the time sheets start?

5 A. I should back up and say time sheets have always
6 been reviewed, but an additional level of review
7 through -- through HR was added later on. So the time
8 sheets have always been reviewed, but, you know, we have
9 an additional level of review.

10 Q. So when did that additional level of review
11 start?

12 A. Probably when I came on in fall of 2022.

13 Q. And what is that additional level of review?

14 A. Well, just like it states in the timecard -- in
15 the meal and rest break policy, they are referred to me
16 for any questions related to missing a meal break, or a
17 rest break if an employee has a question or anyone has a
18 question about that, then they are referred to me.

19 If a payroll processor or an employee has a
20 question, they would reach out to me to clarify if a meal
21 premium is required. That's the level of review that I
22 mean.

23 Q. So the level of review that started sometime
24 after you came onboard in the fall of 2022 was the
25 process of employees or others being told that they

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 would -- can contact you at HR for questions about meal
2 period?

3 A. Correct. Or just the payroll processor who is
4 looking at the time sheet has questions and they need to
5 know whether or not something is compensable, then they
6 would contact me and we would discuss it.

7 Q. And before then what was the procedure?

8 A. Before then if there were questions, they might
9 be directed to the operations director or the corporate
10 HR director, most likely.

11 Q. The corporate HR director is in New Jersey or
12 somewhere else?

13 A. Well, she lives in Buffalo, but she -- when she
14 comes to an office location, I assume it's the New Jersey
15 location.

16 Q. What's her name?

17 A. Karen.

18 Q. Just for the record.

19 A. Karen McCCasey.

20 Q. Okay. Back to the original question -- not
21 original, but one of the previous ones.

22 Do you know starting at what point -- and maybe
23 the answer is no, but I can't quite remember -- you could
24 search your ADP system for -- to determine premium -- any
25 premium wages that have been paid?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 we've had premiums paid. Whether specifically paid to
2 nurses, I don't know, because the report is by name. And
3 it doesn't list title, so I can't tell you specifically
4 who was -- what the title of the person was that was paid
5 the premium, but I can tell you that we have several that
6 have been paid, yes.

7 Q. Do you know whether any of the individuals that
8 have been paid premiums for a missed meal or rest period
9 have been individuals assigned to do COVID testing or
10 vaccination?

11 A. That I don't know. Actually, let me back up.
12 Our recent assignment for our client Ginkgo, through our
13 airport COVID screening program, meal premiums were paid
14 for that group.

15 Q. And when -- what's the date range for that
16 assignment?

17 A. 20 -- I don't know when the program started.
18 I'm not sure if it was prior to 2022. I know it was
19 definitely in 2022 for sure, until late 2023, so we had
20 premiums paid during that period.

21 Q. And this was at airports?

22 A. Airports. Yes.

23 Q. COVID screening or testing at airports?

24 A. Yes. It was a project in partnership with the
25 CDC where deplaning passengers would be screened for

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 COVID.

2 Q. How do you know that individuals assigned to
3 work at airports under the Ginkgo contract with RCM have
4 received meal or rest period premiums?

5 A. I was involved -- I was quite involved with the
6 set up for that client and a lot of the support -- I
7 supported that population. I handled a lot of routine,
8 kind of, daily issues with that client group.

9 Q. And do you have a sense based upon your
10 involvement what the rate of meal period premiums either
11 by employee or by shift were paid? Like what --

12 A. I would say several premiums per week.
13 Probably -- maybe five to 10ish premiums paid per week.

14 Q. For the whole group?

15 A. For the California employees in the program,
16 yes.

17 Q. And how many approximately California employees
18 were there in the program?

19 A. I believe the airports had anywhere between six
20 to 10 screeners, L.A., San Francisco -- I think those
21 were the only two California airports.

22 Q. So somewhere between 12 and 20 employees?

23 A. Correct.

24 Q. So your experience -- at least with the Ginkgo
25 contract in 2022 to 2023 which involved, for California,

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 an airport in L.A. and an airport in San Francisco,
2 combined 12 to 20 employees, with that you were observing
3 five to 10 meal and rest period premiums a week?

4 A. Correct.

5 Q. And would you expect that to be higher or lower
6 or about the same as other settings?

7 MS. BOYCE: Objection. Compound. Calls for
8 speculation. Incomplete hypothetical.

9 THE WITNESS: I'm not sure that I can answer
10 that, because I don't have a clear enough sense of the
11 daily scheduled flow of other positions, like I did with
12 that group. I wasn't as intimately involved with the
13 day-to-day on the nursing side.

14 BY MR. KONECKY:

15 Q. Were those nurses that got -- were assigned to
16 the L.A. and San Francisco airports?

17 A. No. They didn't have to have any kind of
18 nursing degree or certificate.

19 Q. Did any of them or not?

20 A. I believe we may have had one LVN or one RN.
21 I'm not surely sure.

22 Q. But for the most part these folks assigned to
23 the airport were not nurses?

24 A. Correct.

25 Q. In terms of running a report on ADP for meal

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 can't remember if it shows the responsible manager or
2 what have you. I think -- all I remember seeing is the
3 name of the employee, the date of the penalty and the
4 amount, I believe -- the amount of the penalty. That's
5 right. It shows that.

6 Q. But the database might be able to be searched to
7 show location?

8 A. Correct.

9 Q. Other than the nurses -- well, for the most
10 part, they won't be nurses. Putting aside the employees
11 that worked to do COVID screening at the L.A. and San
12 Francisco airports in 2022 and 2023 range for Ginkgo, are
13 you aware of any nurses working for RCM doing COVID or
14 COVID vaccination or testing in California that have been
15 paid meal or rest period premiums?

16 A. I'm not aware of any.

17 Q. Do any -- are any of RCM's clients in California
18 professional staffing agencies?

19 A. I don't know.

20 Q. You are not aware of any?

21 A. I'm not aware of any.

22 Q. Are you aware of who Barbara Grady is?

23 A. Yes. Because of this case.

24 Q. What's your understanding of who she is?

25 A. I understand she was an employee that worked in

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 the break wasn't taken. It's not enough to determine
2 whether a penalty should apply just on its face.

3 BY MR. KONECKY:

4 Q. Okay. So under RCM's procedure if an employee
5 writes down on their time sheet, "I did not take a lunch
6 break," and also puts in zeros in terms of the time on
7 the lunch break column, you will need further
8 investigation with the employee to determine whether or
9 not a meal period premium would be paid?

10 MS. BOYCE: Incomplete hypothetical. Calls for
11 speculation.

12 THE WITNESS: Typically, we would confer with
13 the employee and the site supervisor in those cases.

14 BY MR. KONECKY:

15 Q. My question is slightly different.

16 An employee writing down on her or his timecard
17 that she or he did not take a lunch break and putting
18 zero in on the column that has "lunch break," under RCM's
19 procedure is not sufficient to trigger payment of a meal
20 period premium. Is that correct?

21 MS. BOYCE: Incomplete hypothetical. Calls for
22 speculation. Asked and answered.

23 THE WITNESS: Not without further investigation.

24 BY MR. KONECKY:

25 Q. In the case of Ms. Grady, do you know whether or

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 wrote on her time sheet that she didn't take a meal
2 period?

3 MS. BOYCE: Objection. Speculation. Vague.

4 THE WITNESS: I don't specifically know what the
5 procedure was at the time she was working with respect to
6 meal periods for that site.

7 BY MR. KONECKY:

8 Q. Okay. What about for RCM?

9 A. Well, we expect that if employees are aren't
10 getting their meal and rest periods, they let us know.
11 It's our intention that employees are given their meal
12 and rest break periods and that our clients are following
13 the law. That's our expectation and then once
14 we've -- if we're alerted to an issue, then we follow up.

15 Q. Okay. Ms. Grady said on her timecards, several
16 timecards, she didn't take a lunch break, right?

17 A. Correct.

18 Q. That's sufficient to alert you to an issue?

19 A. Correct.

20 Q. Whoever was there had conversations with
21 Ms. Caldwell as well as people at the site, correct?

22 A. I don't know. I actually don't know what
23 conversations were had about that specific issue. I have
24 seen some documentation about other issues with regard to
25 this schedule, but I don't know specifically about meal

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 periods.

2 Q. In your review of Ms. Grady's situation and her
3 timecards, did you come across any documentation or
4 evidence that she was provided the opportunity to take
5 timely off-duty meal periods on the days in which she
6 said she didn't take them?

7 A. I don't recall if I -- I don't recall if in the
8 materials that I reviewed there was documentation about
9 that. I'm not sure.

10 Q. Do you recall that she said on her timecards --
11 several of them -- that she didn't take a lunch break?

12 A. Correct.

13 MS. BOYCE: Asked and answered multiple times at
14 this point.

15 BY MR. KONECKY:

16 Q. You don't recall anything about whether or not
17 she had meal periods made available to her?

18 A. I don't -- I haven't read anything that states
19 that, so I'm not sure how that was handled.

20 Q. And you also haven't seen anything to indicate
21 that Ms. Grady was paid any premium wage for not having a
22 meal period made available to her?

23 A. I haven't seen any documentation to that effect,
24 no.

25 MR. KONECKY: I am going to mark this as Exhibit

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 BY MR. KONECKY:

2 Q. You've always told them they need to have
3 written preauthorization to work overtime?

4 A. Correct.

5 Q. That's for all the nurses?

6 A. As far as I'm aware.

7 Q. At all the locations?

8 A. As far as I'm aware.

9 Q. And the supervisor, who is the supervisor?

10 A. The supervisor is usually the onsite authorizing
11 timecard signer.

12 Q. Which is someone that works usually for the
13 clients?

14 A. Correct.

15 Q. So somebody from the client needs to sign off on
16 time sheets for the nurses?

17 A. Correct.

18 Q. And then somebody from RCM also needs to sign
19 off on the time sheets?

20 A. Not that I'm aware of from RCM, no.

21 Q. Just somebody from the clients?

22 A. Correct.

23 Q. And that somebody from the client is generally
24 the person who -- who the employee is told needs to
25 preauthorize overtime before it's approved?

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 A. Yes.

2 MR. KONECKY: This is Exhibit 11.

3 (Exhibit 11 was marked for identification.)

4 BY MR. KONECKY:

5 Q. Exhibit 11 entitled, "RCM Technologies Inc.
6 Employee Handbook," Bates stamped RCM00166 through 224.

7 Have you seen this before?

8 MS. BOYCE: I think it's 225.

9 MR. KONECKY: I'm sorry. It's 225.

10 BY MR. KONECKY:

11 Q. Do you know when this exhibit -- when this
12 employee handbook was created?

13 A. I don't know when this handbook -- I don't know
14 when it was originally created, no.

15 Q. Did it predate your arrival?

16 A. Yes.

17 Q. Before 2022?

18 A. Correct.

19 Q. Do you know who created it?

20 A. I don't.

21 Q. Do you know who -- do you know if it's
22 distributed to anybody?

23 A. Yes.

24 Q. Who is it distributed to?

25 A. I believe it's distributed to -- to all

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 employees.

2 Q. And that includes nurses who RCM employs at
3 client sites in California?

4 A. Correct.

5 Q. All the nurses employed by RCM in California are
6 sent this employee handbook?

7 A. As far as I know.

8 Q. The same version?

9 A. Correct.

10 Q. And do you know at what point that this is
11 distributed to the employees?

12 A. In the welcome e-mail that I was referencing
13 earlier. There should be an attachment that is the
14 handbook.

15 Q. An attachment as opposed to a link?

16 A. Correct.

17 Q. On Page 12, 12-13, there's three classifications
18 of employment that are listed: Consultants, staff, and
19 temporary. The nurses that RCM employees to work at
20 client sites in California, do they fit into one or more
21 of these categories?

22 A. Typically temporary.

23 Q. Typically temporary?

24 A. Yes.

25 Q. Are all employees required to sign the

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 Q. And do you know whether it's a standardized
2 arbitration agreement that is used?

3 A. I'm not sure what standardized means.

4 Q. Do different employees get different arbitration
5 agreements to sign?

6 A. I don't --

7 Q. Or do they all get the same one?

8 A. I think it varies by state. I'm not sure.

9 Q. In California?

10 A. I don't know if it's all the same one. No. I'm
11 not sure.

12 Q. Do you know how the arbitration agreement is
13 presented to employees in California?

14 MS. BOYCE: Objection. Vague. Compound.
15 Outside of the scope of the noticed topics.

16 THE WITNESS: I believe it's presented to them
17 in the onboarding process at some point, but I couldn't
18 say when.

19 BY MR. KONECKY:

20 Q. You don't know whether it's on that initial
21 e-mail that you've described before?

22 A. Yeah. I'm not sure if I recall seeing it there
23 or not.

24 Q. Are you aware of any agreements that RCM has
25 with any of its clients to which nurses are assigned in

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

1 California where you delegate any responsibility --
2 formally delegate responsibility over meal and rest
3 periods to the client?

4 MS. BOYCE: Objection. Vague. Calls for a
5 legal conclusion. Calls for speculation.

6 THE WITNESS: I don't know of any arrangement
7 like that.

8 BY MR. KONECKY:

9 Q. You've never heard of anything like that?

10 MS. BOYCE: Same objection. It calls for a
11 legal conclusion.

12 THE WITNESS: I'm not aware of any.

13 MR. KONECKY: Why don't we go off the record for
14 a few minutes.

15 VIDEOGRAPHER: The time is 3:29. We're off the
16 record.

17 (Brief Recess)

18 VIDEOGRAPHER: The time is 3:31 we're on the
19 record.

20 MR. KONECKY: I don't have any more questions at
21 this time. Unless there's other documents that you got
22 to produce for some reason to create an issue, I don't
23 anticipate any other questions.

24 Although I have requested that cover e-mail.

25 MS. BOYCE: The welcome e-mail.

DESIREE DISOTELL - PMK
MAY 22, 2024

JOB NO. 999734

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CERTIFICATE OF REPORTER

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I, the undersigned, a Certified Shorthand Reporter, Licensed by the State of California, being empowered to administer oaths and affirmations do hereby certify:

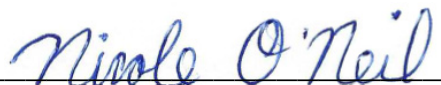
That the foregoing proceedings were taken at the time and place herein set forth; that any witness in the foregoing proceedings, prior to testifying, were placed under oath; that a verbatim record of the proceedings was made by me using machine shorthand which was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription thereof.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney or any of the parties.

Before completion of the deposition, review of the transcript [] was [X] was not requested. If requested, any changes made by the deponent (and provided to the reporter) during the period allowed, are appended hereto. (Fed. R. Civ. P. 30(e)).

IN WITNESS WHEREOF, I have this date subscribed my name.

DATED: 23rd of May, 2024.



Nicole O'Neil, CSR No. 10774