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1 Court File No. 12-0545-SR

2 ONTARIO SUPERIOR COURT OF JUSTICE

3 BETWEEN:

4 SVETLANA DANILOVA AND PAVEL DANILOV

5 Plaintiffs

6 - and -

7 ALLA NIKITYUK, VALENTIN NIKITYUK, YANA SKYBIN,

8 YOUNG MENS CHRISTIAN ASSOCIATION

9 operating as YMCA SIMCOE/MUSKOKA AND YMCA

10 SIMCOE/MUSKOK.A NEWCOMER SERVICES

11 Defendants

12 Court File No. 13-1101

13 BETWEEN:

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19 operating as YMCA SIMCOE/MUSKOKA AND YMCA

20 SIMCOE/MUSKOKA NEWCOMER SERVICES

21 Defendants

22 =====

23 Transcript of the examination for discovery of FIONA
24 CASCAGNETTE, representing the defendant, YMCA herein, taken
25 on the 10th day of April, 2014, at the offices of HGR
26 Graham, Barrie, Ontario, commencing at 10:20 a.m.

27 =====

28 APPEARANCES:

29

30 MR. S. TIMOKHOV for the Plaintiffs
31 MR. E. BORNMAN for the Defendants, Nikityuk
32 MR. P. KRYSIAK for the Defendants, Yana Skybin
33 and YMCA

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23 PLEASE NOTE: The list of undertakings and refusals is
 24 provided as a service to counsel and does not purport to be
 25 complete or binding upon the parties herein.

=====:

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1 FIONA CASCAGNETTE: DULY SWORN

2 EXAMINATION BY MR.

3 1. Q. Please state the name - your name on the
4 record?

5 A. Fiona Cascagnette.

6 2. Q. And you represent YMCA?

7 A. Yes.

8 3. Q. In what capacity?

9 A. As the lead -- senior lead of the YMCA.

10 4. Q. What is your position with YMCA?

11 A. Vice-president, Child Development and Family
12 Support Programs.

13 5. Q. And what exactly YMCA is doing in Simcoe
14 County?

15 MR. KRYSIAK: That's a bit vague.

16 BY MR.

17 6. Q. What is the mission of YMCA -- official
18 mission of YMCA in accordance with -- with its principles
19 and articles of incorporation?

20 A. Are you looking for an overview of the YMCA
21 of Simcoe Muskoka?

22 7. Q. Yes.

23 MR. KRYSIAK: Can you give that without needing
24 reference to documents?

25 BY MR. TIMOKHOV:

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1 8. Q. Have you had an opportunity to review YMCA
2 web site Simcoe YMCA?

3 A. Yes.

4 9. Q. And does the web site provide that the vision
5 of YMCA is to build stronger families -- communities?

6 A. Yes.

7 10. Q. And to make for everybody communities better
8 place for everyone to live?

9 A. Yes.

10 11. Q. And what did you mean by building stronger
11 families and communities?

12 A. The work of the YMCA is to support children,
13 youth and families in our community.

14 12. Q. So how that support makes the family stronger
15 and better?

16 MR. KRYSIAK: You have to be more specific. This
17 is a very vague question.

18 MR. TIMOKHOV: No, there was a testimony that the
19 mission YMCA is to make families stronger and
20 better.

21 BY MR.

22 13. Q. The question is, in what way do achieve that
23 purpose and as a senior policy person in this office you
24 are supposed to know this.

25 A. We do it in a wide variety of ways in a

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1 number of different programs and initiatives.

2 14. Q. Can you describe any programs with a purpose
3 to make families stronger and better?

4 A. I'll use child care as an example. We
5 provide licenced child care to support families to be able
6 to go back to work, to be able to continue their studies.
7 Our program builds children's strengths by providing early
8 learning and education to children build stronger
9 communities. The YMCA is a multi-faceted multi-service
10 organization with the intent that through all of these
11 programs, there would be an impositive(phonetic) impact on
12 the community.

13 15. Q. And stronger families?

14 A. Yes.

15 16. Q. And where do you get your funding?

16 A. As a YMCA we receive funding from many
17 different sources. I can't list all of the sources
18 accurately without looking specifically at the individual
19 programs and where they're funded from.

20 17. Q. What is a major -- so this information is not
21 in your common knowledge.

22 A. If you would like me to provide an accurate
23 answer that includes all levels and all funding to all of
24 the programs at the YMCA of Simcoe Muskoka, I don't believe
25 that I can accurately provide all of that information

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1 without referring to other documents.

2 18. Q. Can you provide major sources of funding and,
3 pretty much, major donees(phonetic)?

4 A. Major donors?

5 19. Q. Donors.

6 A. I don't have that information off the top of
7 my head. I can give you some examples.

8 20. Q. That's what I was asking.

9 A. Okay. We receive funding from the County of
10 Simcoe.

11 21. Q. Municipality, right?

12 A. Yes.

13 22. Q. Any funding from federal government?

14 A. Yes. One stream of funding is from
15 Citizenship and Immigration Canada.

16 23. Q. And what is the purpose of receiving funding
17 from Citizenship of Immigration Canada?

18 A. The funding that we receive from Citizenship
19 Immigration Canada is used to operate our Newcomer Services
20 programs.

21 24. Q. And what -- what is the mission -- what is
22 the purpose of this problem -- program?

23 A. There's two streams of funding that we
24 receive to programs. One is settlement services to assist
25 newcomers to Canada to settle in Canada and the other is

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1 English language training.

2 25. Q. And you said newcomers, how long your clients
3 have to stay in Canada to qualify for this settlement
4 services?

5 A. I am unable to provide an accurate answer of
6 the qualifications required.

7 26. Q. Do you take an undertaking to provide this
8 information?

9 MR. KRYSIAK: Is that something you can find out?

10 WITNESS: Yes.

11 MR. KRYSIAK: Okay.

12 BY MR.

13 27. Q. But you don't have this knowledge in your
14 head?

15 A. Not in my head.

16 28. Q. And you are a senior officer of YMCA?

17 A. Yes.

18 UNDERTAKING NO. To advise how long clients of
19 YMCA have to stay in Canada to qualify for
20 settlement services.

21 BY MR. TIMOKHOV:

22 29. Q. And what settlement services include -- just
23 what kind of services you provide normally?

24 A. The services would include a needs assessment
25 when a client arrives. Counselling services, referral to

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1 agencies that they may need assistance from, linking them
2 to the community, assisting them with their citizenship.

3 30. Q. So would it be fair to say that settlement
4 services and English ESL programs are two separate branches
5 of YMCA?

6 A. The programs are operated at the same
7 location. They would certainly work together. Some
8 clients would participate in both, other clients would only
9 be involved in settlement and then other clients would only
10 be involved in English language.

11 31. Q. And would it be fair -- fair to say that in
12 providing settlement services you take into consideration
13 and you deal directly with the families of newcomers?

14 A. We would work directly with the client.

15 32. Q. With -- would you consider the opinion of the
16 families who sponsor the family to Canada?

17 A. Our relationship would be with the clients.

18 33. Q. So are you -- in accordance with your
19 guidelines and procedures, do you allow your counsels to
20 communicate directly with families of the sponsored
21 individuals?

22 A. There are certainly times, I am sure, where
23 our staff would communicate with family members.

24 34. Q. And you consider their -- their just opinion
25 and suggestions?

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1 A. I can't speak specifically about that.

2 35. Q. Can you provide examples of such situation
3 when you had to consult the family for the purpose of
4 making families stronger and better?

5 A. I believe that I'm too far removed in a
6 leadership position at our YMCA to speak specifically of an
7 example around a family within our settlement programs.

8 36. Q. So in other words, you are mostly involved
9 into policy decisions there?

10 A. That's correct.

11 37. Q. So you don't have knowledge about everyday
12 procedures?

13 A. That's correct.

14 38. Q. Do you think you can provide any information
15 just on everyday procedures at this point?

16 A. It would depend on specifics and what you
17 would specifically be looking for.

18 39. Q. Because your lawyer presented that you have
19 on-site like, on-hand knowledge about everyday
20 procedures and if you don't then it doesn't make you
21 qualified person to examine at this point?

22 A. It would depend on what specific pieces from
23 an operational perspective you are asking about.

24 40. Q. But you just said that you don't have
25 knowledge about everyday procedures of YMCA, that's what

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1 you just testified. And so far you testified that you are
2 involved into policy decisions and in - and you are not
3 able to provide the source of funding and qualifications
4 for certain programs despite you are involved in the policy
5 making decisions. And that is the basic information I
6 need. Can we get off record?

7 (Off Record)

8 MR. TIMOKHOV: We just off record had a
9 discussion about a qualification of the witness
10 after she answered that she doesn't have
11 knowledge about ongoing procedures in YMCA and
12 she's more involved into -- in policy level.

13 BY MR.

14 41. Q. And I repeat my question, do you have
15 knowledge about YMCA guidelines and major procedures such
16 as impartiality, confidentiality, guidelines when clients
17 claim abuse, and so on?

18 A. Yes.

19 42. Q. Are there any ethical guidelines that -- for
20 counsellors -- for YMCA counsellors that govern such
21 ethical matters as confidentiality, impartiality, and so
22 on?

23 A. All staff at the YMCA sign an oath of
24 confidentiality upon hire.

25 43. Q. Are there guide -- guidelines about -- to

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1 extend that a client -- that YMCA counsellor have to be
2 impartial, they don't have to communicate with clients
3 outside of their duties, they can get any bribes or...

4 MR. KRYSIAK: One question at a time...

5 MR. TIMOKHOV: Yeah.

6 MR. KRYSIAK: ...there are too many questions.

7 BY MR. TIMOKHOV:

8 44. Q. Is there any guidelines about impartiality
9 that YMCA counsellors supposed to be impartial from their
10 clients?

11 A. Our expectation would be that settlement
12 counsellors respond to the needs of their clients...

13 45. Q. The question was...

14 A. ...(inaudible).

15 46. Q. ...are there any guidelines to this extent --
16 any ethical guidelines?

17 A. I'm not sure specifically about that.

18 47. Q. So you don't have this knowledge?

19 A. To my knowledge, I do not believe that there
20 is a specific written guideline about that. I can look for
21 that.

22 48. Q. Do you take an undertaking to produce all
23 guidelines as to the ethical aspects of what YMCA expects
24 of counsels guidelines, some kind of employees guidelines,
25 because every major (inaudible) has such?

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1 A. Yes.

2 MR. KRYSIAK: Yes.

3 MR. TIMOKHOV: We have undertaking, right?

4 MR. KRYSIAK: Yes.

5 WITNESS: Specific to impartiality?

6 MR. KRYSIAK: No, he wanted employee all
7 together, and any guidelines for how employees
8 are to act?

9 MR. TIMOKHOV: Employee's conduct and ethical
10 guidelines. Just to give you an example, as we
11 as lawyers have rules of ethical conduct, I want
12 something similar to this extent.

13 MR. KRYSIAK: Okay. We'll look for it.

14 UNDERTAKING NO. 2: To produce all guidelines for
15 employee conduct and ethical conduct.

16 BY MR. TIMOKHOV:

17 49. Q. Ah, do you have any guidelines how to -- and
18 that is a policy level question, how YMCA counsellors
19 supposed to handle particular situations such as family
20 abuse?

21 A. The guideline that would be included in the
22 job description and the agreement with the funder...

23 50. Q. No, do...

24 A. ...would be that the role of the settlement
25 counsellor is to refer. So in the event that something,

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1 anything, is identified as a need, the counsellor's role
2 would be to refer that to the appropriate agency in the
3 community that can support the family.

4 51. Q. ...all right. I repeat my question because
5 it seems it was not understood or evaded. Do you have any
6 specific guidelines as to how counsellor is supposed to act
7 in case the client reports domestic abuse or assault?

8 A. It's the same guideline in that they would
9 take the information, they would provide the client a
10 referral...

11 52. Q. I sorry for interrupting you, do you have any
12 specific written guidelines and policies about how abuse
13 cases are supposed to be processed by your organization,
14 and written is the key word -- written guidelines and
15 policies?

16 A. We have written policies around protection of
17 children and vulnerable adults, yes.

18 53. Q. Ah, can you produce this policy -- do you
19 undertake to produce this policy?

20 A. Yes.

21 MR. TIMOKHOV: So we have an undertaking to
22 produce guidelines on procession(sic) of abuse.

23 MR. KRYSIAK: Written guidelines on -- on
24 protecting children and vulnerables.

25 WITNESS: The policy that I'm referring to is a

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1 current policy. At this time it specifically
 2 refers to children and our duty to report to the
 3 Children's Aid Society. That policy was updated
 4 approximately two years ago. It currently does
 5 include the responsibility of staff to understand
 6 the definition of a vulnerable adult however, we
 7 are currently working to develop written
 8 guidelines around the actions to take when staff
 9 identify a vulnerable adult is in need of
 10 support.

11 BY MR.

12 54. Q. What is in your opinion, as a person
 13 participating in policy making, as to definition of
 14 vulnerable adult, what is your position on this?

15 A. The definition of a vulnerable adult...

16 55. Q. Right.

17 A. ...would be somebody over the age of 16 or
 18 somebody over the age of 18 if they were previously a ward
 19 of the Children's Aid Society, following the definition of
 20 within the *Family Services Act* that requires that is
 21 in a vulnerable situation. We believe there to be a
 22 vulnerable situation.

23 56. Q. So vulnerable situation is discretionary,
 24 right?

25 A. At this time, as I explained, we're currently

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1 amending the policy to include the detailed statements
2 around exactly what you have asked, around helping staff
3 understand. The challenge in the Province of Ontario, is
4 there is no legislation that covers vulnerable adults
5 similarly as there is legislation that covers children that
6 require protection. So as a YMCA we are currently working,
7 the support of YMCA Canada to develop specific written
8 guidelines. In the past, the expectation, as you're asking
9 about settlement counsellors, was simply to in the event
10 that a client indicated to them that they required support
11 about anything, getting a social insurance number, not
12 knowing where to learn English class, finding a doctor, our
13 job is a referral. We provide a referral to the client.
14 And that client then chooses or not chooses to follow the
15 referral.

16 57. Q. Do you have any policies as to zero tolerance
17 to abuse and violence in the families, do you have to
18 report them such violence or abuse?

19 A. There isn't a -- I don't know if there is a
20 written policy in Newcomer Services specifically about
21 that.

22 58. Q. Do you undertake to provide this information?

23 A. Yes.

24 59. Q. What about unwritten policy, do you advise
25 YMCA counsellors to report domestic abuse and violence to

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1 police?

2 A. At this time I would, if a settlement
3 counsellor contacted me, I would encourage them to do that.

4 60. Q. Is there just mandatory policy just to
5 requiring counsellors to report domestic abuse and violence
6 to you and police?

7 A. Sorry. Can you just repeat that question for
8 me.

9 61. Q. Is there any mandatory or suggestive
10 requirements in YMCA requiring counsellors to report such
11 an abuse to you?

12 A. It is indicated in our current Child
13 Protection Policy that includes vulnerable adults, that
14 they would report.

15 62. Q. They would have to report?

16 A. Yes.

17 63. Q. And where would they have to report.

18 A. That is what I have already explained. We
19 are currently developing the specific reporting procedures
20 connected to the vulnerable adults.

21 64. Q. No.

22 A. At this time those written guidelines of the
23 reporting requirements are not documented.

24 65. Q. You just testified before that there is a
25 requirement to report. The following -- the follow-up

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1 question was to report where?

2 A. At this time what would happen is I would
3 receive a phone call from a staff person that they feel
4 that they have -- that there is an adult who is at risk of
5 whatever, and then I would provide verbal support and that
6 could include contacting the police, it could include
7 contacting a support agency. There are not written
8 reporting steps because we are in the process of working
9 with the police and other parties -- let me correct that,
10 we need to work with the police and other community
11 partners to identify what are the steps because there is no
12 legislation that identifies what's required.

13 66. Q. What is your personal position, should there
14 be zero tolerance to violence and domestic abuse and should
15 such cases be immediately reported to police?

16 MR. KRYSIAK: Wait, is that a personal position
17 as her as a person or in her capacity....

18 MR. TIMOKHOV: As a po -- as a policy maker.

19 WITNESS: At this time any phone call I receive,
20 as the lead for child protection in our
21 association, I refer them to contact the police
22 in the event of abuse.

23 BY MR.

24 67. Q. And do you require counsellors to collect
25 evidence of such abuse?

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1 A. It is not our job to confirm whether or not a
 2 disclosure of abuse is true. We are not the experts. That
 3 is why we refer, in the cases of children, to the
 4 Children's Aid Society. And in the event that I found out
 5 through our systems at the Y about an adult disclosing
 6 abuse, we refer to the agency that can confirm that. We
 7 are that is not our responsibility.

8 68. Q. So just for the -- future purposes, the
 9 children -- what you do regarding children is irrelevant,
 10 but you testified before that pretty much you try to apply
 11 the same procedures to adults -- to vulnerable adults as
 12 your guidelines to childrens, right -- that's what said?

13 A. Around the expectation that the staff have a
 14 duty to report where they feel that a vulnerable adult is
 15 at risk, yes.

16 69. Q. So you think that vulnerable adults should be
 17 treated as children in other words?

18 A. No.

19 70. Q. As to the policy -- as to procedural
 20 policies?

21 A. The procedural policy around who you report
 22 to is very different because there is no legislation for
 23 vulnerable adults. The fact that we as a YMCA need to be
 24 responsible to support and care for children and vulnerable
 25 adults who we feel are in need of protection, yes, that is

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1 a common.

2 71. Q. So in other words to summarize what you just
3 said, you said that it is not duty of YMCA to collect
4 evidence or to determine if there is actual abuse, it is
5 policy of YMCA to refer abuse cases to police and different
6 institutions, is it correct?

7 A. In the current policy that was recently
8 revised.

9 72. Q. What was the policy back in 2011, that was
10 the policy?

11 A. No.

12 73. Q. What was the policy back in 2011?

13 A. In 2011 we had a child protection policy.

14 74. Q. We are not talking about children, we are
15 talking about vulnerable adults and I want just -- I was
16 specific that we are discussing this. I am not interested
17 in children.

18 A. I know you're not interested in children. ■
19 would have to pull the old policy to confirm the specifics
20 of that policy. I am very familiar with the current policy
21 because I am the child protection lead currently with our
22 organization. I do not currently have with me the 2011
23 policy. I can speak to you though that, as I have already
24 stated, the role of a settlement counsellor is referral.

25 75. Q. I see. So you -- you undertake to produce a

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1 2011 written policy on the procedures how to treat
2 vulnerable -- written policy on how to treat vulnerable
3 adults?

4 A. I can't confirm at this point that it
5 includes that. I know that it includes it today. We will
6 refer to the old information and provide it. It may not
7 include it.

8 MR. KRYSIAK: She can produce the entire policy
9 as it was in 2011 and then we can just -- we can
10 see what's in it.

11 WITNESS: Yes.

12 UNDERTAKING NO. To produce entire written
13 policy as of 2011 on the procedures how to treat
14 vulnerable adults.

15 BY MR.

16 76. Q. And that is a written policy, right?

17 A. Yes.

18 77. Q. Despite that you testified before that there
19 was no such written policy, right?

20 A. I don't believe it includes vulnerable
21 adults, no.

22 78. Q. So in other words, just we have an
23 undertaking, but there was no written policy just on how to
24 treat cases of abuse reported by YMCA clients?

25 A. Only as it falls into the scope of practice

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1 that anything reported our job is to refer them to an
2 agency that can support them. That is their job.

3 79. Q. And that is not YMCA the the description
4 of YMCA counsellor duty to make decisions on whether abuse
5 took place or not, to collect evidences, correct?

6 A. Absolutely not.

7 80. Q. So in the best of your knowledge, when the
8 defendants in this action, Alla and Valentin Nikityuk,
9 reported that they were physically abused and they had
10 injuries, what was Yana's duty as a YMCA counsellor, how
11 was she expected by YMCA to proceed?

12 A. From my understanding, the expectation would
13 be that she would refer them to a community organization
14 that would be able to support them.

15 81. Q. What was her responsibility when her clients,
16 Nikityuks YMCA clients, allegedly approached her and
17 showed photographs of injuries as an alleged result of
18 physical violence from their children?

19 A. The same answer, that she would refer them to
20 an agency.

21 82. Q. And what agency would be it?

22 A. I don't know.

23 83. Q. Is there no policy as to what agencies you
24 use to refer domestic abuse?

25 A. I believe in Barrie it's the Barrie Women's

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1 Shelter. I don't know...

2 84. Q. So you don't have this information?

3 A. ...I don't have that information. I wasn't
4 involved in that specific case.

5 MR. TIMOKHOV: I need to get off the record.

6 (Off Record)

7 MR. TIMOKHOV: So we just had a discussion off
8 record and I understand we have an undertaking to
9 produce all written policies starting from the
10 year of 2008 as to how YMCA is supposed to -- to
11 process domestic abuse reported to YMCA
12 counsellors and the reason is from 2008 because
13 there was testimony that these procedure are in
14 ongoing stage of development and we would like to
15 know just how these procedures are changing.

16 MR. KRYSIAK: Okay. Then -- then to summarize
17 that, the undertaking is going to we're going
18 to produce any written policies that exist since
19 2008 on dealing with abuse.

20 MR. TIMOKHOV: With abuse.

21 MR. KRYSIAK: Abuse I'll make it as broad as
22 possible to capture as many policies as possible.

23 MR. TIMOKHOV: As many policies as possible.

24 MR. KRYSIAK: Yeah.

25 WITNESS: Okay.

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1 UNDERTAKING NO. 4: To produce any written
2 policies that exist since 2008 on dealing with
3 abuse.

4 BY MR.

5 85. Q. We also want an undertaking to produce all
6 policies how to treat breach of immigration sponsorship
7 cases when the sponsor (inaudible) to support the sponsored
8 individuals.

9 MR. KRYSIAK: Okay. If -- and if there is such a
10 policy we'll produce it.

11 WITNESS: Yes, if there is such a policy.

12 MR. TIMOKHOV: There is such a policy.

13 WITNESS: If there is such a policy.

14 UNDERTAKING NO. 5: To produce, if available,
15 policies of how to treat breach of immigration
16 sponsorship cases.

17 MR. TIMOKHOV: And if there is no such written
18 policy, I expect an undertaking to provide a
19 description on expectations of YMCA - from YMCA
20 counsellors how to process cases of immigrate
21 of abuse. And we need a policy in 2011 and we
22 need the current policy because there was
23 testimony that the policy was changed.

24 MR. KRYSIAK: Okay.

25 MR. TIMOKHOV: That's pretty much it to this

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1 point.

2 UNDERTAKING NO. 6: If no policy, then to provide
3 description on expectation of YMCA counsellors on
4 how to process cases of abuse.

5 BY MR.

6 86. Q. And in your opinion, just do you think that
7 the cases of physical abuse should be referred to police
8 for collection of evidence and investigation?

9 A. In my opinion?

10 87. Q. Or in YMCA opinion. You are policy maker
11 with YMCA?

12 A. I believe I already answered that that, yes.

13 MR. KRYSIAK: Yes, she did.

14 BY MR.

15 88. Q. And in the best of your knowledge, this
16 particular case of Nikityuk, YMCA counsellor just didn't
17 collect any evidence or investigate on this issue, do you
18 think she acted properly?

19 A. Can you repeat that question?

20 89. Q. When Alla Nikityuk reported that she was
21 physically assaulted by her children...

22 A. Mm-hmm.

23 90. Q. ...and there was injury alleged as a result
24 of the assault, do you think that Yana was supposed to take
25 pictures of it and just to collect other evidence?

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

2 91. Q. Did you expect Yana to report the case
3 immediately report the case to her supervisor, which was
4 Ruth -- I don't remember the last name at the time.

5 MR. DANILOV: Millar.

6 WITNESS: Millar.

7 BY MR.

8 92. Q. Millar at that time?

9 A. Yes, I believe that that occurred.

10 93. Q. Did she do it?

11 A. To the best of my knowledge, yes.

12 94. Q. Did YMCA report -- report this case to
13 police?

14 A. I'm not sure, I can't answer that question
15 specifically.

16 95. Q. Do you think that when YMCA clients showed
17 physical injury, YMCA had to report this case to police
18 immediately...

19 A. At that...

20 96. Q. ...to preserve evidence?

21 A. ...at that time and currently it is not our
22 duty to collect evidence, in my opinion.

23 97. Q. But do you think that it was YMCA duty to
24 refer the client to police because it was in the best
25 interest of your client?

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1 A. It is our duty to refer the client, yes.

2 98. Q. Was your duty to refer the client to client's
3 family doctor or other medical practitioner to investigate
4 the physical assault and to collect evidence?

5 A. I can't answer specifically if that would
6 have been a referral that was done.

7 99. Q. Do you think as a police maker is it -- would
8 it be a reasonable policy just to refer individuals with
9 injuries to a doctor for investigation?

10 A. I guess so.

11 100. Q. If -- and that is -- well, in ca -- when
12 Nikityuks complained that their sponsors do not keep their
13 financial obligations, what would be the proper agency to
14 refer Nikityuks to?

15 A. I can't answer that, I'm not sure.

16 101. Q. When YMCA client doesn't have enough money to
17 support themselves, what was the proper agency at YMCA
18 refers the clients to?

19 A. My guess would be Ontario Works.

20 102. Q. How familiar are you with family sponsorship
21 and other immigration procedures in Canada?

22 A. I am not terribly familiar.

23 103. Q. So when -- if YMCA received evidence that a
24 YMCA client is ready to (inaudible) financial support to
25 the sponsored people, do you think it's appropriate just

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1 for this clients to obtain social assistance?

2 A. Can you ask that question again.

3 104. Q. When -- when sponsors (inaudible) YMCA
4 clients financial support or otherwise provide basic means
5 and shelter, do you think it's appropriate for them to get
6 financial social assistance from the government?

7 A. I believe that that would depend on the needs
8 communicated by the client.

9 105. Q. So if the client communicates that they have
10 -- they receive shelter, food and other necessities, do you
11 think it's appropriate just for -- to refer them to Ontario
12 Works?

13 A. If the client hasn't requested or indicated a
14 certain need, then we wouldn't refer to a certain agency.
15 When you understand the role of the settlement counsellor
16 is a referring role. Their job is to hear the needs of the
17 client and to understand the clients and then provide them
18 with assistance in navigating the system in our country.
19 And so, it isn't our -- sorry, let me rephrase, it is our
20 duty -- it's our responsibility to respond to the needs
21 communicated to us.

22 106. Q. Is it your responsibility as YMCA to act in
23 the best interests of the clients?

24 A. Yes.

25 107. Q. And isn't it your responsibility as YMCA to

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1 use your discretion in determining what is the best for the
2 clients?

3 A. I would believe that we would certainly
4 provide them options.

5 108. Q. Is it responsibility of YMCA just to support
6 and reinforce broader policies such as appropriate
7 distribution of social assistance resources?

8 A. It's our responsibility to refer. It's the
9 third party organization's responsibility to identify if
10 that client is able to receive that benefit, that service.

11 109. Q. Do you believe that you have broader
12 responsibility to communicate to ensure that social support
13 resources are distributed properly and there is no abuse in
14 such distribution?

15 A. Can you ask that question again, please.

16 110. Q. Do you think you have broader -- broader
17 mission which is to ensure that limited social support
18 resources are distributed efficiently in Simcoe County?

19 A. Yes, however we would expect that the
20 referring agency would also be involved in assessing that
21 based on their guidelines. We are not experts on the
22 guidelines of other agencies. That is why we are a
23 referral agency only.

24 111. Q. In your opinion, if YMCA counsellor suspects
25 that YMCA clients want to abuse the community support

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1 system, do you think it's YMCA counsellor's duty to proceed
2 with helping the person with such an abuse?

3 A. I would help that they wouldn't.

4 112. Q. But what if they did?

5 A. If we became aware of that then we would deal
6 with that based on a performance management.

7 113. Q. And you just mentioned that you would deal
8 with that on the performance management, what did you mean
9 by that?

10 A. Well, we would have -- we have documented
11 procedures around how we handle staff who don't follow
12 procedures and we would follow that. Each situation is
13 unique and would be reviewed individually.

14 114. Q. And you said the documented procedures, what
15 documented procedures you refer to?

16 A. Within the human resources policy we have a
17 documented procedure around how to manage staff when they
18 don't follow the expectation.

19 115. Q. And do you undertake to produce a copy of
20 such procedures?

21 A. Yes.

22 UNDERTAKING NO. To produce copy of procedures
23 to manage staff when they don't follow the
24 expectation.

25 BY MR. TIMOKHOV:

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1 116. Q. And you said that sometimes -- well there are
2 procedures about how expectations you have from staff, are
3 there written procedures from this?

4 A. There's guidelines in the funding documents
5 as well as in the job description with the expectation of
6 the role of each staff person.

7 117. Q. Do you undertake to provide a job description
8 and expectations of Yana Skybin and other just settlement
9 services YMCA counsellor?

10 A. Yes.

11 MR. KRYSIAK: We'll undertake the job description
12 of -- of the settlement counsellor of whoever
13 you know, whatever position she holds, that's the
14 job description.

15 UNDERTAKING NO. 8: To provide job description of
16 settlement counsellor.

17 MR. TIMOKHOV: And specific description of
18 responsibilities of Yana Skybin.

19 MR. KRYSIAK: Only if she....

20 WITNESS: That's in her job description.

21 MR. TIMOKHOV: Okay. And do you undertake to
22 provide responsibilities and job description of
23 typical ESL YMCA counsellor, by ESL, I mean the
24 person who is involved into English as a Second
25 Language Program?

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1 MR. KRYSIAK: Is there a policy -- is there a job
2 description?

3 WITNESS: There is a job description for our
4 language teachers, yes.

5 BY MR. TIMOKHOV:

6 118. Q. And you undertake -- and Yana Skybin was a
7 teacher or what -- what was her connection - Yana Skybin's
8 connection to YMCA English as a Second Language Program?

9 A. The staff work together as a team to support
10 our clients.

11 119. Q. The reason why I'm asking is that when my
12 clients, Svetlana Danilova, contacted the number on the
13 YMCA web site to enquire about possibility for her parents
14 to attend ESL classes she was connected to -- with Yana
15 Skybin immediately ..

16 A. Yes.

17 120. Q. ...that was direct number?

18 A. Yes.

19 121. Q. So what was the role of Yana Skybin regarding
20 just managing YMCA ESL classes?

21 A. It is my understanding that a new client
22 there are requirements, as we discussed earlier, for them -
23 - for clients to be able to participate in our settlement
24 services program as well as our language program. And I
25 believe that that would be the reason for the connection.

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1 It also may be because -- I don't know. You would have to
2 ask Yana.

3 122. Q. So it will be fair to say in the best of your
4 knowledge that Yana was some sort of supervisor of ESL
5 program in YMCA?

6 A. No.

7 123. Q. She was just a person responsible to answer
8 the calls regarding this program?

9 A. I can't I can't explain specifically on
10 the day of that phone call...

11 124. Q. Mm-hmm.

12 A. ...why the phone call would have been routed
13 to Yana.

14 125. Q. So she was not a supervisor of your YMCA ESL?

15 A. She was not the supervisor of the English
16 language program.

17 126. Q. But it will be fair to say that she was
18 responsible -- her duties include involvement in ESL
19 program as well as settlement services?

20 A. Her involvement in the English language
21 program is only, again, a referral. Referring for students
22 to register in the English second language.

23 127. Q. Oh, so that is not a part of why -- that is
24 not a part of YMCA to carry ESL programs?

25 A. No, we offer those programs in the same

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1 location, but Yana does not teach English language classes.

2 128. Q. Oh, understood. And what is the policy of
3 YMCA as to receiving financial compensation from the
4 clients directly from the clients payable to YMCA
5 counsellors?

6 A. At the time in 2011 we did not have a policy
7 with respect to that.

8 129. Q. What was the position on that, was it
9 appropriate for for YMCA counsellor to receive money as
10 a gratitude for services?

11 A. I don't think we've established that money
12 was received as a gratitude for services.

13 130. Q. That is a question, I'm asking about the
14 policy.

15 A. Can you ask the question again.

16 131. Q. What was YMCA policy regarding receipt of
17 direct payments to YMCA counsellors by the clients as a
18 gratitude for the provided services?

19 A. There wasn't one.

20 132. Q. Do you think it's appropriate for YMCA
21 employees to get compensate -- financial compensation
22 direct from the clients?

23 A. Again, I...

24 133. Q. What do you think as a person as the policy
25 maker, what would you say at the policy meeting about this.

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1 Is it okay if clients express gratitude by giving money to
2 YMCA counsellors?

3 A. Staff certainly receive gifts from clients.
4 We would expect that that's shared and depending on the
5 circumstances, we would deal with each situation
6 individually.

7 134. Q. So it's your position that it's okay when
8 that it's completely fine with YMCA, as a non-profit
9 organization, when a clients provide gifts to employees
10 to YMCA employees as a compensation for provided
11 services...

12 MR. KRYSIAK: She didn't say...

13 BY MR.

14 135. Q. ...as a gratitude?

15 A. I didn't say that. Can I give you an
16 example?

17 136. Q. No, just the question is, do you think it is
18 fine for the clients to give money to YMCA counsellors as a
19 gratitude for the provided services?

20 A. I -- I can't answer that question. It's
21 difficult for me to understand what exactly it is that
22 you're asking about. There are certainly situations where,
23 as an example, a client brings us a fruit basket and that
24 fruit basket may be given to an individual staff with a
25 thank you. The expectation would be that that fruit basket

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1 likely ends up as a shared gift for the staff that are
2 there. We don't have a policy that says you cannot receive
3 a gift.

4 137. Q. Let's make an example, just a hypothetical ...

5 A. Okay.

6 138. Q. ...that what if YMCA counsellor, and it comes
7 to your knowledge, receives \$500 cash in an envelope after
8 YMCA counsellor helps a client with receiving just social
9 assistance or social housing, how would you treat such
10 situation?

11 A. I can explain to you currently how we would
12 handle that. The expectation would be the employee would
13 disclose the information to us. We would review the
14 situation.

15 139. Q. What do you mean by, you will review the
16 situation?

17 A. We would need to identify if the gift was a
18 personal gift or a gift connected to the employment of the
19 individual.

20 140. Q. So in your opinion, it's proper for YMCA
21 employees as employees of not for profit organization, to
22 receive what you call personal gifts?

23 A. I did not say that it was, I'm just saying
24 that the next steps after we identified what type of gift
25 it was. You need to understand that we can't control the

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1 personal relationships that staff have outside of their
2 work. And so I may be given a gift by a colleague as a
3 wedding gift, and I might have met them through my
4 involvement in the community, that's acceptable that I
5 would receive that as a personal gift. Another example
6 would be our staff at Geneva Park. We have a conference
7 centre. They receive tips. Those tips, instead of going
8 to the individual because they're directly connected to the
9 employee's work, they get donated to our charitable
10 organization as a donation. We look at each gift, that's
11 disclosed to us, on an individual basis.

12 141. Q. So your definition of personal gift is a gift
13 that was given to an employee by a client on personal
14 occasions such as wedding or birthday?

15 A. That's an example I've provided, yes.

16 142. Q. And it is YMCA's policy that is completely
17 appropriate?

18 A. It's our policy to review each one
19 individually and make a decision with that employee.

20 143. Q. And who review such decisions?

21 A. At this time it would come to the supervisor
22 and the supervisor would make a decision. If needed, the
23 YMCA has the ability from a support perspective of a
24 manager of human resource, a senior leader like myself,
25 again, it really depends on each individual situation.

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1 144. Q. So as a senior leader as yourself , if you
2 learn whether it was disclosed to you or you learn from
3 other sources that there was a birthday gift to YMCA
4 counsellor who keeps providing the services at that time,
5 if there was a gift of \$1,000 and that was personal gift of
6 course...

7 A. Mm- hmm.

8 145. Q. ...how would you act?

9 A. I quite honestly in that situation would take
10 that to our manager of HR and discuss it and make a
11 decision. I don't know what the answer is.

12 146. Q. And what if such gift would be not \$1,000,
13 but \$5,000?

14 A. It sounds like you're trying to establish the
15 greater the gift, the different procedure. And I agree
16 that the change in value of a gift may change our
17 acceptance of that. However, I have never been involved in
18 a situation in the past where somebody received a gift of
19 that value that I am aware of. And so it's difficult for
20 me to look into my past experience to identify what I might
21 do. And because I don't have a past experience, I wouldn't
22 make a decision on my own, I'd approach our manager of
23 human resources to identify a course of action to make a
24 good decision.

25 147. Q. Would it be fair to say that you don't have

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1 such experience because it is not a common situation when
2 YMCA clients give personal gifts by way of paying money to
3 YMCA counsellors you didn't experience situation before,
4 did you?

5 A. No.

6 148. Q. And it would be fair to say that such -- such
7 gifts are not very common?

8 A. I have never been notified of a gift of that
9 value.

10 149. Q. All right.

11 A. Absolutely not.

12 150. Q. All right. But do you think that when YMCA
13 employee receives a gift of high value, be it money or
14 jewelry or any expensive gift, it would affect the
15 impartiality of YMCA employee in providing YMCA service?

16 A. I think you've made a great assumption. ■
17 don't necessarily agree with it.

18 151. Q. Would it be fair to say that if YMCA
19 counsellor receives \$1,000 just as a birthday gift, he'll
20 provide a better services as YMCA employee?

21 A. You're speaking about a specific scenario
22 that I'm not aware of...

23 152. Q. I'm thinking about...

24 A. ...and suggesting...

25 153. Q. ...your personal -- personal opinion because

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1 you are policy maker that and you have your many personal
2 opinions to to make Simcoe County's families stronger
3 and better. Do you think it's appropriate for employees of
4 YMCA organization to receive expensive gifts outside of the
5 work?

6 MR. KRYSIAK: She already answered that.

7 WITNESS: I've answered that question and I
8 answered the question by saying that I haven't
9 got past experience. I would certainly be
10 concerned about it which is why I would go to our
11 manager of human resources and review the
12 situation and create a course of action. What
13 that course of action is, quite honestly, I can't
14 answer because we have never been aware of a
15 situation to that effect.

16 BY MR. TIMOKHOV:

17 154. Q. And what will be your concerns?

18 A. What would be my concerns?

19 155. Q. Because you said there certainly may be
20 concerns about it?

21 A. Yeah, the fact that at this time we wouldn't
22 -- it is uncommon and so we would need to understand if the
23 gift is for the Y or if the gift is for the person. The
24 gift we receive gifts a 3 a YMCA all of the time. People
25 are very thankful for the work that we do and they provide

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1 gifts. And those gifts are received by the YMCA.

2 156. Q. And how would you determine the difference
3 between personal gift and gift for provided services, what
4 kind of criterias you...

5 A. Gifts for providing services I'm confused by,
6 what do you....

7 157. Q. ...you said there is a difference between
8 personal gift and other way of gift I understood it was
9 some kind of compensation for provided services. There is
10 some distinction between personal gifts and gifts as to
11 I understood it as a compensation for provided services,
12 that is what you just testified.

13 A. ...I wouldn't say compensation. A thank
14 for...

15 158. Q. You said that personal gifts are different
16 from just money kind of...

17 A. Yes.

18 159. Q. ...paid as a bribery...

19 A. So I...

20 160. Q. ..for the provided services?

21 A. ..I don't believe that I would be accepting
22 of payment from a bribery, you've just said something that
23 we have not talked about. I believe, as I've already
24 indicated, if I get married tomorrow and I invite a person
25 from -- that also happens to be involved in the YMCA and

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1 they provide me a wedding Jift that is clearly a personal
2 gift. And therefore, we would not be concerned about
3 personal gifts. And so the question I think you're asking,
4 is how do we identify that. The...

5 161. Q. How -- how -- for example if that person just
6 received \$1,000 for the person's wedding, how do you
7 distinguish a personal gift from bribe for the provided
8 services and for the services to be provided?

9 A. ...because it's connected to a personal
10 relationship that -- that they have.

11 162. Q. So pretty much using your logic it's possible
12 to justify any bribe that was given for a proper occasion?

13 A. You have just suggested that that is now a
14 bribe and I don't think we've established that.

15 163. Q. No, what we have established just we are
16 trying to establish YMCA policy about receiving just
17 personal gifts in substantial amounts by YMCA employees.

18 A. So I'm going to go back to my original
19 answer.

20 164. Q. And the hypothetic(sic) is if there is \$1,000
21 gift for the wedding or for the birthday, how do you
22 distinguish if it was a gift or it was a bribe for the
23 provided services, I think the question's clear?

24 A. The question is clear, but you're now saying
25 a gift could be a bribe.

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1 165. Q. Exactly.

2 A. And I'm explaining to you that staff disclose
3 a gift we because again I have already explained to you
4 I don't have experience with this, I would go to our human
5 resource manager. We would create a plan to identify the
6 nature of the gift and we would make a decision.

7 166. Q. And what criterias you would use in
8 identifying the nature of the gift?

9 A. I have no idea. We have not ever been in a
10 situation where there has been a significant gift, that we
11 are aware of, from a client. And so I can't tell you what
12 the criteria is because we haven't been in that situation.
13 We would look at everything individually and create a plan.

14 167. Q. And what kind of things you would look at
15 individually?

16 A. I don't know. I have not been faced with
17 this challenge in the past.

18 168. Q. But you have common knowledge.

19 MR. KRYSIAK: She said she would go to the HR
20 manager.

21 MR. TIMOKHOV: No. She said that there are no
22 procedures about it. They never experienced such
23 situation of significant personal gifts or
24 briberies and therefore they would meet with HR
25 managers and they would kind of figure it out --

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1 just get together and figure it out.

2 MR. KRYSIAK: Mm-hmm.

3 WITNESS: Yes.

4 BY MR.

5 169. Q. So what kind of criterias, what kind of
6 things you would look in figuring it out, it's -- it's a
7 proper question?

8 A. I think I have already answered the question
9 in that we would establish the -- when you look at our
10 current policy, we would establish the value of the gift.
11 I explained we would identify if the gift was a gift based
12 on the work done by the YMCA in which case that gift gets
13 donated to the YMCA, shared, the fruit basket example I'll
14 bring you back to that the fruit basket goes into a staff
15 room and everybody shares the fruit. Tips at our
16 conference centre get donated to our YMCA Strong Kids
17 campaign. In the even that a gift is connected to a
18 relationship outside of the scope of work, then that gift,
19 at this time, would be deemed personal and I suspect that
20 we would not have a problem with it. The challenge is you
21 are asking me around significant financial gifts and so
22 when you consider the value of a gift, we would need to
23 identify is it connected to a personal relationship.

24 170. Q. So is there any policy requiring YMCA
25 employees to disclose personal gifts to YMCA?

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1 A. In the updated human resource policies that
2 were finalized April 2013, there is. The previous human
3 resource policy had no reference to receipt of gifts.

4 171. Q. And you said that if YMCA -- YMCA employee
5 in your context it was some conference centre, receives
6 tips you expect that these tips will be donated to YMCA?

7 A. Yeah, and they do.

8 172. Q. So it is your and YMCA belief that YMCA
9 employees are not expected to keep these gifts personally?

10 A. Again, it depends on the -- the gift. And
11 sometimes they would keep them. As....

12 MR. KRYSIAK: I think we've been through this a
13 few times now.

14 BY MR. TIMOKHOV:

15 173. Q. And you undertook to provide that April 2013
16 policy?

17 MR. KRYSIAK: She hasn't undertaken it yet.

18 MR. TIMOKHOV: All right. Do we have your
19 undertake(sic) to provide this policy?

20 MR. KRYSIAK: Can you find it?

21 WITNESS: Yes.

22 MR. KRYSIAK: Okay.

23 COURT REPORTER: Sorry, could you repeat that
24 undertaking?

25 MR. KRYSIAK: A YMCA policy that was revised in

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1 April 2013 that mentions receiving gifts from
2 clients.

3 UNDERTAKING NO. To provide copy of YMCA
4 policy revised in April 2013 that mentions
5 receiving gifts from clients.

6 BY MR.

7 174. Q. And you said there are a lot of discussions
8 about developing a policy by YMCA at Simcoe County because
9 there is no legislation about treatment of abuse of
10 (inaudible) vulnerable adults?

11 A. That's correct.

12 175. Q. And are you familiar with the issues of
13 treatment of vulnerable adults in Simcoe County?

14 A. I'm familiar that there are certainly
15 vulnerable adults.

16 176. Q. And you are involved in policy discussions?

17 A. Yes.

18 177. Q. And you did a lot of research on this one?

19 A. Like I explained, our focus over the last
20 year and a half has been around revising our practices with
21 respect to children. We are now starting, and haven't
22 started yet, to develop the specific requirements for
23 vulnerable adults.

24 178. Q. Are you familiar with the document titled,
25 Abuse of Elders and the Vulnerable Adult Management of the

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1 Issues in Simcoe County prepared by Simcoe County Elder
2 Abuse Prevention Committee?

3 A. No.

4 179. Q. You never saw this document?

5 A. Pardon me?

6 180. Q. You never saw this?

7 A. No.

8 181. Q. Do you want to put your eyes to yourself with
9 this document because it was provided as a part of
10 disclosure as our production, do you want to take time to -
11 - to take a look at it?

12 MR. KRYSIAK: Do you -- are you going to have
13 questions about it?

14 MR. TIMOKHOV: Yes.

15 MR. KRYSIAK: Is this our document?

16 MR. TIMOKHOV: No, that is -- that is -- who
17 provide this document?

18 MS . DANILOVA: Uß.

19 MR. TIMOKHOV: It's our document, but I
20 understand that just your client was involved in
21 the policy decision I want to know of your
22 opinion just about the criterias.

23 MR. KRYSIAK: What -- what she's going to do,
24 she's going to look at it to make sure...

25 MR. TIMOKHOV: Yeah.

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1 MR. KRYSIAK: ...she knows what it is.

2 MR. TIMOKHOV: Sure. We off the record.

3 (Off Record)

4 BY MR.

5 182. Q. So I understood that during the break you
6 familiarized yourself with this document, Abuse of Elders
7 and Vulnerable Adult prepared by Simcoe County Elder Abuse
8 Prevention Committee?

9 A. Yes, I looked at it.

10 183. Q. And are you familiar with this organization,
11 Simcoe County Elder Abuse Prevention Committee?

12 A. No.

13 184. Q. And the introduction -- do you have a copy of
14 the document?

15 A. No.

16 185. Q. Do you want to make a copy of it because it
17 was part of the disclosure.

18 MR. KRYSIAK: We can is there going to be a
19 lot of reference...

20 MR. TIMOKHOV: Yes.

21 MR. KRYSIAK: ...to this. Okay.

22 MR. TIMOKHOV: Off record.

23 (Off Record)

24 BY MR.

25 186. Q. And in introduction to this document, that is

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1 page two of the document, there is discussion about some
2 multi-year plan development process regarding treat
3 treatment -- regarding topic of abuse of the vulnerable
4 adults, is it the process you mentioned before in your
5 examination?

6 MR. KRYSIAK: What -- what are you pointing to
7 exactly, what line?

8 MR. TIMOKHOV: Introduction second paragraph.
9 There's a reference to multi-year plan
10 development process.

11 WITNESS: I didn't refer to this document in
12 my...

13 BY MR.

14 187. Q. No, you refer to some sort of development of
15 process to treat vulnerable adults?

16 A. That is correct. The YMCA will be creating
17 protocol with respect to reporting for vulnerable adults.

18 188. Q. Are you familiar with that multi-year plan
19 development process just as it is mentioned?

20 A. This? No, I have never seen this document
21 until today.

22 189. Q. But are you familiar with multi-year plan
23 development process, because it seems to be a big process
24 like in this county, isn't it?

25 MR. KRYSIAK: Are you -- she -- are you talking

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1 about this thing, this multi-year plan that's in
2 bold, not bold, but...

3 WITNESS: Capitalized.

4 MR. KRYSIAK: ...in capital -- capitalized
5 letters in this document?

6 BY MR.

7 190. Q. I'm saying about paragraphs two, line three.

8 A. No, I...

9 191. Q. So you are not familiar with that?

10 A. ...no.

11 192. Q. And are you familiar with that abuse protocol
12 steering committee appointed by a long-term care committee
13 of the Simcoe County District Health Council?

14 A. No.

15 193. Q. Are you familiar with Simcoe County District
16 Health Council?

17 A. No.

18 194. Q. Are you familiar with individuals, Julie
19 Lefever, Philippa Welch and Helen Russell?

20 A. No.

21 195. Q. Are you familiar with any ongoing community
22 discussion in Simcoe County on the topic of abuse of the
23 vulnerable adult?

24 A. No.

25 196. Q. Is there any cooperation between different

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1 community organizations in the County regarding the
2 treatment of abuse in the absence of the legislation?

3 A. Not that I'm aware of.

4 197. Q. So pretty much that development of policy you
5 do it exclusively within YMCA?

6 A. No.

7 198. Q. By no you mean -- do you discuss it with...

8 A. When I...

9 199. Q. ...different community organizations in the
10 county?

11 A. ...when I originally indicated that we were
12 going to be creating the protocol, I indicated I believe at
13 that time that we would work with community partners to
14 establish what a reasonable protocol would be. You have
15 provided me a very interesting document that I likely will
16 look at, but I am not aware of this from the past.

17 200. Q. But you said there is you will cooperate
18 with different community organizations within the county?

19 A. We would need to because there is no
20 legislation that tells us what to do and so we would it
21 would be important for us to develop a protocol that would
22 be supported by the agencies that may end up with
23 involvement within the protocol.

24 201. Q. And what -- what agencies you expect to
25 cooperate with in developing such protocol?

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1 A. We haven't created our plan yet around
2 creating the protocol. At first I would contact the
3 police, would be likely the first organization that I would
4 contact.

5 202. Q. I mean, you said there's ongoing policy
6 discussion about creating this plan, do you mean like the
7 plan for YMCA or for just multiple organization in the
8 County?

9 A. As a YMCA we have currently been working with
10 YMCA Canada to meet -- to ensure that our policy and
11 practices meet the national guideline with respect to
12 children. We now have to do the work connected around
13 vulnerable adults.

14 203. Q. And do you think you will be consulting other
15 just community organizations in the County and developing
16 such protocol just to get their insight?

17 A. I expect so. And the plan is to include in
18 the work group to develop such protocol, individuals within
19 our organization that currently work with those deemed --
20 that could be deemed as vulnerable adults.

21 204. Q. And what organization would you consult with?

22 A. I would ask those people who currently work
23 with vulnerable adults, who they would recommend. I have
24 provided you one example, the police, likely perhaps
25 community living organizations that have clients who could

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1 be identified as vulnerable adults.

2 205. Q. Did you do any independent research of the
3 topic?

4 A. Not yet.

5 206. Q. How long YMCA exist in this county, how many
6 years?

7 A. Over 100 years.

8 207. Q. And in this 100 years you didn't develop
9 internal protocols on treatment of abuse within the
10 organization?

11 A. I have already indicated that we do have
12 protocols with respect to child protection.

13 208. Q. No, regarding treatment of vulnerable adults?

14 A. And I have already answered that question
15 that we are going to investigate if there is a specific
16 protocol...

17 209. Q. So you don't know this.

18 A. ...with respect to that. I think I answered
19 that already.

20 210. Q. Mm-hmm. And there is a definition of abuse
21 just on the page one of -- of these documents. Do you
22 agree with the -- of this definition of abuse and, if not,
23 why?

24 A. It seems reasonable to me. I would compare
25 it to our definition of abuse in our policy, which I cannot

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1 recall word for word. At first glance, it appears to be a
2 reasonable definition.

3 211. Q. So you agree to this definition?

4 MR. KRYSIAK: She answered that question.

5 BY MR.

6 212. Q. It seems to be reasonable to you?

7 MR. KRYSIAK: She answered that question.

8 WITNESS: Yes.

9 BY MR.

10 213. Q. Do you disagree about anything in this
11 definition?

12 A. I don't believe so.

13 214. Q. And below there is a definition of the term
14 vulnerable adult, do you agree with the definition?

15 A. Again, I would like to compare it to the
16 definition that has been created in our policy with respect
17 to a vulnerable adult. At first glance, this appears to be
18 a reasonable definition.

19 215. Q. So vulnerable adult is a person who has dif -
20 - difficulty expressing or his own wishes, that is just
21 your understanding of who vulnerable person is?

22 A. I would prefer to be able to review our
23 definition of a vulnerable adult.

24 216. Q. But what is your personal definition of
25 vulnerable adult?

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1 A. Somebody who requires protection.

2 217. Q. And why he -- such adult requires protection,
3 because he is not able to take care of his own?

4 A. I already explained to you earlier that the
5 specifics are in our policy and if they are not in our
6 policy, that we are currently under development of the
7 specifics.

8 218. Q. I'm talking about your personal opinion.

9 A. You would like my personal opinion?

10 219. Q. Of course.

11 A. My personal opinion would be a vulnerable
12 adult would be somebody who is in need of protection, in my
13 opinion.

14 220. Q. Because he cannot protect himself , that was
15 my question?

16 A. Yes.

17 221. Q. And on page three there is a definition on
18 physical abuse that that is a behaviour which may be
19 perceived by agency caregiver, so it requires some
20 discretion from agency caregiver, do you agree that this
21 examples of physical abuse -- just the examples listed
22 below?

23 A. Yes, they are examples. There could be
24 others.

25 222. Q. What can be the others in your opinion?

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1 A. I don't know off the top of my head, I
2 haven't...

3 223. Q. So you just said, 'Others' for the sake of
4 saying it?

5 A. ...well I don't believe that this would be a
6 full list. It's already indicated that the list is not
7 limited to, which would then suggest that there could be
8 other things that a person would recognize as physical
9 abuse.

10 224. Q. And there are list of possible indicators of
11 physical abuse, do you agree that agency should take a look
12 at those indicators in making its decision on how to
13 process a case?

14 MR. KRYSIAK: What agency?

15 MR. TIMOKHOV: YMCA.

16 WITNESS: We don't...

17 MR. KRYSIAK: This is not a YMCA document.

18 MR. TIMOKHOV: Just any agency then, community
19 agency. We're discussing the policy document.

20 MR. KRYSIAK: This is not...

21 WITNESS: ...it's not our policy document. I'm
22 not going to answer about a document.

23 MR. KRYSIAK: ...this these questions have to
24 be brought back to to the YMCA. I don't mind
25 going along for a while, but I think we've gone

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1 along for -- for too long now with this document.
 2 MR. TIMOKHOV: Oh, because pretty much there was
 3 the testimony that we don't have -- that there
 4 are no written guidelines at this point on the
 5 physical abuse, at least we don't have them in
 6 this conference room. Therefore I'm just trying
 7 to get some -- some customs and policies within
 8 just the organization and as a policy maker I
 9 understand that you may know just how such cases
 10 would be processed in the organization.

11 MR. KRYSIAK: I think she said that they're
 12 working on developing them, but she can't develop
 13 them during this examination and give you a
 14 definitive answer right now.

15 MR. TIMOKHOV: So pretty much the answer was that
 16 at this point YMCA doesn't have any procedures
 17 how to handle abuse situations, it's just all
 18 common sense?

19 MR. KRYSIAK: That's not what she said.

20 WITNESS: No, that is not what I said.

21 BY MR.

22 225. Q. Okay. What is your answer?

23 A. I said that we have clear procedures
 24 documented around how to handle disclosure or observation
 25 of abuse with respect to children. In that policy if...

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1 226. Q. No, we're talking about vulnerable adults
2 like we just...

3 A. ...I know, but you said that we have no
4 policy around abuse. We do.

5 227. Q. But you don't have any policy regarding
6 vulnerable adults, do you?

7 A. In our current policy it indicates that staff
8 have a responsibility around the protection of vulnerable
9 adults. That is what is in the policy.

10 228. Q. (inaudible).

11 A. Yes. The additional work that is required is
12 to develop the specific process reporting specific around
13 vulnerable adults. And as I've already mentioned, there
14 isn't provincial legislation that provides us that. You
15 have provided me a document today that perhaps when we
16 start our research we would have found. The information in
17 this document is of great interest to me and I will review
18 it and we will likely follow-up to identify the source and
19 do some research on it.

20 229. Q. So in other words it will be fair to say that
21 YMCA didn't start researching the topic?

22 A. Pardon me?

23 230. Q. YMCA didn't start researching the topic yet,
24 that is how I understood what you said.

25 A. We have not done that. Our focus has been on

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1 children at this time.

2 231. Q. So treating vulnerable adults is not a focus
3 of your organization?

4 A. Specific procedures with respect to
5 vulnerable adults we have, and always have, made a
6 commitment to the protection of vulnerable adults.

7 232. Q. But you didn't put much insight to prepare
8 just formal written procedures how to handle the situation?

9 A. We are doing that now. And in the past, as I
10 already indicated...

11 233. Q. Right.

12 A. ...when staff were aware of a situation where
13 they felt somebody was at harm, they would refer to an
14 agency that would support them.

15 234. Q. That is the policy, but I understand that
16 YMCA has not done much research on this topic yet otherwise
17 you would find this document, that's what you just said,
18 right?

19 A. We are -- yes, we are doing that now.

20 235. Q. So you have started your research. What do
21 you mean by, 'We are doing it now'?

22 A. It is our next step in development.

23 236. Q. So you didn't start the research, that is my
24 question -- the research on the topic?

25 A. So as a child protection lead...

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1 237. Q. No, child -- no child protection, vulnerable
2 adults.

3 A. ...no, in our child protection lead,
4 vulnerable adults is included. And so have I personally
5 started to look into it...

6 238. Q. YMCA?

7 A. ...I have received a policy from the Toronto
8 YMCA that does include their steps that they have created.
9 The step that we have not done yet is within our own local
10 YMCA. We have not established yet the work group that will
11 review the information from the Toronto YMCA and then also
12 consult locally with our community agencies...

13 239. Q. So you...

14 A. ...that has not started.

15 240. Q. ...you just mentioned that you have received
16 some guidelines from YMCA how to treat abuse situation?

17 A. I have received a document from another YMCA
18 about a month ago and I am going to be starting in the
19 spring to put together a work group to review it.

20 MR. TIMOKHOV: Do you undertake to produce this
21 document?

22 MR. KRYSIAK: For what reason?

23 WITNESS: No, it's not it's not our -- it's
24 not our YMCA's document.

25 MR. TIMOKHOV: That is a document which is

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1 relevant to the issue of abuse and it's in your
2 possession and we require to produce document, it
3 can be refusal, it can be undertaking.

4 MR. KRYSIAK: It's -- it's not relevant to this
5 lawsuit.

6 MR. TIMOKHOV: It's relevant as to the document
7 that just County of Simcoe may -- as to
8 development of procedures is in County Simcoe
9 regarding the treatment of vulnerable adults.

10 MR. KRYSIAK: It's relevant to the future and
11 that's not relevant to this lawsuit.

12 MR. TIMOKHOV: Well it may provide an analogy
13 from the same organization in different county.

14 WITNESS: It's not the same organization. We're
15 separate organizations.

16 BY MR.

17 241. Q. But you have the document in your possession?

18 A. And I don't have permission to share the
19 document.

20 242. Q. Is the document confidential?

21 A. I would have to follow-up with the Toronto
22 YMCA.

23 243. Q. So on what ground this document is
24 confidential?

25 A. It -- I don't -- I don't believe that it is

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1 important for us to provide a document from another YMCA.

2 MR. TIMOKHOV: So I understand we have refusal,
3 do you want just to justify your refusal?

4 MR. KRYSIAK: No, relevancy.

5 MR. TIMOKHOV: I see. Okay. So we have a
6 refusal.

7 REFUSAL NO. To produce document from Toronto
8 YMCA.

9 BY MR. TIMOKHOV:

10 244. Q. And on the page 17 and so on, there is
11 certain models how community organizations (inaudible) of
12 the creators of the documents are supposed to handle
13 domestic -- well, just abuse, but you develop now you have
14 in mind developing something like the models provided at
15 the page 17 to 220 of the document, that is what you have
16 in mind as YMCA?

17 MR. KRYSIAK: Don't -- don't answer that. She's
18 not familiar with these models. She doesn't know
19 what they say and she can't say whether this is
20 what they're going to...

21 BY MR.

22 245. Q. The question is, do you plan to develop some
23 models how YMCA employees are supposed to -- to treat
24 abuse?

25 MR. KRYSIAK: She answered that.

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1 MR. TIMOKHOV: What was answer?

2 MR. KRYSIAK: They're working on it.

3 MR. TIMOKHOV: They are working on developing
4 models, right?

5 MR. KRYSIAK: They're working on it. That was
6 her answer, correct.

7 BY MR.

8 246. Q. And can you clarify, are you working on
9 developing certain models how to process abuse cases within
10 YMCA?

11 A. We are creating a series of steps that staff
12 would follow as a guideline, yes.

13 247. Q. Exactly. So something similar to what I just
14 showed you?

15 A. I can't -- I cannot answer if it would be
16 similar to what you just showed me.

17 248. Q. You creating certain steps, that is answer.
18 Okay. And in my understanding is YMCA is non-profit
19 organization that doesn't expect its employees or YMCA
20 itself to receive any compensation for the services to be
21 provided, is it correct?

22 A. Can you repeat that question.

23 249. Q. YMCA is a non-profit organization that
24 doesn't expect compensation for services to be provided?

25 A. We are a charitable organization.

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1 250. Q. So do you expect any compensation from
2 clients for the services to be provided?

3 A. We do not expect compensation unless there is
4 a fee for the program.

5 251. Q. And that fee is transparent fee that is
6 disclosed to the clients immediately?

7 A. Yes, as an example, you pay a membership fee,
8 you receive a service of being able to access our
9 membership facility.

10 252. Q. How would you act if you find that just an
11 employee of YMCA receives bribes directly for the services
12 to be provided to provide a better service or to provide
13 service at all?

14 A. I have answered that question.

15 253. Q. You answered the question that you would
16 investigate the occasion, you don't have specific
17 guidelines, but you investigated in the common sense
18 circumstances you would look -- you would take a look at
19 the amount received and you would take a look at what
20 occasion it was received.

21 A. We would look at the amount, the
22 circumstances surrounding it and we would decide the steps
23 we would take. It's the same answer I provided earlier.

24 254. Q. And what do you -- what is your definition of
25 bribery?

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1 A. I don't know. Bribery.

2 255. Q. Can you just give me a definition of bribe
3 your in your own opinion?

4 A. Receiving compensation or certain treatment
5 knowing that a certain action would be completed
6 favourably.

7 256. Q. And you said that when somebody brought, as
8 an example just a basket of fruits, it was share in YMCA -
9 like, within YMCA, it was kept there?

10 A. That's an example that that has happened.

11 257. Q. So if you found out that there is a bribe, do
12 you think just you require employee to make this bribe a
13 donation to YMCA or you to require them to return the money
14 back to -- to the client?

15 A. You're asking me to answer what I would do
16 hypothetically, however, I can't answer that question
17 because I would require the support of another person to
18 help me identify what the course of action would be.

19 258. Q. But you said that gifts, as you described it,
20 expected to be treated as a donation to YMCA, right?

21 A. That is a practice in the past in some
22 circumstances. I think you need to remember that each
23 individual circumstance is reviewed individually and the
24 course of action may be different based on the individual
25 circumstances.

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1 259. Q. And if you found out that a person received a
2 substantial amount of money, even as a personal gift, would
3 you allow that person to continue providing services to the
4 given individual to the client?

5 MR. KRYSIAK: We've been through this.

6 BY MR.

7 260. Q. Just please answer.

8 MR. KRYSIAK: We've been through this. ■
9 think...

10 MR. TIMOKHOV: That question was not...

11 MR. KRYSIAK: ...this is unnecessarily...

12 MR. TIMOKHOV: ...an answer.

13 MR. KRYSIAK: ...you may not have phrased it in
14 that exact language, but you asked that kind of
15 question several times.

16 BY MR.

17 261. Q. Okay. The question is in your opinion the
18 person who receives substantial amount of money, can he
19 continue to provide services impartially?

20 A. You're asking me to predict what I would do
21 based on not understanding the specific scenario.

22 262. Q. No.

23 A. I go back to my other answer which clearly
24 indicated, we would take it seriously if we were -- if it
25 was known, we would create a plan. You're asking me to

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1 suggest that therefore I would apply one sweeping statement
2 and I can't answer that because every situation is dealt
3 with individually. It is the same answer.

4 263. Q. As a potential solution, would you be
5 required to appoint another individual just to this case
6 another YMCA counsellor?

7 A. I am not required.

8 264. Q. Would it be a possible solution of this
9 problem?

10 MR. KRYSIAK: What problem?

11 MR. TIMOKHOV: Receiving substantial amount of
12 money as a personal gift from a client.

13 MR. KRYSIAK: We never said it was a problem.

14 BY MR. TIMOKHOV:

15 265. Q. Would appointing another YMCA counsellor be
16 appropriate solution at cause of action in case you found
17 out that and you investigate that YMCA counsellor
18 received a substantial gift?

19 A. There are a lot of ifs in your question and
20 so we, as I have already said, would take the facts that we
21 would have, we would work with our HR manager, we could
22 create a course of action. I cannot predict for you what
23 that might include.

24 266. Q. And you can't specify what potential courses
25 of action can be in case there is a personal gift in amount

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1 of \$1,000?

2 A. No, because I have never in my experience had
3 another situation to draw upon any experience specific to
4 that.

5 267. Q. And you said that is a policy of - of YMCA
6 to delegate -- to refer all potential problems to
7 organizations who specialize in it?

8 A. Can you ask that question again.

9 268. Q. Is it a policy of YMG\ to delegate -- to
10 defer clients to organizations who are responsible -- who
11 specialize in (inaudible) situations such as Barrie's
12 Women 's Shelter?

13 A. It is our job to identify what is being
14 what the client needs based on what they communicate to us
15 and refer them to the appropriate agency, yes.

16 269. Q. Is the policy of YMCA to allow YMCA
17 counsellors to act as representatives of the clients before
18 such organizations?

19 A. Can you ask that question again.

20 270. Q. I think the question was clear.

21 MR. KRYSIAK: Obviously not.

22 MR. TIMOKHOV: How is it (inaudible), counsel.

23 What was the question, counsel.

24 MR. KRYSIAK: My client says the question was

25 unclear.

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1 MR. TIMOKHOV: Client -- counsel, can you please
2 repeat the question?

3 MR. KRYSIAK: No.

4 MR. TIMOKHOV: Why?

5 MR. KRYSIAK: Because I don't have to.

6 BY MR.

7 271. Q. Can you please repeat the question as I
8 phrased it?

9 A. No. That's why I asked you to say it again.

10 272. Q. All right. Can you listen to the question
11 just next time?

12 A. Yes.

13 273. Q. Is it a policy of YMCA -- you can write it
14 down...

15 A. It's okay.

16 274. Q. ...to allow its employees to act as
17 representatives to the organizations?

18 A. Can you define what you mean by
19 representative.

20 275. Q. Do allow -- did you allow Yana Skybin to act
21 as Nikityuks' representative before Revenue Canada?

22 A. Specific to your question around Revenue
23 Canada.

24 276. Q. Specific -- is it normal policy?

25 A. There are times when we are -- we act,

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■ sometimes, in the form of translation. In other times
2 where we need to assist clients at the request of a third
3 party agency and we provide assistance, yes.

4 277. Q. And how often these times?

5 A. I cannot answer that question around how
6 often.

7 278. Q. You just testified that the role of YMCA is
8 simple referral to the organization and now you pretty much
9 contradicting yourself saying that there are times when
10 YMCA acts as representative of the clients before these
11 organizations, can you explain this contradiction?

12 MR. KRYSIAK: I don't see that as a
13 contradiction.

14 MR. TIMOKHOV: Counsel, just please don't
15 interfere with the examination.

16 MR. KRYSIAK: Don't pose trick -- tricky unfair
17 questions then because that question was not fair
18 because it wasn't accurate.

19 BY MR.

20 279. Q. Did you testify that is the role of YMCA to
21 refer clients to organizations, you said -- you testified
22 yes to this before?

23 A. Yes.

24 280. Q. And that is primarily what YMCA does?

25 A. Yes, with continued support for our clients.

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1 281. Q. And then you said that then the organizations
2 deal with clients in accordance with other organizations
3 procedures, did you say...

4 A. That's correct.

5 282. Q. ...but then you testified that on certain
6 occasions it is appropriate for YMCA to act as a
7 representative of the clients before these organizations;
8 is it correct?

9 A. I would not say representative, in the line
10 of questioning I would indicate them as a liaison.

11 283. Q. Can you define what liaison is?

12 A. There are times when there is translation
13 required or the clients doesn't -- is unable to complete
14 their required paper work or perhaps even have the
15 conversation due to translation or just support required
16 coming in to the country. So there are times when our
17 settlement counsellors would provide support in partnership
18 with that community agency.

19 284. Q. Either support includes appointment of YMCA
20 as representative -- formal representative or next of kin
21 of clients dealing with these organizations?

22 A. I have no knowledge of next of kin.

23 285. Q. Is it in your knowledge that Yana Skybin was
24 appointed next of kin and representative of Nikityuks in
25 dealing with Ontario Works?

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1 A. The only reason why I am aware is based on
2 discovery yesterday when that document was provided.

3 286. Q. But that is not a proper procedure?

4 A. I believe that it will be important for you
5 to identify how we were named next of kin.

6 287. Q. I have no knowledge about it, why don't you
7 tell me how your employee was appointed as next of kin?

8 A. We do not know how they were appointed as
9 next of kin.

10 288. Q. And that is inappropriate in terms of YMCA
11 policies.

12 A. It's not something that we have ever had
13 before.

14 289. Q. And you said you don't know how -- as a YMCA
15 supervisor and policy maker you -- you have no knowledge
16 how Yana Skybin was appointed to be next of kin of
17 Nikityuks ...

18 A. No.

19 290. Q. ...in front of YMCA?

20 A. No.

21 291. Q. And do you have knowledge how in the
22 beginning of 2011 Yana Skybin was appointed representative
23 of Nikityuks before Revenue Canada?

24 A. Yes.

25 292. Q. Is it appropriate for Yana Skybin to be a

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1 representative of Nikityuks in front of -- before Revenue
2 Canada?

3 A. There are times where in order for the client
4 to be able to access documents that are required for them
5 to get support from other community agencies, they need to
6 be able to provide documents from the Canadian Revenue
7 Agency and we have applied for level one access -- not
8 access, clearance. I'm sorry, I'm not sure the right word,
9 but level one in order to be able to request documentation,
10 but we cannot receive documentation.

11 293. Q. Do YMCA counsellors have experience in - do
12 they have any formal legal education or certification as
13 lawyers or paralegals?

14 A. Not that I'm aware of.

15 294. Q. That is not in job description, right?

16 A. I do not believe so.

17 295. Q. Does Yana Skybin have any certification as a
18 lawyer, paralegal or a person trained in law or immigration
19 procedures?

20 A. That was a long list.

21 296. Q. Either?

22 A. She has knowledge around immigration
23 procedures.

24 297. Q. And where did she get this knowledge?

25 A. I'm not sure.

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1 298. Q. But you -- that is your guess or that's your
2 knowledge?

3 A. Based on the work that she does and the fact
4 that she assists people to settle in Canada, I assume that,
5 yes, she has knowledge.

6 299. Q. She has knowledge of law?

7 A. Immigration I said.

8 300. Q. Immigration law and she has knowledge of
9 she -- in your opinion she is qualified to give legal
10 advice in terms of immigration laws?

11 A. That is not what I said. I explained to you
12 that based on the work that she does, she is familiar with
13 immigration because she assists people to settle. Is she
14 familiar with the legal piece, I am not sure.

15 301. Q. So do you expect her to provide legal help
16 and legal advice to people -- who require such help?

17 A. I go back to the original answer that their
18 job is to refer. That in the even that the client has
19 identified a need that we would refer to a legal support.

20 302. Q. So what is your explanation of Yana Skybin's
21 representing Alla and Valentin Nikityuk in internal review
22 of Ontario Work decision not to provide Nikityuks with
23 financial assistance?

24 A. I understand that she was acting in the scope
25 of her work.

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1 303. Q. So the scope of her work included preparation
2 of legal documents for the clients?

3 A. I don't believe that you were referring to a
4 legal document. She would not prefer ...

5 MR. TIMOKHOV: Just -- off record for one minute.
6 (Off Record)

7 BY MR.

8 304. Q. I would like to refer you to the document,
9 it's a part of document brief of the plaintiffs Volume 5,
10 Tab 22, that is a letter from YMCA dated October 27, that
11 is letter from Ruth Millar to County of Simcoe Social
12 Services. Can you please read the letter?

13 A. Yes.

14 305. Q. Can I have it back. And I would like to
15 refer you to paragraph one of the letter, specifically to,
16 ***"I can discuss any concerns about their Ontario Works
17 entitlement" ?

18 A. Okay.

19 306. Q. It is my understanding that, ***"I can
20 discuss any concerns about their Ontario Works entitlement"
21 means more than translation services and helping with
22 filling in the documents, it means representation; do you
23 agree with that?

24 A. That's in your opinion, and again...

25 307. Q. What is your opinion on this?

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1 A. ...that they were working in the scope of the
2 job.

3 308. Q. So representation before Ontario Works and
4 acting as representatives and discussing just in their --
5 in YMCA capacity as representative it's within the scope of
6 the job?

7 A. I understand based on that communication that
8 they were working within the scope of their work, yes.

9 309. Q. And you just testified that the scope of
10 their work is just to translate the documents and to help
11 them to fill in the documents, the clients?

12 A. I believe that I indicated that they would
13 help, that was examples I provided. And that our role as
14 settlement counsellors is to ensure that their needs are
15 met and that sometimes does involve support with them with
16 third party agencies.

17 310. Q. So your answer is that sometimes YMCA
18 counsellor can act as representatives of the clients and -
19 and agents of the clients in front of other organizations?

20 A. Based on the wishes of the client.

21 311. Q. So technically the client can appoint YMCA to
22 act as their agent?

23 A. Our...

24 312. Q. Within their wishes, right?

25 A. ...our role is to assist the client to work

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1 with the third party agencies. In order for us to be able
2 to do that, the client often allows us to be able to
3 communicate with those agencies to ensure the proper
4 support.

5 313. Q. So it means no just to assist, but to
6 represent, to have negotiations with these agencies; is it
7 correct?

8 A. Ah, negotiations is the wrong word, I
9 believe.

10 314. Q. Well I use exact language of the letter.
11 ***"I can discuss any concerns about the Ontario Works
12 entitlement". Do you think I can discuss any concerns
13 implies authority to act as a representative?

14 A. I can't answer that question.

15 315. Q. I understand that English is your first
16 language, right?

17 A. It is.

18 316. Q. So do I understand, I can discuss any
19 concerns about their Ontario Works entitlement, this phrase
20 can be understood as I have authority to -- from my client
21 to discuss their Ontario Works entitlement?

22 A. I think you would have to speak to Ruth who
23 wrote the sentence to identify what she intended behind
24 that. Our review of the file with Yana indicated that the
25 work that was done was within the scope of practice as per

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1 the job description to support the clients.

2 317. Q. The question was how as a person who has
3 English as a first language, how do you understand, I can
4 discuss any concerns about Ontario Works entitlement, that
5 is the question?

6 MR. KRYSIAK: Don't answer that.

7 MR. TIMOKHOV: The grounds, counsel, refusal.

8 MR. KRYSIAK: Harassment of the witness.

9 MR. TIMOKHOV: How is the witness is harassed?

10 MR. KRYSIAK: That's my answer. Either move on
11 or don't move on, but she's not going to continue
12 with answering questions about that letter which
13 she did not write.

14 REFUSAL NO. 2: To answer the question, as a
15 person who has English as a first language, how
16 do you understand, I can discuss any concerns
17 about Ontario Works entitlement.

18 BY MR.

19 318. Q. The question was that that is the letter that
20 is written on YMCA letterhead and it implies that YMCA has
21 authority to act as a representative of Alla and Valentin
22 Nikityuk, do you agree that YMCA -- YMCA undertook to act
23 as their representative?

24 MR. KRYSIAK: We're done with that line of
25 questioning.

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1 MR. TIMOKHOV: We have refusal.

2 REFUSAL NO. To answer the question, the
3 letter that is written on YMCA letterhead and it
4 implies that YMCA has authority to act as a
5 representative of Alla and Valentin Nikityuk, do
6 you agree that YMCA undertook to act as their
7 representative.

8 BY MR. TIMOKHOV:

9 319. Q. Tab 13 of document brief of the plaintiff ,
10 Volume 6 of Volume 6?

11 A. Mm-hmm.

12 320. Q. That is a request for appeal of the decision
13 of Ontario Works that Alla and Valentin Nikityuk do not
14 qualify for receipt of Ontario Works assistance, do you
15 think...

16 A. Okay.

17 321. Q. ...do you think in your opinion, as a policy
18 maker and as a senior officer of the organization, do you
19 think that your employee is qualified to prepare a legal
20 documents in respect of appeals -- internal (inaudible)
21 appeals?

22 A. I don't know that we've established this is a
23 legal document.

24 322. Q. That is sub -- internal appeal submission to
25 Ontario Works?

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1 A. And I am not familiar with the circumstances
2 specifically to why this was written...

3 323. Q. But do you...

4 A. ...so I can't answer that question.

5 324. Q. ...do you allow, just as a matter of policy
6 of course which you are familiar with, your employees to
7 act as a legal counsel to your clients?

8 MR. KRYSIAK: She answered that, she said, no.

9 MR. TIMOKHOV: She said she has no knowledge.

10 MR. KRYSIAK: She said that she has no knowledge
11 that -- of it ever happening because she doesn't.

12 MR. TIMOKHOV: Do you undertake to provide such
13 information just about the scope of YMCA
14 employees to act as legal representative and to
15 prepare legal documents in dealing with different
16 organizations?

17 MR. KRYSIAK: It's been answered.

18 MR. TIMOKHOV: No, that is undertaking.

19 MR. KRYSIAK: No, it's been answered.

20 MR. TIMOKHOV: How was it answered, counsel?

21 MR. KRYSIAK: They don't authorize their
22 employees to act as legal agents or provide
23 draft legal documents.

24 MR. TIMOKHOV: And the counsel's answer is
25 binding on you, do you understand it?

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1 WITNESS: I understand what he has said.

2 MR. KRYSIAK: Is that correct?

3 WITNESS: Yes. They don't pre -- prepare legal
4 documents.

5 BY MR.

6 325. Q. Right. Why do you think Yana Skybin prepared
7 this document?

8 A. I don't understand this to be a legal
9 document and you would have to speak to Yana as to why she
10 prepared this document. I am not familiar.

11 326. Q. I will skip -- speak with Yana why she
12 prepared this legal document. What I'm discussing with you
13 is the scope of Yana's authority to -- to prepare the
14 documents?

15 A. I -- my counsel already explained that I
16 don't understand that they, in their scope of work, they
17 don't prepare legal documents. I don't believe that is a
18 legal document.

19 327. Q. What do you think it is?

20 A. I believe it's a letter of support.

21 328. Q. Letter of support, can you clarify on the
22 letter of support -- support what?

23 A. It's a it's a letter describing, as you
24 can see, describing the -- the situation for Ontario Works.

25 329. Q. And that pretty much what it says, it's a

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1 supporting letter for the request for internal review of
2 the decision of the social assistance program?

3 A. That's what it says on it, so -- I -- but I
4 don't know the circumstances surrounding that specific
5 request for that letter and so you -- I can't answer that
6 question.

7 330. Q. Is preparation of (inaudible) for internal
8 review of the decisions of administrative agencies within
9 is -- within the scope of YMCA employees?

10 A. Can you repeat the question, you're just
11 speaking a little quickly.

12 331. Q. Is it within the scope of YMCA counsellors
13 duties to prepare legal documents just which appeals and
14 other documents to such extent?

15 A. I've already answered that question.

16 332. Q. So it is not?

17 A. Not that I'm aware of no.

18 333. Q. What will be the normal policy when the
19 client requires assistance in preparation of legal
20 documents, wouldn't it be referral to community legal
21 clinics?

22 A. It could, yes.

23 334. Q. Do you know that it's unlawful in Ontario to
24 provide -- to provide legal advice or legal assistance
25 without proper qualifications?

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1 A. Yes.

2 335. Q. And if in the case of helping a clients with
3 filling in the documents and with the translation of the
4 documents as a part of the settlement service, YMCA
5 counsellor finds this -- and knows that the information is
6 not true, and actually it's false and misrepresentation,
7 what -- how -- what is YMCA policy on filling in such
8 documents to provide false information to third party
9 agencies, if they know that what...

10 A. Knowingly?

11 336. Q. ...clients are telling them is not true, are
12 they still required to -- to fill in the information as
13 client requested?

14 A. I would hope not, no.

15 337. Q. What is the policy on this, do require YMCA
16 clients to act in accordance with your client's instruction
17 even if they know that the -- that information is false?

18 A. I hope that they would advise the client.

19 338. Q. But would they still proceed just with
20 helping them?

21 A. I don't know. I (inaudible) think so.

22 339. Q. So just to rephrase this question, to make it
23 absolutely clear, is it the policy of YMCA to facilitate
24 fraud with their clients?

25 A. No.

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1 340. Q. So in other case, the policy is to refuse
2 clients to help with such misrepresentation -- possible
3 misrepresentations?

4 A. In the event that we would be aware,
5 absolutely.

6 341. Q. And as to the personal gifts, you said that
7 that is the policy of YMCA to require employees to disclose
8 all gifts and personal or non-personal?

9 A. I answered that question that in the...

10 342. Q. You answered it, yes, right?

11 A. ...2013 policy, yes, that is included in our
12 policy.

13 343. Q. And in 2011 you didn't have such a policy,
14 but was...

15 A. It was not written in the policy, no.

16 344. Q. ...was it an understanding?

17 A. In my opinion there was an understanding,
18 however I can't answer that for every employee of the YMCA.

19 345. Q. Do you undertake to provide an answer to this
20 question just as to the policy of YMCA regarding disclosure
21 of gifts to employees?

22 A. There was no written policy and we've already
23 agreed to provide you the current policy which indicates
24 that.

25 346. Q. And do you know that, at least on one

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1 occasion, YMCA employee, Yana Skybin, received a precious
2 gift from her -- for her birthday back in 2011?

3 A. I asked Yana specifically about that and she
4 did say she received a gift, she could not remember what
5 the gift was.

6 347. Q. Did she disclose this gift -- and that was in
7 2011?

8 A. She just -- I asked her, with the suit, if
9 she did and she said, no. And then when I specifically
10 asked her following yesterday if she received a birthday
11 gift, she did say that she had received one, yes.

12 348. Q. But she didn't specify was the gift for?

13 A. She cannot remember. You can ask her later.

14 349. Q. But she didn't disclose a gift?

15 A. To my knowledge I do not know if she did. I
16 was not her direct supervisor.

17 350. Q. And before that she said that she didn't
18 receive it, right?

19 A. A precious gift, we didn't know what that
20 meant.

21 351. Q. Exactly. Neither do we.

22 MR. TIMOKHOV: Subject to undertakings and
23 refusals I just I have no further questions.

24 * * * * *

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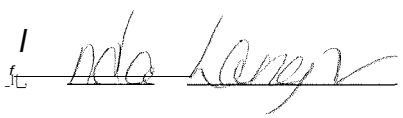
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ONTARIO SUPREME COURT OF JUSTICE

BETWEEN:

SVETLANA DANILOVA AND PAVEL DANILOV

Plaintiffs

- and -

ALLA NIKITYUK, VALENTIN NIKITYUK, YANA
SKYBIN, YOUNG MENS CHRISTIAN ASSOCIATION
operating as YMCA SIMCOE/MUSKOKA AND YMCA
SIMCOE/MUSKOKA NEWCOMER SERVICES

Defendants

Court File No. 13-1101

BETWEEN:

SVETLANA DANILOVA AND PAVEL DANILOV

Plaintiffs

- and -

ALLA NIKITYUK, VALENTIN NIKITYUK, YANA
SKYBIN, YOUNG MENS CHRISTIAN ASSOCIATION
operating as YMCA SIMCOE/MUSKOKA AND YMCA
SIMCOE/MUSKOKA NEWCOMER SERVICES

Defendants

Examination for Discovery of:

FIONACASCAGNETTE

Taken on: April 10, 2014
