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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

MICHAELLA LYNN SURAT, Civil Action No.
19-cv-00901-WJM-NRN

Plaintiff,

vs.

RANDALL KLAMSER, in his individual capacity,
and CITY OF FORT COLLINS, a municipality,
Defendants.

VIDEOCONFERENCED DEPOSITION OF DAN MONTGOMERY

June 2, 2020

1 martial arts perhaps in some way. But I would
2 classify it as a face plant.
3 Q. Well, I understand that. But in your
4 capacity as a police officer and as a police chief,
5 the rowing-arm takedown was something that was
6 utilized in Westminster, for example, correct?
7 A. I don't think we ever did. I would not
8 support face plants onto asphalt or concrete.
9 Q. Right. I understand that you're
10 characterizing this as a face plant, and that's fine,
11 but you and I still agree that Officer Klamser used a
12 technique, and that technique was called rowing-arm
13 takedown; is that correct?
14 A. I agree. That's what it's called. I
15 call it a face plant. And that's what many police
16 officers, in fact, call that.
17 Q. I understand that. And that's your
18 opinion, and that's fine. But I just want to make
19 sure we're on the same page that -- at least what
20 Officer Klamser was attempting to do was a recognized
21 technique, correct?
22 A. That, I don't know.
23 Q. Oh, okay.
24 A. That, I do not know.
25 Q. So is it fair to say, then, that you've

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1 never been taught a rowing-arm takedown in your
2 career?
3 A. No. I've been taught arm-bar
4 takedowns, wrist locks, you know, hammer locks, neck
5 restraints, taking somebody down, muscling people
6 down, but I've never been taught to face plant
7 somebody onto asphalt like that.
8 Q. The technique that Officer Klamser used
9 is a technique that you do not recognize. Fair
10 statement?
11 A. No. And perhaps it's because it is a
12 violent technique landing on asphalt. It's a
13 defensive tactic is what it is. And Klamser even
14 said that in his IA interview, that he learned that
15 technique in defensive tactics, not arrest control,
16 but defensive tactics.
17 I don't -- I don't have a problem, and
18 I want you to understand, that in a fight where an
19 officer is defending himself or herself where they've
20 been attacked or there's an imminent attack pending
21 from a credible source, that it's not okay to use
22 that kind of a takedown in terms of self-defense.
23 That's not what I'm saying.
24 What I'm saying is in this case, in an
25 arrest-control tactic situation where you're simply

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1 trying to get her under control, it's inappropriate.
2 You don't use a face plant in that kind of a
3 situation. If you're defending your life and your
4 safety, that's a different situation.
5 Q. And I appreciate that. So your
6 opinions generally are that Officer Klamser's use of
7 this technique in the situation involving Ms. Surat
8 was improper?
9 A. Correct.
10 Q. And you are not opining that
11 Officer Klamser somehow improperly executed this
12 technique; is that correct?
13 A. No. Well, I'm saying that he
14 improperly used that technique in a non-defensive
15 tactic situation, and he slammed her down onto
16 asphalt or concrete.
17 Q. I understand that. But there are --
18 going back. I mean, in the academy and in continuing
19 education as a police officer, the officers are
20 taught how to do certain techniques properly,
21 correct?
22 A. To defend themselves and then using
23 arrest-control tactics. They're two different
24 domains, and you've got to understand that.
25 Q. Well, for example, police officers are

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1 taught how to handcuff a person, correct?
2 A. Of course.
3 Q. And they are taught the proper way and
4 the improper way to handcuff a person, correct?
5 A. They should be, yes.
6 Q. Okay. So if we assume that
7 Officer Klamser is using a technique on Ms. Surat
8 called a rowing-arm takedown, there is presumably a
9 proper way to use the technique and an improper way
10 to use the technique, correct?
11 A. There's a proper way to do it if it's a
12 defensive struggle where you're being attacked by a
13 combatant.
14 Q. That's fair.
15 A. That would be okay, but not in an
16 arrest-control tactic on the concrete surfaces. And
17 I understand that. I'm trying to say an officer
18 needs to be aware of the environment that he or she
19 is operating in and needs to be aware, just like in
20 all uses of force of the warning labels. They should
21 be attached to these different techniques.
22 And in this case, it was a defensive
23 tactic that he was using in an arrest-control
24 situation. It's very violent, and that's my
25 objection to why he used that.

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1 Q. Right. And I understand that. But I
 2 just want to make sure when you get on the stand, one
 3 of your opinions will not be that the technique used
 4 by Officer Klamser was wrong?
 5 A. No. The technique would be justified
 6 in self-defense where you, as a police officer, are
 7 being attacked.
 8 Q. Okay. That's all I want to know. I
 9 understand that.
 10 A. You've got to remember, the officers
 11 when they're trained in this, they use mats. They
 12 don't train on concrete or asphalt. So they take
 13 each other down all day. I've been there. I've done
 14 that. But they've got mats. They've got that
 15 cushion of protection. You don't have that with
 16 concrete or asphalt, and that's something that
 17 officers really need to factor into the equation, and
 18 it didn't happen here.
 19 Q. Well, in what situation would the
 20 technique used by Officer Klamser be appropriate in
 21 your mind?
 22 A. Well, someone, for example, starts
 23 attacking him, wrestling, trying to get his gun,
 24 trying to take him down, in that kind of a scenario
 25 you've got a gun on your hip, you've got a Taser,

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1 you've got a baton, you've got all of these weapons.
 2 If that subject gets that gun away from
 3 you, guess what, you may be a fatality or some
 4 innocent citizen may get seriously hurt or killed,
 5 and you've got to do what you've got to do to
 6 neutralize that assault. And that's when this kind
 7 of a technique would be appropriate, regardless of
 8 the surface on the ground, but not in a simple
 9 arrest-control technique of 115-pound woman who is
 10 resisting and obstructing. No, I can't support that.
 11 Q. So your opinion is that Officer Klamser
 12 used the wrong technique in the wrong situation?
 13 A. My opinion is he shouldn't have used
 14 that technique given the facts and circumstances of
 15 that case and the face plant onto the asphalt
 16 concrete surface.
 17 Q. But let's say hypothetically Ms. Surat
 18 had a weapon, a knife, or a gun, would you take issue
 19 at Officer Klamser using that particular technique,
 20 and as you termed it, slamming her face into the
 21 cement?
 22 A. Did you say knife or gun?
 23 Q. Yes.
 24 A. Well, then he shouldn't be going hands
 25 on. If the combatant has a knife or gun, they've got

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1 deadly force. You don't want to get anywhere near
 2 them. That would be a silly example.
 3 Q. Well, what I'm trying to find out is
 4 you keep saying that he shouldn't have slammed her
 5 face into the concrete. And to me that says -- and I
 6 understand your position. But to me that says you
 7 take issue with Officer Klamser wrongly executing the
 8 technique to where it resulted in Ms. Surat slamming
 9 her face into the concrete. And I just want to make
 10 sure that's not what we're talking about. That's not
 11 part of your opinions?
 12 A. Repeat the question.
 13 Q. Okay.
 14 A. You're trying to pin me into a hole
 15 here.
 16 Q. No, no, no. Well, yes, I am trying to
 17 pin you down, but I just want to make sure you're not
 18 going to get on the stand and testify that had
 19 Officer Klamser executed that technique properly,
 20 Ms. Surat's face wouldn't have been slammed into the
 21 concrete?
 22 A. This was a face plant. And what I'm
 23 telling you is, what I'm opining on is, again, let me
 24 say it again, in certain situations it may well be
 25 appropriate to face plant her into the concrete or

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1 grass or whatever the surface may be. In another
 2 situation that doesn't involve self-defense, as in
 3 this situation, which is a simple arrest-control
 4 tactic, it was inappropriate. You know, there's a
 5 time and place for everything. This was not the time
 6 and place for that kind of a move.
 7 Q. Your report in this civil matter is
 8 18 pages long. Where do you find support that
 9 specifically says that Officer Klamser should have
 10 not used that technique in the situation with
 11 Ms. Surat?
 12 A. It's just common sense. That's what
 13 police officers do. That's what they should be
 14 trained to do. I learned that back in the '60s, that
 15 you don't face plant somebody and risk a potential
 16 traumatic brain injury or serious bodily injury,
 17 broken jaw, broken orbital socket, broken teeth,
 18 concussions, internal hemorrhaging and that kind of a
 19 thing. You avoid the head, neck, spine and groin.
 20 Q. I understand.
 21 A. We saw it in that situation in
 22 Minneapolis.
 23 Q. I was wondering how long that would
 24 take to come up.
 25 In rendering your opinions, you are

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1 how to trip someone. It's taught in the police
 2 academies. It's taught in all of the training
 3 programs I've seen. The trip is a very common
 4 technique that's used. It's fundamental. I mean, I
 5 was taught that when I was seven or eight years old,
 6 for crying out loud. That's just -- that's just part
 7 of our culture, and it's part of the police training
 8 curriculum.
 9 Q. So tripping an arrestee is something
 10 that you recall being taught at some point in the
 11 academy?
 12 A. Absolutely. Absolutely. You've got
 13 control of both hands. You're not tripping them.
 14 You're not doing a leg sweep where they just go down
 15 uncontrolled and you have the same result that we had
 16 here. It's the controlled takedown, unlike what was
 17 done in this case.
 18 Q. Can you tell me, out of all of the
 19 sources that you cite in your report, which one of
 20 those sources specifically identifies that the
 21 technique used by Officer Klamser was improper to
 22 effectuate the arrest of Ms. Surat?
 23 A. Repeat the question.
 24 Q. Sure. You in your report you cite a
 25 lot of different sources to support your opinions,

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1 correct?
 2 A. Yes.
 3 Q. Do any of those sources specifically
 4 identify the technique that Officer Klamser used as
 5 being inappropriate to effectuate an arrest, such as
 6 in a situation with Ms. Surat?
 7 A. It's the training that officers receive
 8 or should be receiving to avoid injuring the head,
 9 neck, spine or groin. As I've indicated in my
 10 report, that is traditional. I learned that back in
 11 the '60s. We trained that in California. We trained
 12 that in Lakewood. We trained that in Westminster.
 13 And you just don't do that. It's inappropriate, in
 14 my opinion, to do what he did and face plant her onto
 15 the concrete.
 16 Q. Right. But which one of those sources
 17 says a rowing-arm takedown should not be used to
 18 effectuate an arrest of a person?
 19 A. The policy doesn't say that. They
 20 don't say that in their policy. They've got a
 21 separate policy on the rowing-arm takedown, but they
 22 don't have any warning label.
 23 Q. No. I'm not talking the City of Fort
 24 Collins. I'm talking about where the sources that
 25 you cite doesn't identify and say the rowing-arm

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1 takedown should not be used to effectuate an arrest?
 2 A. I can't give you that. I'm telling you
 3 the tactic used, whatever you call it -- whatever you
 4 call it, it's a face plant. You don't face plant
 5 somebody onto the concrete. You're trying to
 6 pigeonhole this thing and find some legal definition
 7 or framework that it will fit into. I'm just telling
 8 you that it's an inappropriate technique. It's a
 9 face plant, and you don't do that to people in that
 10 kind of a situation given the facts and circumstances
 11 that we saw in that case.
 12 Q. In the material that you reviewed, I
 13 don't see any orders from the court. Have you
 14 reviewed any orders?
 15 A. What do you mean?
 16 Q. Well, do you know what a court order
 17 is? From a civil matter, you've seen court orders
 18 before, correct, civil court orders?
 19 A. Of course. Which one are you talking
 20 about?
 21 Q. Well, have you reviewed any court
 22 orders from this particular matter?
 23 A. I may have. I can't recall, as I sit
 24 here. Is there anything specific?
 25 Q. No. Is it fair to say, then, that your

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1 opinions are not based on any rulings from the court
 2 in the civil matter?
 3 A. My opinions are based on my education
 4 and my training and my experience.
 5 Q. And you didn't consider any of the
 6 rulings by the court in rendering your opinions,
 7 correct?
 8 A. Which court? What do you mean? Be
 9 more specific.
 10 Q. No. In your opinions that you set
 11 forth in your report, is it a fair statement, then,
 12 in rendering those opinions you didn't consider any
 13 rulings made by the court in this matter?
 14 MR. McNULTY: Objection.
 15 A. The only ruling I considered -- I'm
 16 certainly familiar with Graham versus Connor and the
 17 discussion on the force has to be objectively
 18 reasonable.
 19 Q. (BY MR. RATNER) Right. And we'll get
 20 to Graham versus Connor. I'm talking about the Surat
 21 versus Klamser matter, okay, pending in Federal
 22 District Court. Have you reviewed any of the orders
 23 issued by any of the judges in this civil matter?
 24 A. I don't think so unless you can give me
 25 something specific.

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1 as to the unreasonable nature of Officer Klamser's
2 actions based on the violation of those policies?
3 A. Yes. If a department had these. What
4 you'll find in many -- most all departments today,
5 all, they use the objective reasonableness standard
6 and they cite Graham versus Connor, which we'll get
7 into shortly.
8 Q. Well, in paragraph No. 1 on page 3, the
9 one that's highlighted, you say that these
10 established police practices and guidelines, they're
11 acting in a prudent manner. Is prudent the criteria
12 used in, for example, Graham versus Connor?
13 A. Yes, actually it is.
14 Q. And "prudent" meaning what?
15 A. Wise, smart, situation awareness,
16 acting responsibly. Prudent has a lot of different
17 definitions to it. Prudent is used in Graham versus
18 Connor, yes.
19 Q. How is it -- well, strike that.
20 What do you base your opinion on that
21 these guidelines apply to Officer Klamser?
22 A. That's up to the department. In my
23 opinion -- in my opinion I'm just citing here some
24 reasonable guidelines that have been established in
25 the United States over the years that most

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1 departments have adopted. And, in my opinion, for
2 what it's worth, he did violate several of the
3 provisions --
4 Q. Well, I understand that.
5 A. -- of the Code of Conduct of the
6 International Association of Chiefs, and most
7 departments have this Code of Conduct in their
8 department manual.
9 Q. Does Fort Collins have this in their
10 department?
11 A. I don't know. I think they do, but I
12 don't know. I do know they use the term "objective
13 reasonableness."
14 Q. I understand. But you render opinions
15 that Officer Klamser deviated from certain guidelines
16 as we go through your report, correct?
17 A. Right. And he deviated from the IACP
18 professional guidelines that have been in effect
19 since 1989 under the Code of Conduct.
20 Q. So where is the enabling provision that
21 says if Officer Klamser violates these guidelines,
22 he's guilty of unreasonable force?
23 A. Enabling, I love that term. The
24 enabling provision. Well, he was -- his actions were
25 not consistent with these guidelines.

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1 Q. I understand. I mean, I see that in
2 your report.
3 A. Yes.
4 Q. But my question is: So what? These
5 are guidelines. Where does it say that when Officer
6 Klamser violated these guidelines, according to your
7 opinion, ultimately he's guilty of using unreasonable
8 force?
9 A. I'm saying he violated these
10 guidelines.
11 Q. You can't point me to anywhere in, for
12 example, the International Association of Chiefs of
13 Police guidelines or ethical mandates where it says
14 if Officer Klamser violates these guidelines he's
15 guilty of unreasonable force?
16 A. No. I can point to on page 4, the
17 second bullet point down where the guideline from
18 IACP says, A police officer will never employ
19 unnecessary force or violence. He will only use such
20 force in the discharge of duty as is reasonable in
21 all circumstances.
22 Q. I'm still confused as to why or how
23 these guidelines apply to somebody like Officer
24 Klamser? Where is that promulgated?
25 A. I'm trying to furnish in this report

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1 examples of professional guidelines that are designed
2 to guide and influence police behavior in America
3 today.
4 Q. I understand. So let me put it this
5 way: If I go and file a motion to preclude your
6 testimony, one of the questions will be where does it
7 say that these guidelines apply to Officer Klamser?
8 So when that question is posed, what is your answer
9 going to be?
10 A. That's my opinion based on my
11 education, training, and experience over 58 years in
12 the business of policing. That's my answer.
13 Q. There's nothing you can point to that
14 says these guidelines apply to somebody like Officer
15 Klamser, can you?
16 A. No --
17 MR. McNULTY: Object to form.
18 A. -- these apply uniformly to police
19 officers throughout the country. A department
20 doesn't have to adopt these guidelines, but I can
21 guarantee you that Fort Collins somewhere in their
22 policy manual will talk about using force that is
23 only objectively reasonable.
24 All I can do is look at some of
25 these -- these are international guidelines, and all

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1 I can do as a police practices expert is say, Well,
 2 if you want to know generally throughout the United
 3 States what some of these guidelines are, here are
 4 some examples, and you'll see that I cite several
 5 other examples as well after the International
 6 Association of Chiefs of Police.
 7 Q. (BY MR. RATNER) Sure. Well, when this
 8 matter goes to trial, we have the case law, for
 9 example, from Graham versus Connor, which is going to
 10 help dictate the law in this case. You agree with
 11 that, correct?
 12 A. I understand. But typically, as an
 13 expert witness, I can't even get into Graham versus
 14 Connor.
 15 Q. Well, I'm not asking you to. But what
 16 I want to know is if Graham versus Connor is
 17 applicable because it's a United States Supreme Court
 18 decision, how is it that these guidelines will be
 19 applicable to the matter?
 20 A. Well, I also get into Graham versus
 21 Connor. That's --
 22 Q. That's not my question. We've
 23 acknowledged that Graham versus Connor exists and
 24 that it's going to help control the law of this case,
 25 correct?

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1 A. Correct.
 2 Q. So how is it -- what is the argument
 3 going to be to the court that these guidelines that
 4 you referred to somehow also control the conduct of
 5 this case?
 6 A. That would be up to the court.
 7 Q. You can't cite to me any provision
 8 where it says these guidelines are applicable to the
 9 case, correct?
 10 A. I think they are, but I think Graham
 11 versus Connor is as well, and I think the national
 12 consensus policy on use of force is applicable as
 13 well, and I cite these in my report.
 14 Q. Do you think that the guidelines that
 15 you cite in paragraph 1 from the International
 16 Association of Chiefs of Police trump Graham versus
 17 Connor or any other Supreme Court decision?
 18 A. Say that again.
 19 Q. Sure. Taking, for example, on page 3
 20 your first opinion where you cite to the
 21 International Association of Chiefs of Police, you
 22 cite certain guidelines, correct?
 23 A. Yeah, these are guidelines.
 24 Q. And the guidelines you cite, some of
 25 them you say Officer Klamser violated, correct?

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1 A. Yes.
 2 Q. Do the guidelines you say Officer
 3 Klamser violated in your mind somehow trump the case
 4 law given to us by the Supreme Court, for example
 5 Graham versus Connor?
 6 A. Oh, no, I don't mean to say that, and I
 7 would never say that. Graham versus Connor gave us
 8 clear -- clearly established case law. That is the
 9 ruling force in American policing in terms of the use
 10 of physical force by police.
 11 Q. So if we have Graham versus Connor and
 12 other Supreme Court and Appellate 10th Circuit case
 13 law, why do we need your opinions?
 14 A. Well, I put it in my report. Because
 15 my role, as I see it, as an expert witness is to help
 16 the jury understand the dynamics that come into play
 17 in American policing.
 18 Now, if you -- excuse me, if the Court
 19 decides to toss this, then so be it. But I felt that
 20 was my role to put this in my report. I feel very
 21 strongly that law enforcement needs a foundation in
 22 this country, and we need direction. But I agree
 23 with you the reigning rule or the force is Graham
 24 versus Connor. I mean, there's no doubt about that.
 25 Q. I assume there's no administrative arm

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1 which prosecutes violations of guidelines within the
 2 International Association of Chiefs of Police,
 3 correct?
 4 A. Correct. Unless a department has it in
 5 their guidelines. I'm not even sure we can get into
 6 department policies in this kind of a case.
 7 Q. Well, me put it another way. You're
 8 familiar with, for example, myself and Andy and John,
 9 we're all members of the State Bar of Colorado. You
 10 understand that, correct?
 11 A. Sure.
 12 Q. And you understand that there is a
 13 disciplinary arm from the State Bar of Colorado which
 14 would prosecute, for example, ethical violations,
 15 correct?
 16 A. Correct.
 17 Q. Is there the same sort of
 18 administrative arm in the International Association
 19 of Chiefs of Police that can prosecute violations of
 20 guidelines that they've promulgated?
 21 A. No. You only find that at the state
 22 level in POST where an officer's credentials can be
 23 withdrawn.
 24 Q. You would agree with me that merely
 25 because you had a difference of opinion as to how the

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1 situation with Ms. Surat should have been handled,
 2 doesn't necessarily mean your guidelines were
 3 violated, correct?
 4 A. Say that again.
 5 Q. Sure. You render an opinion and you
 6 say these guidelines from the International
 7 Association of Chiefs of Police were violated because
 8 Officer Klamser handled the situation
 9 inappropriately, correct?
 10 A. That's correct, yeah.
 11 Q. And it's a fair statement, then, that
 12 somebody else could have a difference of opinion and
 13 say, well, he didn't violate these guidelines in that
 14 situation?
 15 A. Well, it gets down to the final
 16 analysis. For example, in page 2 when I said, the
 17 guideline, for example, says a police officer will
 18 never employ unnecessary force or violence.
 19 In my opinion, Officer Klamser did, in
 20 fact, employ unnecessary force and violence. Now,
 21 what weight that carries down the road, I don't know.
 22 I'm just saying based on my education, training and
 23 experience, that's my opinion.
 24 Q. And somebody else could have a
 25 different opinion?

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1 A. Absolutely. And that's going to be up
 2 to the jury.
 3 Q. Right. Is being a police officer
 4 difficult?
 5 A. Pardon?
 6 Q. Is being a police officer difficult?
 7 A. For some.
 8 Q. Do other police officers find it easy?
 9 A. Sure. Absolutely.
 10 Q. Did you find being a police officer on
 11 the streets easy or difficult?
 12 A. It was easy; it was fun. And it was
 13 very trying at times. I started by career in the
 14 mid-'60s during the Vietnam protests. I did my riot
 15 duties at Stanford University. So I know all
 16 about -- actually what we're seeing today is deja vu.
 17 It's the same darn thing we saw in the '60s. But it
 18 was fun.
 19 And you'll find that most police
 20 officers find that they enjoy the job. It's
 21 challenging. It's fun. Are there dangers?
 22 Absolutely. Are there political differences?
 23 Absolutely. But they do it because it's fun and it
 24 pays well, and it's got good benefits.
 25 Q. Maybe I used the wrong term. You would

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1 agree being a police officer can be challenging?
 2 A. Yes.
 3 Q. And that's what keeps your interest in
 4 the profession, correct?
 5 A. Of course.
 6 Q. If somebody can have a difference of
 7 opinion whether or not Officer Klamser violated these
 8 guidelines you set forth in your report, you would
 9 agree your job here is to second guess Officer
 10 Klamser's actions, correct?
 11 A. Well, that's what we're all doing, yes.
 12 That's what the jury will do in this case.
 13 Q. Sure. If we're second guessing Officer
 14 Klamser's actions, then we're doing it with the
 15 proverbial 20/20 hindsight, correct?
 16 A. Well, I view 20/20 hindsight from the
 17 standpoint of if I put something in my report that
 18 Klamser had no idea of that didn't exist or it was a
 19 fact or circumstances he was unaware of, to me that's
 20 20/20 hindsight. In terms of 20/20 hindsight in
 21 general, that's what we're all doing. That's what
 22 you're doing. That's what I'm doing. That's what
 23 Andy is doing.
 24 Q. Sure.
 25 A. That's what the judge and jury will do.

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1 Q. How many hours do you think you've
 2 spent on this matter?
 3 A. Oh, on this one about -- oh, golly, 20,
 4 25 hours, somewhere in that area.
 5 Q. And how long did the interaction take
 6 between Ms. Surat and Officer Klamser from the point
 7 in time he told her she could keep on walking and --
 8 when the takedown occurred?
 9 A. Well, the whole confrontation was
 10 36 seconds. The meat of that was about 11 seconds.
 11 That's where he tells her to keep walking and then
 12 they start doing the dance. About 11 seconds.
 13 Q. Is it easier to assess this situation
 14 having 36 seconds or 25 hours?
 15 A. Strike that. As a police officer.
 16 MR. McNULTY: Object to form.
 17 Q. (BY MR. RATNER) I would agree, so let
 18 me rephrase. As a police officer, do you think it's
 19 easier to assess the situation we have in front of us
 20 in 36 seconds or 25 hours?
 21 A. Well, he's only got 36 seconds, but he
 22 could have extended that a little bit perhaps. But
 23 when he first came on the scene, he's got 36 seconds
 24 to start analyzing the situation, planning a
 25 strategy, figuring out what he's going to do, and

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1 alternatives.
 2 Q. You did mention earlier that this issue
 3 may be up to a jury, meaning a lawsuit in general,
 4 correct?
 5 A. Yes.
 6 Q. And why could a jury not make the
 7 determination as to whether or not Officer Klamser
 8 made the wrong decision or used improper discretion?
 9 A. Oh, that's what their decision will be.
 10 They're vested with that authority. I can't render a
 11 civil verdict. I'm just rendering a professional
 12 opinion.
 13 Q. And in rendering your opinion, you're
 14 giving an indication as to how the jury should view
 15 this matter, correct?
 16 A. No. This is my opinion. And experts
 17 are allowed to give opinions in cases to help the
 18 jury understand the dynamics that come into play. So
 19 I'm hopeful, at least, with my education, training,
 20 and experience, over 58 years, I would be admitted as
 21 an expert witness. The jury can choose to disregard
 22 what I say or the judge may not allow any of my
 23 testimony or may just strike certain parts of it.
 24 Q. Part of your opinions, based on the
 25 experience that you just told us about is that

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1 Officer Klamser was not properly trained in the
 2 situation that he encountered with Ms. Surat,
 3 correct?
 4 A. Correct.
 5 Q. Did you review Officer Klamser's
 6 training at all?
 7 A. I don't recall. I don't think so.
 8 Q. How can you render an opinion that
 9 Officer Klamser was not trained properly if you
 10 hadn't reviewed his training?
 11 A. Al Brown's testimony. Al Brown is the
 12 arrest-control tactics and self-defense instructor
 13 for the Fort Collins Police Department. He said
 14 everything is fine because this is an accepted
 15 departmental standard. It's a department policy, and
 16 that he was trained in this.
 17 Klamser stated during his IA interview
 18 that he was trained in this tactic, and that it's a
 19 self-defense tactic. So I know he's been trained in
 20 this tactic. That's what's important to me. I'm not
 21 really caring about his whole training record.
 22 Q. Well, part of his training record would
 23 have been when and where to use this particular
 24 technique, correct?
 25 A. Well, it's not in the description of

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1 the use of the rowing-arm takedown in their policy
 2 manual. And if you read that policy manual, there's
 3 no warning in there, again, about possible injury to
 4 people if you face plant them onto concrete. And
 5 according to Al Brown, their expert and their
 6 trainer, it's okay to face plant people into the
 7 ground, fully recognizing that may suffer a
 8 concussion or an injury from it.
 9 Q. Is it your understanding that the
 10 rowing arm-bar takedown or the technique that Officer
 11 Klamser used will always result in the subject to the
 12 face plant into the sidewalk?
 13 A. No. If it's on grass, obviously not.
 14 Q. Well, is it your understanding then or
 15 your opinion in use of the technique that was
 16 utilized by Officer Klamser, part of the technique is
 17 face planting the subject's face into the ground,
 18 whether it be concrete, dirt, grass or whatever?
 19 A. Yes. Absolutely.
 20 Q. Where did you get that from?
 21 A. From Brown and from your expert
 22 witness.
 23 Q. Is your understanding that part of the
 24 technique is face planting the person into the
 25 ground?

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1 A. Yes. Absolutely. That's what Brown
 2 says as well, and he's the instructor fully
 3 recognizing that it can cause a concussion. He's the
 4 department ACT instructor.
 5 Q. Is it your understanding that -- we're
 6 going back to the words "prudent," that what
 7 Officer Klamser did was not prudent. Does that, in
 8 your mind, evidence a negligence standard?
 9 A. You know, I don't want to get into
 10 that. I'm not a lawyer. I don't want to get into
 11 the negligence thing. He made a poor judgment. He
 12 made a poor call, and he face planted that gal.
 13 Q. You've mentioned prudent, you mentioned
 14 judgment, you mentioned reasonable or unreasonable.
 15 You understand that people can sue for things like
 16 slip and falls and car accidents, correct?
 17 A. Yes.
 18 Q. And you understand that when somebody
 19 is suing for a slip and fall or a car accident,
 20 they're saying the other person was somehow
 21 negligent? I mean you understand the concept of
 22 negligence, correct?
 23 A. Oh, I understand the concept.
 24 Q. So when you use the words "prudent" and
 25 "unreasonable," does that evidence in your mind that

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