

**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

HERMAN RAGLAND	)	CASE NO. CV-23-990433
	)	
Plaintiff,	)	JUDGE MICHAEL P. SHAUGHNESSY
	)	
v.	)	
	)	
WORKSTEPS, INC,	)	<b><u>FIRST AMENDED CLASS ACTION</u></b>
	)	<b><u>COMPLAINT</u></b>
	)	
Defendant.	)	(Jury Demand Endorsed Herein)
	)	

NOW COMES Plaintiff Herman Ragland (“**Plaintiff**” or “**Mr. Ragland**”), by and through the undersigned Counsel, and pursuant to this Honorable Court’s September 24, 2024, order amending the case schedule, hereby respectfully files his First Amended Class Action Complaint with leave of court against Defendant WorkSTEPS, Inc., for its pattern and practice of executing usurious contracts with Ohio consumers in violation of Ohio’s Retail Installment Sales Act (“**RISA**”) and failing to provide proper disclosures in violation of Truth-In-Lending Act (“**TILA**”). Mr. Ragland alleges:

**I. INTRODUCTION**

1. WorkSTEPS, Inc. (“**WSI**”), based in Austin, Texas, is a national provider of health solutions, including selling testing kits, CPAP machines, and other medical devices to individuals for use in their homes.
2. WSI sells hundreds if not thousands of CPAP devices each year, directly to individual consumers, including in Ohio, for consumers to use for their health and in their own households.
3. WSI offers two payment options for its CPAP machines/medical devices, a lump sum cash option, and a financing option. Exhibit 1, WSI Offer.

4. To finance the CPAP through WSI, a consumer must execute WSI's standard form "Payment Plan Agreement," a retail installment contract that requires the consumer to make a down payment, followed by three monthly or six biweekly installment payments. Exhibit 2, WSI Payment Plan Agreement; Exhibit 3, Ragland Payment Plan Agreement.

5. WSI's standard form "Payment Plan Agreement" includes an Application Fee and a \$110.00 Administrative Fee (collectively "Fees"). *Id.*

6. WSI applies these same Fees to all purchases WSI finances no matter what device the consumer buys. Exhibit 4, Testimony of John Varela, p. 59-60.<sup>1</sup>

7. WSI approves anyone who seeks to purchase a device through WSI's financing option, so no underwriting costs are involved. *Id.*, p. 58.

8. Since at least 2020, WSI has used the same Payment Plan Agreement it used for Mr. Ragland as it used to sell its devices to all other consumers. Exhibit 5, WSI's Supp Responses Highlighted.

9. WSI does not provide the Payment Plan Agreement to, or impose Fees on, consumers who pay cash for their CPAP and/or medical device, Exhibit 4, Testimony of John Varela, p. 75 ("***Q: . . . people that paid cash did not pay these additional fees. Correct? A: Correct.***"), [Emphasis Added]; Exhibit 5, WSI's Supp Responses Highlighted.

10. WSI only imposes these Fees on consumers who finance their purchase of the CPAP and/or other medical devices, making the Fees finance charges, pursuant to 12 C.F.R. § 226.4(a).

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<sup>1</sup> Mr. Varela is Vice President at WorkSTEPS, Inc., who oversees the sales marketing operations and employees. Counsel for Plaintiff took Mr. Varela's remote video deposition on December 4, 2024. The rough transcript is attached as the certified transcript is not yet available. Plaintiff will file the certified transcript when it is ready.

11. However, WSI fails to disclose the increased cost to finance the purchase as a “finance charge” on the Payment Plan Agreement, as required by a creditor under the federal TILA. 15 U.S.C. § 1638(a)(3).

12. WSI also fails to disclose the finance charge “as an ‘annual percentage rate;’ using that term” violating TILA, 15 U.S.C. § 1638 (a)(4).

13. Further, when WSI’s increased cost to finance is properly calculated as a “finance charge” the annual percentage rate or “APR” on WSI’s contracts exceed the 8% rate permissible on a retail installment contract under Ohio’s RISA, R.C. 1317.06. Exhibit 6, Ragland TILA Calculations.

14. Mr. Ragland seeks to represent three classes of similarly situated consumers who were subjected to WSI’s same unlawful and deceptive conduct, including: 1) consumers nationwide against whom WSI violated TILA by failing to disclose the finance charge and APR on its Payment Plan Agreements, 2) Ohio consumers, against whom WSI executed usurious Payment Plan Agreements, and 3) Ohio consumers against whom WSI committed unfair and deceptive acts that violated Ohio’s Consumer Sales Practices Act (“CSPA”), by violating TILA and Ohio’s RISA.

15. Mr. Ragland seeks for himself and the Class, legal and equitable relief, including actual (economic and noneconomic) damages, statutory damages, treble damages, punitive damages, injunctive and declaratory relief, and disgorgement of all profits made by WSI for its unlawful conduct

## **II. PARTIES**

16. Plaintiff Mr. Ragland resides at 42 Nordham Drive, Bedford, OH 44146.

17. Mr. Ragland is a “consumer” under R.C. 1345.01(D) who purchased a CPAP device primarily for his health, his personal and household use, and under 15 U.S.C.A. 1602(i) as a person to whom credit is offered or extended to property for primarily personal or household use.

18. Defendant WSI is a Texas corporation, headquartered at 3019 Alvin Devane Boulevard, Suite 150, Austin, Texas 78741.

19. WSI is not registered with Ohio’s Secretary of State to conduct business in Ohio.

20. WSI is in the business of selling continuous positive airway pressure (“CPAP”) machines, equipment, and monitoring devices, including those caused by sleep apnea, directly to consumers nationwide to use in their households.

21. WSI is a “creditor” as it regularly extends consumer credit, for the purchase of CPAP and/or other medical devices, which are payable to WSI in more than three installments and/or by an agreement that includes a finance charge. 15 U.S.C.A. § 1602 (g).

22. WSI is a “retail seller,” pursuant to R.C. 1317.01(I), as a party to a retail installment sale who agrees to sell goods and a “supplier,” under R.C. 1345.01(C), or person “engaged in the business” of selling a CPAP machine to Mr. Ragland.

### **III. VENUE/JURISDICTION**

23. WSI communicated with Mr. Ragland directly and executed an agreement directly with Mr. Ragland online at his home in Bedford, Ohio.

24. WSI issued receipts electronically for each of Mr. Ragland’s online payments and mailed its CPAP machine directly to Mr. Ragland at his residence in Bedford, Ohio, for use in his home.

25. WSI engaged in business with, sent its products and received payment from, Ohio residents, and the actions that gave rise to this action took place in Ohio.

26. This Court has jurisdiction over the claims alleged herein by Mr. Ragland, as Ohio Constitution Article IV, Section 4(B) provides common pleas courts original jurisdiction over all justiciable matters.

**IV. FACTS PERTAINING TO MR. RAGLAND**

27. In December of 2022, Mr. Ragland was alarmed after being diagnosed with severe sleep apnea and informed he had woken up approximately forty (40) times in his sleep. He sought treatment for his health and personal wellbeing, and to ensure his safety on the roadway.

28. On December 22, 2022, WSI offered to sell Mr. Ragland a CPAP machine at two different prices, depending on his method of payment.

29. WSI offered to sell the CPAP to Mr. Ragland for \$1,400.00 if he paid in cash, or to finance the purchase, with a down payment of \$541.00 and three installment payments of \$331.00. Exhibit 1, WSI Offer and Exhibit 3, Ragland Payment Plan Agreement.

30. WSI also charged Mr. Ragland a \$46.00 Application Fee and \$110.00 Administrative Fee on the Payment Plan Agreement. *Id.*

31. Mr. Ragland made the \$541.00 down payment and the monthly payments of \$331.00, as required. Exhibit 7, Receipts for CPAP Payments.

32. WSI charged Mr. Ragland \$134.00 more for the CPAP because he chose to finance the purchase rather than pay with cash.

33. WSI did not disclose the increased cost as a finance charge or express the charge as an annual percentage rate (“APR”) for the transaction. Exhibit 3, Ragland Payment Plan Agreement.

34. While WSI did not state the APR on the contract, as required by Ohio and federal law, if it were stated correctly, the APR would be 49.36%, which exceeds the 8% Ohio's Usury cap contained in R.C. 1343.01. Exhibit 6, Ragland TILA Calculations.

35. WSI violated RISA, TILA, and the CSPA, in its sale of the CPAP to Mr. Ragland.

36. Mr. Ragland seeks full recovery for WSI's unlawful conduct.

**V. CLASS DEFINITION**

37. Mr. Ragland brings this action pursuant to Rule 23 of the Ohio Rules of Civil Procedure on behalf of himself and three CLASSES OF similarly situated individuals, defined as follows:

(1) The "TILA" Class:

All persons who, in the one year prior to the filing of the original Complaint until the date of certification, executed with WSI, a Payment Plan Agreement and/or other installment agreement, for the purchase of a CPAP and/or other medical device, and were charged a higher cost that was not charged to cash buyers, and the increased cost was not disclosed as part of the finance charge and/or as part of the annual percentage rate on the Payment Plan Agreement and/or installment agreement for the purchase.

(2) The USURY Class:

All persons in Ohio who, in the six years prior to the filing of the original Complaint until the date of certification, executed with WSI, a Payment Plan Agreement and/or other installment agreement, for the purchase of a CPAP and/or other medical device, and were charged a higher price than that charged to cash buyers and this increased cost was not disclosed as a finance charge and/or expressed as interest on the Payment Plan Agreement and/or installment agreement for the purchase, and when the increased cost is calculated as interest, the annual percentage rate exceeds 8 percent.

(3) The CSPA Sub-classes:

(a) TILA Class - All persons in Ohio, who, in the two years prior to the filing of this Complaint until the date of certification, executed with WSI, a Payment Plan Agreement and/or other installment agreement,

for the purchase of a CPAP and/or other medical device, and were charged an increased cost not charged to a cash buyer and this increased cost was not disclosed as a finance charge or expressed as part of the annual percentage rate on the Payment Plan Agreement and/or installment agreement for the purchase.

(b) RISA Class - All persons in (a) where the increased cost is calculated as interest, the annual percentage rate exceeds 8 percent.

38. Mr. Ragland brings this Class Action Complaint to remedy and seek redress for all Class Members who have been harmed by WSI's on-going unlawful business practices as alleged herein.

## **VI. CLASS CLAIMS FOR RELIEF**

### **CLASS CLAIM I**

Violation of TILA, 15 U.S.C. § 1640  
Failure to Make Mandatory Disclosures

39. Mr. Ragland incorporates the allegations contained in the previous paragraphs of the Complaint as though fully rewritten herein at length.

40. The federal TILA, "regulations, among other things, mandate specific disclosures in credit transactions." See 12 C.F.R. § 226. *McWhorter v. Elsea, Inc.* No. 2:00-CV-473, 2007 WL 1101249 at \*12 (S.D. Ohio Apr. 11, 2007). "In the event that a creditor fails to disclose any of the credit terms required under the TILA and its regulations, a consumer may bring a civil action against the creditor." 15 U.S.C. § 1640. *Id.*

41. Regulation Z implements TILA and requires creditors to disclose financial terms for the transaction, including the amount financed, finance charge, annual percentage rate, and total sale price, using those specific terms as part of the disclosures." *Id.* 15 U.S.C. § 1638(a); 12 C.F.R. §§ 226.18; 12 C.F.R. § 1026.18.

42. A finance charge is defined as a cost imposed directly to the consumer for the extension of credit and not imposed on a cash buyer. 12 C.F.R. § 226.4(a). *Hook v. Baker*, 352 F. Supp. 2d 839, 843 (S.D. Ohio 2004).

43. WSI routinely uses its Payment Plan Agreement, a standard retail installment contract, to sell its CPAP and/or other medical devices to consumers.

44. WSI routinely increases the cost on credit customers by charging an Application Fee of \$46.00 and \$110.00 an Administrative Fee (“Fees”) on every Payment Plan Agreement for consumers who choose to finance their purchase of a CPAP and/or other medical device rather than pay with cash. (Varela Depo).

45. WSI admits that it only imposes the Administrative Fee and Application Fee on consumers who finance their CPAP and/or medical devices and not on consumers who pay with cash for their CPAP and/or other medical devices. (Varela Depo).

46. WSI fails to disclose the increased cost to credit customers as a finance charge on its Payment Plan Agreement or state the finance charge as interest, as required under TILA and Regulation Z. 15 U.S.C. § 1638(a); 12 C.F.R. §§ 226.18; 12 C.F.R. § 1026.18.

47. WSI charges consumers more to buy their CPAP and/or other medical devices if they pay for their purchases with credit, and WSI does not disclose the cost of the finance charge or APR on consumer contracts, violating TILA.

48. WSI admitted that the Application Fee and the Administrative Fee are both charges incident to the extension of credit in Mr. Varela’s Deposition.

49. Mr. Ragland seeks recovery for himself and the Class under 15 U.S.C. § 1640 for WSI’s failure to provide accurate, truthful disclosures of material terms on a consumer credit contract, as required by TILA.

**CLASS CLAIM FOR RELIEF II**

Violation of Ohio's Retail Installment Sales Act, § 1317, et seq.  
Usury

50. Mr. Ragland incorporates the allegations contained in the previous paragraphs of the Complaint as though fully rewritten herein at length.

51. Mr. Ragland, like other consumers, who purchased a CPAP and/or other medical device from WSI under its Payment Plan Agreement, executed a consumer transaction governed by Ohio's RISA, R.C. § 1317.01(A), as it is primarily for personal use, to improve their health and well-being, used in their household, and paid for in installments.

52. RISA expressly regulates what charges may be assessed in a retail installment sale and requires the written instrument evidencing to recite: (A) the cash price of the specific goods and (F) the amount of the finance charge. R.C. § 1317.04.

53. As noted, WSI failed to provide disclosures required by TILA as well as by RISA, including the finance charge and the APR.

54. Pursuant to RISA all amounts considered components of the finance charge and APR under TILA must be considered interest for purposes of calculating usury limitation compliance.

55. R.C. § 1317.06 sets the maximum interest rate under a retail installment sales agreement at 8% per year although there is an exception that allows a retail seller to charge up to 25% interest.

56. When WSI's increased cost due to the fees it imposes only on credit customers is properly disclosed as a finance charge on the Payment Plan Agreement, and calculated as interest, the annual percentage rate on WSI's contracts is 49.36%. Exhibit 6, Ragland TILA Calculations.

57. Thus, WSI charged a usurious rate of interest in violation of R.C. § 1317.06.

58. WSI intended to impose the increased cost as WSI used the same standard form, prefilled, Payment Plan Agreement, and only for consumers who financed their purchases. Exhibit 2, WSI Payment Plan Agreement.

59. WSI violated RISA by failing to disclose mandatory terms, including amounts unauthorized under RISA, and executing usurious contracts with Ohio consumers.

60. Mr. Ragland seeks recovery for himself and the Class under RISA for WSI's violations.

**CLAIM FOR RELIEF III**

Violation of Ohio's Consumer Sales Practices Act, R.C. 1345.01, et seq.  
Violation of RISA

61. Mr. Ragland incorporates the allegations contained in the previous paragraphs of the Complaint as though fully rewritten herein at length.

62. As described above, WSI's conduct violated provisions of Ohio's RISA.

63. Courts of this state have found a violation of RISA to also violate Ohio's Consumer Sales Practices Act, R.C. 1345.01, et seq. WSI violated RISA as described after these decisions were made available to suppliers in the Ohio Attorney General Public Inspection File ("**OPIF**"), pursuant to R.C. 1345.03(A). See *Hall v. ADI, Inc.*, OPIF No. 09 CVF 3355, Muni Ct. Mahoning County, December 21, 2002; *Smith v. Discount Auto Sales*, OPIF No. 10001735, CASE NO. 97CV120022 (C.P. Lorain County, April 7, 1998).

64. Mr. Ragland and the Class seek full recovery under Ohio's CSPA, 1345.09(A), for WSI's deceptive and unfair acts that violated RISA.

**CLAIM FOR RELIEF IV**

Violation of Ohio's Consumer Sales Practices Act, R.C. 1345.01, et seq.  
Violation of TILA

65. Mr. Ragland hereby incorporates by reference all facts and allegations contained in the previous paragraphs as though fully re-written and re-stated herein.

66. As described above, WSI included undisclosed finance charges on its Contract and failed to disclose other mandatory terms as required by TILA.

67. Courts of this state have found a violation of TILA to be an unfair and deceptive act under Ohio's Consumer Sales Practices Act, R.C. 1345.01, et seq. WSI violated TILA as described after these decisions were made available to suppliers in the OPIF, pursuant to R.C. 1345.03(A). See *Cook v. Newman Motor Sales*, OPIF No. 10002863, Case No. E-09-028, Ct. App. 6th Dist. Erie County, May 11, 2010; *Bondurant v. King Motor Center LLC*, OPIF No. 10002552, Case No. CVF 0600307, (Muni. Court, Fayette County, April 17, 2007).

68. Mr. Ragland, and the Class, seek full recovery under the CSPA, R.C. 1345.09, due to WSI's unfair and deceptive acts that violated TILA.

**VII. A CLASS IS APPROPRIATE PURSUANT TO CIVIL RULE 23**

69. The class members in this matter are so numerous that joinder of all members would be impracticable. The exact size of the proposed classes and the identity of the members is believed to be in the hundreds, and possibly, thousands.

70. WSI uses standard training materials and forms in its Salesforce database for consumers who purchase CPAP and/or other medical devices.

71. WSI sends email offers to consumers with the cash price and the financing option.

72. WSI imposes identical fees on all consumers who finance their purchase of CPAP and/or other medical devices.

73. WSI does not impose these fees on consumers who pay for their CPAP and/other medical devices with cash.

74. WSI's Salesforce database contains the records of its sales of CPAP and/other medical devices, and the contracts for those purchases.

75. To determine the number of sales of CPAP and/other medical devices that WSI sold to consumers under its financing agreements during the Class period would be readily obtainable from WSI's business records.

76. A facial review of WSI's business records can determine the charge WSI imposed for financing and if WSI disclosed the cost as a finance charge or expressed it as an annual percentage rate for the transaction.

77. There is a community of interest among the members of the proposed Class in that the questions of law and fact common to all members predominate over questions affecting only individual members. These common questions include, **but are not limited**, to:

- i. whether WSI, by custom and practice, uses the same Payment Plan Agreement and/or standard forms for installment payments for customers who choose to finance their purchases of CPAP and/or other medical devices.
- ii. whether WSI's standard forms/Payment Plan Agreements used for all credit paying customers include prefilled Application and Administrative Fee charges.
- iii. whether, by custom and practice, WSI charges consumers who pay with credit, increased fees that it does not charge to consumers who pay for the same CPAP devices, and/or other medical equipment, with cash.
- iv. whether, WSI is obligated to disclose, the increased amount WSI charges to consumer credit purchasers, as a finance charge, on its Payment Plan Agreement/standard form installment contracts.
- v. whether, when the increased amount WSI imposes on consumers who pay with credit is calculated as interest does the annual percentage rate

on the consumer transaction exceed the 8% limit allowed by RISA, R.C. 1317.06.

- vi. whether WSI's practice of failing to disclose the finance charge and/or annual percentage rate on its Payment Plan Agreement and/or other installment contract for the sale of CPAP devices and/or other medical devices to consumers violates TILA, 15 USC 1638, et. seq.
- vii. whether WSI's practice of failing to disclose the finance charge and/or annual percentage rate on its Payment Plan Agreement and/or other installment contracts under TILA, is an unfair, deceptive, and/or unconscionable act or practice under the Ohio CSPA, R.C. 1345.02, R.C. 1345.03.
- viii. whether WSI's practice of charging an unlawful amount under RISA, R.C. 1317.06, is an unfair, deceptive, and/or unconscionable act or practice under the Ohio CSPA, R.C. 1345.02, R.C. 1345.03.
- ix. whether a consumer is entitled to recover under RISA, TILA, and/or the CSPA, for WSI's unfair, deceptive, and unlawful acts.

78. Mr. Ragland claims that WSI's Application Fee of \$46.00 is an undisclosed finance charge that is required to be disclosed as such under TILA.

79. Mr. Ragland likewise claims that WSI's Administrative Fee of \$110.00 is an undisclosed finance charge that is required to be disclosed as such under TILA.

80. Mr. Ragland claims that when disclosed as a finance charge and expressed as part of the annual percentage rate as required under TILA, the contract exceeds the 8% limit in Ohio under RISA making it a usurious contract, in violation of RISA.

81. Ohio courts have determined that a supplier who violates RISA and TILA, commits an unfair and deceptive act under the Ohio Consumer Sales Practices Act, CSPA R.C. 1345.02 and R.C. 1345.03.

82. Mr. Ragland will fairly and adequately represent the interests of the Class.

83. Mr. Ragland is represented by counsel competent and experienced in both consumer protection and class action litigation.

84. Investigating the Class claims would involve a facial review of form installment agreements used by WSI, rather than a special inquiry into each transaction.

85. WSI uses the Salesforce database to store and create its transaction documents and would be relatively easy to derive Class Members.

86. The damages suffered by individual class members may be relatively small compared to the expense and burden of litigation, making it impracticable and economically infeasible for class members to seek redress individually. Accordingly, a class action is superior to other methods for the fair and efficient adjudication of this controversy.

87. The prosecution of separate actions by the individual class members, even if possible, would create a risk of inconsistent or varying adjudications with respect to individual class members against WSI.

88. WSI committed the unfair and deceptive act described in this section as part of its ordinary and customary practice, and the members of the respective Class have been victims of the same unlawful conduct.

89. Therefore, Class treatment of this action is appropriate under Civil Rule 23.

#### **PRAYER FOR RELIEF**

WHEREFORE, Mr. Ragland and the Class respectfully pray for relief as follows, for:

- a) Certification of the classes identify herein;
- b) Appointment of Mr. Ragland as a class representatives and his counsel as class counsel;
- c) Judgment against WSI for the actual damages suffered by Mr. Ragland and the respective class members as described herein;
- d) all relief pursuant to TILA, 15 USC 1640, et seq. including 1% of the net worth of WSI up to \$1,000,000, actual damages and statutory attorneys fees’;

- e) judgment against WSI pursuant to R.C. § 1345.09(B) in an amount equal to three times actual damages, or Two Hundred (\$200.00) Dollars, whichever is greater, for each applicable unfair, deceptive and/or unconscionable act or practice specified herein;
- f) issuance of a declaratory judgment declaring that the acts and practices of WSI as complained of herein are unfair, deceptive and/or unconscionable;
- g) an order of restitution and/or disgorgement in an amount to be determined at trial which is at least equal to all sums collected by WSI in excess of what is legally permitted;
- h) or order prohibiting WSI and its assigns from collecting more than 8% APR on usurious contracts;
- i) pre-judgment interest and post-judgment interest to the extent permitted by law;
- j) an order for an appropriate amount of punitive damages to be determined at trial;
- k) an award of attorney's fees, costs and expenses incurred in the investigation, filing and prosecution of this action, pursuant to any applicable provisions of law;
- l) any other and further relief as this Honorable Court deems just and proper.

Respectfully Submitted,

/s/Ronald I. Frederick  
Ronald I. Frederick (0063609)  
Jacquelyn S. Frederick (0080953)  
**Frederick & Berler, LLC**  
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*Attorneys for Plaintiff Mr. Ragland and the Class*

Plaintiff requests a jury of the maximum number of jurors allowed by law.

/s/Ronald I. Frederick  
Ronald I. Frederick (0063609)  
**Frederick & Berler, LLC**

*One of the Attorneys for Plaintiff Mr. Ragland*

**CERTIFICATE OF SERVICE**

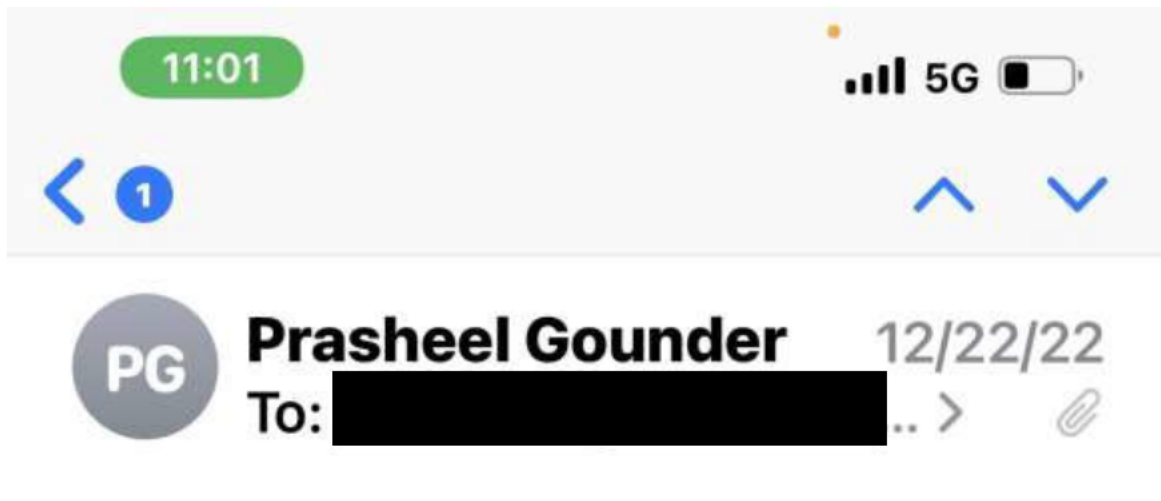
I hereby certify that a true and correct copy of the foregoing was filed via the Court's electronic filing system on this 16<sup>th</sup> day of December 2024. Notice of the foregoing will be served on the parties via the Court electronic filing system. Additionally, notice of this filing will also be sent via regular USPS mail and electronic mail as follows:

Craig C. Dilger (to be admitted pro hac vice)  
Benjamin M. Fiechter (to be admitted pro hac vice)  
**Stoll Keenon Ogden, PLLC**  
300 West Vine Street, Suite 2000  
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*Counsel for Defendant WorkSTEPS, Inc.*

/s/Ronald I. Frederick  
Ronald I. Frederick (0063609)  
**Frederick & Berler, LLC**

*One of the Attorneys for Plaintiff Mr. Ragland*



## SS RESULTS

If you are paying out of pocket there are 2 options. Both include the CPAP machine, 2 mask systems, heated tubing, water chamber, Monitoring for the life of the machine, and access to us as respiratory therapists. Purchase price is \$1400.00 or we can finance it for \$541 down and \$331 a month for 3 months. Or we can do financing through United Medical for \$1534.00 and they will determine length of financing and terms. Please let me know if you have Further questions. <https://www.unitedcredit.com/start-an-application/?pid=0010y00001hkA0m>

*Prasheel K. Gounder*  
Respiratory Therapist  
**WorkSTEPS<sup>®</sup>**  
**Sleep**  
[prasheelg@worksteps.com](mailto:prasheelg@worksteps.com)  
Direct Line: [512-943-7074](tel:512-943-7074)



**EXHIBIT 2**  
 WorkSTEPS Sleep  
 3019 Alvin Devane Blvd Ste 115  
 Austin, TX 78741  
 (O) 877-436-8478 (F) 512-617-4106  
 www.workstepssleep.com

First Name: \_\_\_\_\_ MI: \_\_\_\_\_ Last Name: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Secondary or Work Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_ Email: \_\_\_\_\_  
 \_\_\_\_\_ SSN (9 digits): \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_ Emergency Contact Phone: \_\_\_\_\_  
 Emergency Contact Name: \_\_\_\_\_ Employer: \_\_\_\_\_  
 Relationship: \_\_\_\_\_ (spouse, parent, relative, etc.) Gross Monthly Income: \_\_\_\_\_  
 Time Employed: \_\_\_\_\_ month(s)/year(s) Monthly Payment: \_\_\_\_\_  
 Housing:  Rent  Own  Other \_\_\_\_\_ Time at present address: \_\_\_\_\_  
 Bankruptcy:  Yes  No Discharge Date: \_\_\_\_\_

**Payment Plan Agreement - Requirements & Disclosure:**

\*Application Fee \$35 \*10% Administration Fee \$110 \*35% Down-Payment \$385

CPAP Machine:	\$1,100
Down-Payment:	<del>-\$385</del>
Remaining Balance Due:	\$715
3 Monthly Payments:	\$238.33

Total Due at Signing: \$530

**Payment Plan Schedule**

00/00/2020	\$238.33	00/00/2020	\$238.33	00/00/2020	\$238.34
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**Banking Information:**

Bank Name: \_\_\_\_\_ Debit Card (last 4): \_\_\_\_\_ Expiration Date: \_\_\_\_\_ Security Code: \_\_\_\_\_

X

X \_\_\_\_\_

Pete Gallaher, President

Client/Responsible Party

**Authorization & Agreement:**

- I authorize WorkSTEPS Sleep to debit the payments as stated above from the debit/credit card listed above.
- I understand that WorkSTEPS Sleep is NOT responsible for overdraft charges or associated fees charged by my bank.
- I waive the right to dispute payment charges once services/product is rendered.
- Additionally, these transactions shown on your bank statement constitutes receipt of payment.
- This Plan may be revoked if any item is not paid upon presentation.
- This Plan, if cancelled, does NOT release you from your obligation under this Payment Plan Agreement.

\$25 Late Payment Fee – occurs when payment is declined, and no forthcoming payment has been made within 3 days after due date.

\$50 Loan Default Fee - occurs when no payment has been made for more than 60 days. Fee assessed prior to placement with a debt-collection agency and credit bureau reporting.

I have read and under this agreement and give my consent: X \_\_\_\_\_  
 Client/Responsible Party



**WorkSTEPS Sleep**  
 3019 Alvin Devane Blvd Ste 115  
 Austin, TX 78741  
 (O) 877-436-8478 (F) 512-617-4106  
 www.workstepssleep.com

First Name: \_\_\_\_\_ MI: \_\_\_\_\_  
 Phone: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Date of Birth: \_\_\_\_\_  
 Emergency Contact Name: \_\_\_\_\_  
 Relationship: \_\_\_\_\_ (spouse, parent, relative, etc.)  
 Time Employed: \_\_\_\_\_ month(s)/year(s)  
 Housing:  Rent  Own  Other \_\_\_\_\_

Last Name: \_\_\_\_\_  
 Secondary or Work Phone: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 SSN (9 digits): \_\_\_\_\_  
 Emergency Contact Phone: \_\_\_\_\_  
 Employer: \_\_\_\_\_  
 Gross Monthly Income: \_\_\_\_\_  
 Monthly Payment: \_\_\_\_\_  
 Time at present address: \_\_\_\_\_  
 Bankruptcy:  Yes  No Discharge Date: \_\_\_\_\_

**Payment Plan Agreement - Requirements & Disclosure:**

\*Application Fee \$35 \*10% Administration Fee \$110 \*35% Down-Payment \$385

Total Due at Signing: \$530

CPAP Machine:	\$1,100
Down-Payment:	-\$385
Remaining Balance Due:	\$715
6 Bi-Weekly Payments:	\$119.17

**Payment Plan Schedule**

00/00/2020	\$119.17	00/00/2020	\$119.17	00/00/2020	\$119.17
00/00/2020	\$119.17	00/00/2020	\$119.16	00/00/2020	\$119.16

**Banking Information:**

Bank Name: \_\_\_\_\_ Debit Card (last 4): \_\_\_\_\_ Expiration Date: \_\_\_\_\_ Security Code: \_\_\_\_\_

X 

X \_\_\_\_\_

Pete Gallaher, President

Client/Responsible Party

**Authorization & Agreement:**

- I authorize WorkSTEPS Sleep to debit the payments as stated above from the debit/credit card listed above.
- I understand that WorkSTEPS Sleep is NOT responsible for overdraft charges or associated fees charged by my bank.
- I waive the right to dispute payment charges once services/product is rendered.
- Additionally, these transactions shown on your bank statement constitutes receipt of payment.
- This Plan may be revoked if any item is not paid upon presentation.
- This Plan, if cancelled, does NOT release you from your obligation under this Payment Plan Agreement.

\$25 Late Payment Fee – occurs when payment is declined, and no forthcoming payment has been made within 3 days after due date.

\$50 Loan Default Fee - occurs when no payment has been made for more than 60 days. Fee assessed prior to placement with a debt-collection agency and credit bureau reporting.

I have read and under this agreement and give my consent: X \_\_\_\_\_

Client/Responsible Party

3:58

5G



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Page 1 of 2

English



(O) 877-436-8478 (F) 512-617-4106

WorkSTEPS Sleep

3019 Alvin Devane Blvd Ste 150  
Austin, TX 78741 www.workstepssleep.com

First Name: Herman MI Last Name: Ragland Jr.  
 Phone: [REDACTED]  
 Date of Birth: [REDACTED]  
 Email: [REDACTED] SSN (9 digits): [REDACTED]  
 Address: 42Nordham Drive  
 Secondary or Work Phone: (10 digits) [REDACTED]  
 Emergency Contact Name: Lavern Smith  
 Relationship: (spouse, relative, friend, parent) Wife  
 Emergency Contact Phone: [REDACTED]  
 Employer:            Time Employed: month(s)/year(s) 10 months  
 Gross Monthly Income: \$4,000  
 Housing: Rent?  Own?  Monthly Payment: 400.00  
 Time at present address: 16 years  
 Bankruptcy: No  Yes  Discharge Date: NA

Payment Plan Agreement - Requirements & Disclosure:

**CPAP Machine:** \$1,534  
**Down-Payment:** -\$385  
**Remaining Balance Due:** \$993  
**3 Monthly Payments:** \$331

\*Application Fee \$46    \*Administration Fee \$110    \*Down-payment \$385

Total Due at Signing: \$541

Payment Plan Schedule

02/18/2023	\$331	03/18/2023	\$331	04/18/2023	\$331
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Download Document

Payment Plan Schedule

02/18/2023	\$331	03/18/2023	\$331	04/18/2023	\$331
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Banking Information:

Bank Name: Capital One

Debit Card Last 4:

Expiration Date: (dd/yy):

Security Code:

X

Pete Gallaher, President

X

Client/Responsible Party

Authorization & Agreement:

- I authorize WorkSTEPS Sleep to debit the payments as stated above from the debit/credit card listed above.
- I understand that WorkSTEPS Sleep is NOT responsible for overdraft charges or associated fees charged by my bank.
- I waive the right to dispute payment charges once services/product is rendered.
- Additionally, these transactions shown on your bank statement constitutes receipt of payment.
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\$50 Loan Default Fee - occurs when no payment has been made for more than 60 days. Fee assessed prior to placement with a debt-collection agency and credit bureau reporting.

I have read and under this agreement and give my consent: X

Client/Responsible Party

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IN THE CUYAHOGA COUNTY COMMON PLEAS

---

Herman Ragland,

Plaintiff or Petitioner,

v.

Case No.

WorkSTEPS, Inc.

Defendant or Respondent.

CV-23-990433

---

VIDEOTAPED DEPOSITION OF

DATE: Wednesday, December 4, 2024

TIME: 9:00 AM, EST

LOCATION: Zoom

REPORTED BY: , Notary Public

JOB No.: Job Number

A P P E A R A N C E S

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ON BEHALF OF PLAINTIFF:  
ON BEHALF OF DEFENDANTS:  
ALSO PRESENT:  
    FREYAAMIS, CER  
  
    FREDERICK &  
  
    RONALD FREDERICK  
  
    LOU -  
  
    DEPODIRECT REPORTER  
  
    JOHN VARELA

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I N D E X

EXAMINATION: PAGE

E X H I B I T S

NO. DESCRIPTION PAGE

(\*Exhibits attached.) / (\*Exhibits retained by  
counsel.) / (\*None marked.)

## P R O C E E D I N G

1  
2 REPORTER: Good morning. My name is Freya  
3 Amos, and I'm the officer of this deposition  
4 representing DepoDirect. And we are now on the  
5 record. Today's date is December four, 2024, and the  
6 time is 9:15 AM EST. This deposition is taking place  
7 remotely in the matter of Herman Ragland versus  
8 Worksteps Inc. The case number is cvdash23dash990433,  
9 and this is the audiovisual recorded deposition of  
10 John Varela taken on behalf of the plaintiff in the  
11 Court of Common Pleas, Cuyahoga County, Ohio. Absent  
12 any any objection, all parties agree that we may place  
13 this witness under oath and record this proceeding  
14 remotely via audio visual method. At this time, will  
15 all counsel appearing remotely please identify  
16 yourself, same with the note saying attorney?

17 FREDERICK: Sure. Ronald Frederick, on  
18 behalf of Mr. Ragland with the firm of Frederick and  
19 Burler LLC. And here with me is my paralegal, Ashley  
20 Sorley.

21 VARELA: And this is Ben Feaster with  
22 Stalking in Ogden, here in Louisville, Kentucky.  
23 We're counsel for Work Steps Inc, and I'm here with  
24 the witness, John Varela.

25 REPORTER: Thank you. Will the witness

1 please raise your right hand? Do you swear or affirm  
2 the testimony you'll give today in this proceeding  
3 will be truth, the whole truth, and nothing but the  
4 truth?

5 VARELA: Yes.

6 REPORTER: Thank you. Counseling may begin.

7 FREDERICK: Great. Mr. Brouil, you already  
8 know my name is Ron Frederick, and I'm here,  
9 representing, Herman Ragland in this matter. First of  
10 all, we have no objection. I assume it's getting a  
11 stipulation. No objection to notice or form of the,  
12 notice of deposition, time, manner, and place? Ben?

13 VARELA: Sorry. Could you repeat that?

14 FREDERICK: Sure. That we can get a  
15 stipulation that there's no objection to the form of  
16 the notice or the time, place, and manner of the  
17 deposition.

18 VARELA: No. No objection.

19 FREDERICK: Thank you. So would you state  
20 your full name for the record, Mr. Varela?

21 VARELA: John Joseph Barilla junior?

22 FREDERICK: And, have you ever had your  
23 deposition taken before?

24 VARELA: No.

25 FREDERICK: Okay. So I'm going to go

1 through some ground rules. Okay? You've probably  
2 already gone through some of these with your lawyer.  
3 I just want to make sure that we understand sort of  
4 how this will work. Okay?

5 VARELA: Okay.

6 FREDERICK: Good. So you started off with,  
7 not so great by just nodding your head and waiting,  
8 but we do need you to keep your your responses verbal  
9 so the court reporter can get them down. all right.  
10 Fair enough?

11 VARELA: I'll do my best.

12 FREDERICK: Good. That's all I can ask you  
13 to do. And by the way, everybody screws up. And we  
14 may just get engaged and forget, so don't don't beat  
15 yourself about it. Just know that that's potentially  
16 likely to happen, but I, the court reporter, or your  
17 lawyer may remind you from time to time. Okay?

18 VARELA: Okay.

19 FREDERICK: Great. So we got through the  
20 first one right away. I'm going to be asking you a  
21 series of questions, and I'd like you to keep your  
22 answers verbal. Now I'm going to I'm going to assume  
23 that you understood the question as I asked it if you  
24 go ahead and answer. Okay?

25 VARELA: Okay.

1           FREDERICK: If you don't understand the  
2 question, you can't hear the question, want me to  
3 rephrase it or repeat it, let me know, and I'll do  
4 that. Okay. Got it?

5           VARELA: Will do.

6           FREDERICK: I just want to make sure that  
7 the record is as clear as possible. This is not an  
8 endurance contest. So if you need to take a break,  
9 let me know and we'll take a break. The only request  
10 I have is that I've asked a question. I need you to  
11 answer the question before we take the break and then  
12 we can take it once you've answered the question.  
13 Okay?

14          VARELA: Okay.

15          FREDERICK: Now let let us know well ahead  
16 of time because I don't want you to do what one guy  
17 did when we asked a question. And I think Freya was  
18 on this deposition, and and the guy answered it. And  
19 he I gotta go. I gotta go back. So he and then he  
20 took off and jumped up and ran out of the room. I  
21 don't want you to wait.

22          VARELA: I.

23          FREDERICK: That.

24          VARELA: Will.

25          FREDERICK: Long.

1 VARELA: Give you notice.

2 FREDERICK: Okay? And everybody, including  
3 his lawyer, were just we we couldn't believe it, and  
4 we wound up laughing quite a bit until he came back.  
5 That's only happened once. Okay. From time to time,  
6 your lawyer might object. I want you to go ahead and  
7 answer the question unless he specifically tells you  
8 otherwise, and he and I will have a conversation.  
9 Okay?

10 VARELA: Okay.

11 FREDERICK: Those are the basic ground  
12 rules. It's best not to talk over each other just as  
13 normal is around the house, but that sometimes breaks  
14 down. So I'm not going to have you worry about that  
15 too much. At least it happens that way with my 17  
16 year old. Okay. So did you meet with your lawyer  
17 before the deposition?

18 VARELA: Yes.

19 FREDERICK: When was that?

20 VARELA: Yesterday.

21 FREDERICK: And how long did you meet?

22 VARELA: Objection.

23 FREDERICK: I'm not in.

24 VARELA: I.

25 FREDERICK: About.

1           VARELA: Think we're.

2           FREDERICK: Contents. I'm just asking about  
3 how long the meeting was. I believe that's  
4 permissible.

5           VARELA: I understand. I'm not going to  
6 continue to object.

7           FREDERICK: Okay.

8           VARELA: And instructs nothing.

9           FREDERICK: Not to answer?

10          VARELA: Right.

11          FREDERICK: We're really we're going to call  
12 the court now because that's not an objectionable  
13 question. If you want to call the court over that, we  
14 can do that, or you can let.

15          VARELA: Okay.

16          FREDERICK: A man that question.

17          VARELA: Let me ask you this. How many more  
18 questions do you intend to ask about our meeting?

19          FREDERICK: That's it. Well, I'll ask about  
20 documents he was seeing, and that's about it.

21          VARELA: That's fine. He can answer.

22          FREDERICK: Okay. About how long was your  
23 meeting?

24          VARELA: Hour and a half, two hours, I  
25 think.

1           FREDERICK: Okay. Got it. And what  
2 documents did you review if you recall?

3           VARELA: Just basic documents from  
4 discovery, I believe.

5           FREDERICK: The ones that you'd already  
6 produced? You.

7           VARELA: Yes.

8           FREDERICK: Didn't get anything new?

9           VARELA: Nope.

10          FREDERICK: Okay. Great. So I'd like you  
11 to tell me a little bit about yourself. This will get  
12 real basic, and you'll go why it's because it's  
13 background. So where where were you born?

14          VARELA: California.

15          FREDERICK: City?

16          VARELA: I was told it's the city of Orange,  
17 but I think, like, around Anaheim or Orange County.

18          FREDERICK: Orange County. Okay. That's  
19 good enough. Okay. And when were you born?

20          VARELA: 1978.

21          FREDERICK: Date?

22          VARELA: August 31st.

23          FREDERICK: And how long did you live in  
24 Southern California?

25          VARELA: I believe it was till the beginning

1 January of 1980, and then we moved to Seattle.

2 FREDERICK: Seattle.

3 VARELA: Yeah.

4 FREDERICK: My wife went to high school in  
5 Bellevue. So and so how long did you live in Seattle?

6 VARELA: Well, lived in Maple Valley from  
7 roughly 1980 till 1998. Moved to the city of Kent  
8 after that till about 2,001, and then have been living  
9 around Seattle mostly since 2001, 2002. Seattle  
10 proper.

11 FREDERICK: Within.

12 VARELA: Excuse.

13 FREDERICK: The city itself.

14 VARELA: Me. Yeah.

15 FREDERICK: And so where do you live now?

16 VARELA: In the city of Seattle.

17 FREDERICK: We'll turn this off. I thought  
18 I'd Okay. What's the specific address?

19 VARELA: 168 and a Half 27th Avenue,  
20 Seattle, Washington 98122.

21 FREDERICK: I'm sorry. What 168a half.  
22 What was the rest?

23 VARELA: Yes. It's a it's a duplex. 168  
24 and a Half 27th Avenue,

25 FREDERICK: 27.

1 VARELA: Seattle, Washington.

2 FREDERICK: And who do you live there.

3 VARELA: My wife.

4 FREDERICK: With? Okay. And where did you  
5 graduate from high school?

6 VARELA: Tahoma Senior High School.

7 FREDERICK: What year?

8 VARELA: 198, 97.

9 FREDERICK: And did you go on to college?

10 VARELA: Took some college at Bellevue  
11 College. Didn't finish.

12 FREDERICK: And then what did you do after  
13 you decided college was not for you?

14 VARELA: Went to work in health care.

15 FREDERICK: Go ahead. Give me some  
16 chronology here. Please.

17 VARELA: Do you want specific job roles?  
18 What.

19 FREDERICK: Job.

20 VARELA: So.

21 FREDERICK: Work, roles, job places,  
22 etcetera.

23 VARELA: I I worked at Virginia Mason  
24 Medical Center in, the sleep disorder center and  
25 started off in as an admin position there, went on to

1 become, sleep technologist, led that group for a  
2 while, moved on to Durable Medical Equipment. While I  
3 wasn't licensed as a physical therapist, I was coded  
4 as a physical therapist, running that group before  
5 leaving the hospital. And I was there for 15 years.

6 FREDERICK: Okay. So you went to work in  
7 97?

8 VARELA: No. That was I had a couple of odd  
9 jobs between 97 to 2001, I believe, when I started the  
10 hospital.

11 FREDERICK: Okay. So you started the  
12 hospital in 2001?

13 VARELA: I I believe it was 2,001.

14 FREDERICK: Okay. And and you went to work  
15 right in sleep the sleep area?

16 VARELA: Yes.

17 FREDERICK: How did that happen?

18 VARELA: My best friend's mom was the  
19 assistant to the medical director. They need an admin  
20 position filled, and I was trying to go back to school  
21 at the time. And so I took that. The physicians that  
22 worked at the hospital realized that I had a  
23 relatively decent head on my shoulders, and I did some  
24 independent work study with them and got bored and  
25 sleep.

1           FREDERICK: Obviously, you got boarded in  
2 sleep.

3           VARELA: Yeah.

4           FREDERICK: Okay. Thank you. Okay. And so  
5 what about so what did they do at the hospital as it  
6 relates to sleep study, sleep, etcetera?

7           VARELA: It was a sleep disorder center, who  
8 did diagnostics and treatment for sleep ap for all  
9 sleep disorders.

10          FREDERICK: For all sleep disorders, not  
11 just sleep apnea.

12          VARELA: Yes.

13          FREDERICK: But we're talking about what  
14 insomnia.

15          VARELA: Insomnia, parasomnia, REM  
16 behavioral disorder, night terrors. There's a a lot  
17 of different sleep disorders.

18          FREDERICK: Okay.

19          VARELA: Also, had to deal with patients  
20 with restrictive lung disease and sleep, and there's,  
21 yeah, a long list.

22          FREDERICK: Okay. So, eventually, you got  
23 into the therapy side out of the administrative side.

24          VARELA: From the diagnostic side over to  
25 the treatment side, yes.

1           FREDERICK: So how long were you just in  
2 plain administration?

3           VARELA: Oh, that was a short short stint.  
4 It was only, I think, in the office for about a year,

5           FREDERICK: Okay. And then what did.

6           VARELA: Then.

7           FREDERICK: You go.

8           VARELA: I moved in moved into the lab as a  
9 technologist.

10          FREDERICK: And what did you do as a  
11 technologist.

12          VARELA: Ran sleep studies for about nine  
13 years. In lab sleep studies.

14          FREDERICK: In the lab?

15          VARELA: Yes.

16          FREDERICK: Which basically means you spent  
17 your nights awake. W s?

18          VARELA: That's that's correct.

19          FREDERICK: Got it. Okay.

20          VARELA: Do as we say, not as we do when it  
21 comes to sleep.

22          FREDERICK: Sure. Sure. I got it. We just  
23 had that discussion with my son last night who says, I  
24 don't know why I'm always sick. And I said, well,  
25 because you're up till four or five in the morning

1 every morning. You don't sleep, then you go to  
2 school. You come home and you sleep, and you get up,  
3 and it's, like, not really very helpful. But he  
4 doesn't listen to me a whole lot. Okay. So that was  
5 about seven years in the lab.

6 VARELA: Nine years.

7 FREDERICK: Nine years.

8 VARELA: Yeah.

9 FREDERICK: And after you left the lab, then  
10 you were selling durable medical goods?

11 VARELA: I don't know if you would call it  
12 selling selling the equipment. We were a lab based  
13 supplier, which it was all run through insurance.

14 FREDERICK: What I remembered you saying was  
15 durable medical goods, but you were listed as.

16 VARELA: I worked.

17 FREDERICK: A.

18 VARELA: On.

19 FREDERICK: Physical.

20 VARELA: On that.

21 FREDERICK: Therapist.

22 VARELA: Side of the company. Yes.

23 FREDERICK: So I was just trying to figure  
24 out what you were doing.

25 VARELA: The only reason I clarify that is

1 because when you go to the doctor, the doctor doesn't  
2 sell you what, a medical appointment. It's  
3 traditional health care is done differently.

4 FREDERICK: I'm sorry. I don't understand  
5 that.

6 VARELA: There's no selling that takes place  
7 when you work in a, medical supply side. People don't  
8 come in with an insurance because their insurance  
9 company told them to come see you.

10 FREDERICK: Right. They you come in because  
11 you want a treatment plan. Right?

12 VARELA: The the doctor sends sends them to  
13 you because their insurance says that.

14 FREDERICK: Oh,

15 VARELA: They go through you.

16 FREDERICK: Got it. So this is post doc  
17 appointment. This is just like let's assume for a  
18 moment that I was in a car accident. It was rear  
19 ended. And I went to the doctor and they prescribed a  
20 tens unit. So you would do that.

21 VARELA: Actually, let let me give you a  
22 better example. You're in your car. You get you  
23 could you're in your car accident. You bust up your  
24 knee. When you're in the emergency room, the doctor  
25 writes an order for you to get a knee brace. Would

1 you consider being sold a knee brace, or did you just  
2 get medical equipment that the doctor told you you  
3 needed to get?

4 FREDERICK: Yeah. They don't even do that  
5 where I am. They just send the the the Don John rep  
6 in and say, here, put this on.

7 VARELA: Exactly. That's yeah.

8 FREDERICK: Don.

9 VARELA: So.

10 FREDERICK: Joy.

11 VARELA: There's.

12 FREDERICK: I'm sorry. Don Joy, it it is.  
13 I fractured my tibia skiing, so I went through that.  
14 And then the next year, I fractured my clavicle. That  
15 was last that was this spring. So I've got experience  
16 with that, sadly.

17 VARELA: Got it.

18 FREDERICK: Got it. So you did that for a  
19 while, and that was also on the sleep side. So you  
20 were delivering the the CPAP units there?

21 VARELA: Correct.

22 FREDERICK: Okay. And how long did you stay  
23 lab based?

24 VARELA: Think through 2016.

25 FREDERICK: Okay. And Okay. And then you

1 left there in 2016. Is that correct?

2 VARELA: Yes.

3 FREDERICK: What did you do then?

4 VARELA: I believe, was starting a smaller  
5 company in Seattle to essentially do what we're doing  
6 now with Worksteps, but partnered right away with a  
7 group out of Texas, which was Eureka Health Solutions,  
8 which is now Worksteps Inc.

9 FREDERICK: How do you spell that, Eureka?

10 VARELA: Eeurec0. It's like Eureka, but  
11 with an o.

12 FREDERICK: With an o. Okay. Thank you.  
13 And that's out of Texas?

14 VARELA: Yeah. Yes.

15 FREDERICK: And it's now Worksteps? Okay.  
16 And that was Seattle CPAP. Is that right?

17 VARELA: That was the original company.  
18 Yeah. But.

19 FREDERICK: Okay.

20 VARELA: It that didn't There really wasn't  
21 much business done through that.

22 FREDERICK: Okay. And then what did you  
23 when when did that switch?

24 VARELA: 2017, I think.

25 FREDERICK: Okay. It also says you are the

1 technical director of sleep medicine for Eureka Health  
2 Solutions from.

3 VARELA: That was prior to the work steps.

4 FREDERICK: Okay. Right. That was August  
5 17th to January 19th. Does that sound right?

6 VARELA: Sounds probably close. Yes.

7 FREDERICK: Okay. And then and then you  
8 went to work steps.

9 VARELA: Yeah.

10 FREDERICK: So was work steps created when  
11 you went there, or was work steps transitioned from  
12 Eureka, or how did that work?

13 VARELA: Work work steps acquired, Doritos.

14 FREDERICK: Okay. Got it. And then you  
15 were part of the deal.

16 VARELA: Yes.

17 FREDERICK: Okay. And you came in as the  
18 vice president?

19 VARELA: Oversleep.

20 FREDERICK: Oh, right. So vice president  
21 sleep medicine. Is.

22 VARELA: Yes.

23 FREDERICK: That correct?

24 VARELA: Correct.

25 FREDERICK: So what does that mean your job

1 duties are?

2 VARELA: Overseeing the operations, the  
3 sleep department.

4 FREDERICK: Can you be more specific?

5 VARELA: Managing the employees, dealing  
6 with budgets, managing the sales marketing team,

7 FREDERICK: So.

8 VARELA: And.

9 FREDERICK: How.

10 VARELA: Getting in and working on the front  
11 lines. It's a very small group. So.

12 FREDERICK: How many people are in your  
13 group?

14 VARELA: Currently, I don't know for work  
15 specifically, but for, our sleep department four.

16 FREDERICK: Or people in the sleep  
17 department,

18 VARELA: Yes.

19 FREDERICK: Which includes salespeople.

20 VARELA: Yes.

21 FREDERICK: So when you identify people in  
22 the interrogatories, do you know what the  
23 interrogatories were?

24 VARELA: Yes.

25 FREDERICK: Okay. That was everybody in the

1 sleep department that had their hands in in Mr.  
2 Braglin's transaction?

3 VARELA: At the time.

4 FREDERICK: Okay. And who sets up the sales  
5 protocol?

6 VARELA: Can you be more specific?

7 FREDERICK: Sure. You provided in the I  
8 need to find it, so give me a second. You provided a  
9 document that was called Salesforce creating a lead.  
10 Do you remember that?

11 VARELA: Yes.

12 FREDERICK: Who who set up that.

13 VARELA: So.

14 FREDERICK: Product?

15 VARELA: Lauren Davis wrote that, quote,  
16 unquote, process and manual or instruction guide. Her  
17 and I worked on it together, but she's the one that  
18 put that together.

19 FREDERICK: Lauren Davis.

20 VARELA: Yep.

21 FREDERICK: And then she would have done the  
22 same creating a lead with financing.

23 VARELA: Yes. Under my instruction.

24 FREDERICK: It's well put together. Way  
25 better than our processes, which are developed by my

1 very scattered brain,

2 VARELA: Got.

3 FREDERICK: Which means we don't have them.

4 It's the truth.

5 VARELA: It. Got it.

6 FREDERICK: Okay. So then how how big is

7 the how big is work steps generally?

8 VARELA: I don't actually know.

9 FREDERICK: Okay. And where is its  
10 headquarters?

11 VARELA: Austin, Texas.

12 FREDERICK: But you work out of out of Kent?

13 VARELA: Seattle.

14 FREDERICK: Seattle? I'm sorry. Does  
15 everybody.

16 VARELA: We we work remotely.

17 FREDERICK: All of you?

18 VARELA: Yes.

19 FREDERICK: Okay. And you don't know how  
20 many employees are at work steps?

21 VARELA: Not.

22 FREDERICK: What would you would you call  
23 when the last time you had that information was?

24 VARELA: Currently. Before the pandemic.

25 FREDERICK: Okay. Now before the pandemic,

1 were you still working remotely?

2 VARELA: I was, but my team was based in  
3 Austin.

4 FREDERICK: Okay. And before the pandemic,  
5 how many people were there?

6 VARELA: On my team or in Worksets?

7 FREDERICK: Your team and in work steps.

8 VARELA: Five on my team, and I believe work  
9 steps as a whole at the Austin office was between 75  
10 to a 100 employees.

11 FREDERICK: Okay. Now let's talk a little  
12 bit about let's talk a little bit about the sales  
13 process. People how do people get to work steps for a  
14 sleep study?

15 VARELA: Initially, we were vetted by  
16 Concentra Medical. They're the largest occupational  
17 health group in the US. They vetted three companies  
18 that do primarily, sleep or trucking companies or  
19 trucking clients. The patient would go through  
20 Concentra. The examiner would flag them for  
21 potentially having sleep apnea and hand them a form  
22 with our information and two other companies'  
23 information on it. And that's how most people come  
24 come to us.

25 FREDERICK: Okay. So they're mostly

1 referred, but they get the pick of three.

2 VARELA: They're not they're not technically  
3 referred. That's that's that's a legal term that I  
4 need to make sure is not used.

5 FREDERICK: Okay. But they're given your  
6 name along with some others, and they get to choose.  
7 Right?

8 VARELA: Correct.

9 FREDERICK: Okay. So okay. So then they  
10 would reach out to to WorkSteps, and one of the three  
11 other people on your team. Are these is it five on  
12 your team including yourself or four on your team  
13 including yourself?

14 VARELA: Five. So 44 now including me back  
15 then. Yeah. So it's five before with me. Now it's  
16 four.

17 FREDERICK: Okay. Okay. So they would  
18 reach out to one somebody on your team, and then there  
19 would be, a lead set up in Salesforce.

20 VARELA: Correct.

21 FREDERICK: And every interaction would be  
22 noted.

23 VARELA: Correct.

24 FREDERICK: And from what I gather, the goal  
25 is to get someone to agree to do a sleep sleep study

1 in their home. Is that correct?

2 VARELA: That's correct. Yes.

3 FREDERICK: And then you and you would send  
4 the package to the customer or patient. I don't know  
5 what you call them, but.

6 VARELA: Driver.

7 FREDERICK: The the driver.

8 VARELA: Yeah. We we're a 100% trucking,  
9 so, traditionally, people would look at them as a  
10 patient. But in our case, they're drivers.

11 FREDERICK: Okay. But they're people.

12 Right?

13 VARELA: That's correct.

14 FREDERICK: And they have a, a possibility  
15 of having a severe medical condition. Correct?

16 VARELA: That's correct.

17 FREDERICK: Okay.

18 VARELA: Or no medical condition.

19 FREDERICK: Right. I said the possibility,  
20 which leaves the.

21 VARELA: But.

22 FREDERICK: Possibility.

23 VARELA: We should be we should.

24 FREDERICK: That.

25 VARELA: Be clear. It's I it's not that

1 they could have severe. It's that they.

2 FREDERICK: Of.

3 VARELA: May or may not have a condition.

4 Could it be severe? Yes. Could they have no sleep  
5 apnea at all? That's possible.

6 FREDERICK: Course. Right. And so you then  
7 send out this unit to their.

8 VARELA: Correct.

9 FREDERICK: Home. Correct? And then your  
10 people in your department will coordinate when they,  
11 utilize this for a test. Correct?

12 VARELA: Not exactly. We send it to their  
13 home. It's up to the patient driver to decide when  
14 they when they test.

15 FREDERICK: Authorized.

16 VARELA: We give them everything they need  
17 to test and give them all the information they need.  
18 It's the driver's responsibility to take care of that.

19 FREDERICK: Well, but I thought that I saw  
20 things that said that you should not use it before we  
21 communicate about the time to use it. Is that not.

22 VARELA: That's just to make sure the device  
23 is registered.

24 FREDERICK: True?

25 VARELA: And the PIN is set on the device.

1           FREDERICK: And what?

2           VARELA: And the PIN number so each device  
3 has a PIN number for it to be able to be used.

4           FREDERICK: Right. So but you would help do  
5 the setup so they can then get a valid test. Correct?

6           VARELA: Yes. Yes.

7           FREDERICK: That's what I meant. I mean,  
8 it's not like opening the typical package I get from  
9 Amazon and I'm all excited that it's there and just  
10 start putting something together with help looking at  
11 the instructions. It's it tells you in there that you  
12 have to set this up and coordinate it with your  
13 department. Right?

14          VARELA: Yes.

15          FREDERICK: Okay. Okay. So let's let's  
16 talk a little bit about sleep apnea. From what I  
17 understand, one second.

18          VARELA: I'm going to grab a soda here real  
19 quick.

20          FREDERICK: Sure. Looking for the photo you  
21 have, though. Yeah. Right. Mhmm. Think you're in  
22 there. Yeah. And this is your own work. Okay.  
23 Okay. So your your devices are a are a screening tool  
24 to determine whether somebody has, sleep apnea.  
25 Correct?

1 VARELA: It's a diagnostic tool.

2 FREDERICK: Right. Which is a screening  
3 tool. Right?

4 VARELA: Yes. But well, I think using the  
5 the term diagnostic is important.

6 FREDERICK: Okay. We'll get there too, by  
7 the.

8 VARELA: A.

9 FREDERICK: Way.

10 VARELA: Screen a screener doesn't hold any  
11 weight. That's the only reason why I'm saying that.

12 FREDERICK: Okay. Well, does does your  
13 device,

14 VARELA: A.

15 FREDERICK: What do you call the device?

16 VARELA: Sleep test?

17 FREDERICK: Yeah. But what like, does it  
18 have a name?

19 VARELA: Yes. It's, WatchPat one by Itamar  
20 Medical, now owned by ZOLL Medical, z o l l.

21 FREDERICK: Watch Pat.

22 VARELA: One. Right. Itamar, I t a m a r.  
23 The holding company that owns them now is Zoll  
24 Medical, z o l l.

25 FREDERICK: Okay. So if I call them either

1 the device or WatchPat, you'll know what I'm talking  
2 about. Right?

3 VARELA: Yes.

4 FREDERICK: Okay. And does the WatchPat one  
5 diagnose obstructive sleep apnea?

6 VARELA: Yes.

7 FREDERICK: Does it diagnose central sleep  
8 apnea?

9 VARELA: The newer version does have a  
10 sensor for, detecting central sleep apnea.

11 FREDERICK: Or does the device largely look  
12 at the breathing and determine that there's sleep  
13 apnea?

14 VARELA: The technical way it is able to  
15 help with diagnostics, I can't get into because I  
16 don't understand exactly how it works. I know it used  
17 to uses peripheral atrial tonography tonography,  
18 through the finger to determine when the patient's,  
19 breathing and not breathing, but you'll need to look  
20 at technical specs as far as that goes. I can't  
21 answer to that. It's not my not my business, but it  
22 is FDA approved to diagnose sleep disordered  
23 breathing.

24 FREDERICK: Okay. So it's so it's a generic  
25 the it's a device that generically determines that

1 there's sleep apnea.

2 VARELA: I.

3 FREDERICK: But.

4 VARELA: Wouldn't use.

5 FREDERICK: Well, but it's.

6 VARELA: The.

7 FREDERICK: Nonspecific to.

8 VARELA: Term.

9 FREDERICK: Obstructive or central. It.

10 VARELA: Generic.

11 FREDERICK: Just says person stopping is.

12 VARELA: It.

13 FREDERICK: Person's.

14 VARELA: It has it.

15 FREDERICK: Not.

16 VARELA: Has a device on it has a device on  
17 it that can detect central sleep apnea.

18 FREDERICK: Is that something that is  
19 utilized during the course of work steps testing?

20 VARELA: I am not positive on how the  
21 physicians will look will use that in their diagnosis.

22 FREDERICK: Okay. Well, are you familiar  
23 with what central sleep apnea is?

24 VARELA: Yes?

25 FREDERICK: And doesn't that deal with,

1 Brainwave not sending signals to the muscles that  
2 control your breathing?

3 VARELA: In a, I think, very broad way, yes,  
4 but that's not the whole physiology of what causes  
5 central sleep apnea. If you're talking about it being  
6 a brain issue, yes, but it also could be there there  
7 are other reasons for central sleep apnea.

8 FREDERICK: And what about, an obstructive  
9 sleep apnea is where there's a relaxation of the the  
10 esophagus or the upper end of the esophagus where the  
11 tongue starts to obstruct the airway. Is that  
12 correct?

13 VARELA: Correct.

14 FREDERICK: Okay. And your throat mess  
15 muscles relax and block the airflow into your lungs,  
16 so you're just not getting any oxygen. Right?

17 VARELA: Start getting any air. Correct.

18 FREDERICK: Well, certainly, you're you're  
19 not getting any oxygen either. Right?

20 VARELA: Room air and oxygen are two  
21 different things, sir.

22 FREDERICK: Well, I understand. But but,  
23 certainly, oxygen is a big part of air. Right?

24 VARELA: Not the biggest part.

25 FREDERICK: No. I didn't say I.

1 VARELA: We're.

2 FREDERICK: Didn't say.

3 VARELA: We're we're about, what, 778 17,  
4 18%.

5 FREDERICK: Yeah. But, obviously, that's  
6 the gas that makes the difference. Right?

7 VARELA: Yep.

8 FREDERICK: Well, at least as red as far as  
9 brain function goes. Correct?

10 VARELA: Good. No.

11 FREDERICK: Oh, okay. And.

12 VARELA: You're.

13 FREDERICK: So.

14 VARELA: Asking very specific questions, and  
15 so no. You're incorrect.

16 FREDERICK: Okay. I mean, I can get more  
17 specific, but, obviously, oxygen is real important for  
18 your blood. Correct? If your bloodox drops,

19 VARELA: That's correct.

20 FREDERICK: Your if it drops enough, you're  
21 not doing so well. Right?

22 VARELA: Correct.

23 FREDERICK: Okay. Now what about treatment  
24 emergent central sleep apnea? Does this device,  
25 diagnose, treatment emergent central sleep apnea?

1           VARELA: No. Because it's treatment  
2 emergent. This is a diagnostic tool.

3           FREDERICK: Okay. And when we talk about  
4 symptoms of sleep apnea, we're looking at things like  
5 snoring is a potential indicator. Correct?

6           VARELA: What we like to say in the industry  
7 is not everybody who have who snores has sleep apnea,  
8 but snoring is a indicator of sleep apnea.

9           FREDERICK: Right.

10          VARELA: People that do have sleep apnea  
11 snore.

12          FREDERICK: Correct. Another indicator  
13 might be if your, friend or partner, notice that you  
14 stop breathing during your sleep. Right?

15          VARELA: Correct.

16          FREDERICK: Or gasping for air during sleep.

17          VARELA: Correct.

18          FREDERICK: Although that would be not just  
19 an occasional gasp but regularly. Right?

20          VARELA: Any. If it's witnessed once, it's  
21 probably happening more than people realize.

22          FREDERICK: Or awakening with a dry mouth  
23 like I almost always do.

24          VARELA: It is an indicator. Yes.

25          FREDERICK: If you're a mouth breather, is

1 that an indicator?

2 VARELA: Yes.

3 FREDERICK: I'm in trouble. Okay. And, so  
4 but and then but but there are a lot of diseases that  
5 are associated with sleep apnea. Right?

6 VARELA: Correct.

7 FREDERICK: Because it's a real, health  
8 issue for men more than women, but for both men and  
9 women. Correct?

10 VARELA: Correct.

11 FREDERICK: And and it can lead to daytime  
12 fatigue.

13 VARELA: Correct.

14 FREDERICK: And also probably nighttime  
15 fatigue when you want to stay awake. Right?

16 VARELA: Fatigue, but also sleepiness. I  
17 think it's important to have the sleepiness piece in  
18 there.

19 FREDERICK: Okay. And it can also have  
20 issues with high blood pressure.

21 VARELA: Correct.

22 FREDERICK: And heart disease.

23 VARELA: Correct.

24 FREDERICK: And it it increases your risk of  
25 diabetes,

1 VARELA: Correct. Diabetes type two.

2 FREDERICK: Right? And and insulin  
3 resistance.

4 VARELA: Correct.

5 FREDERICK: Also, metabolic syndrome,

6 VARELA: I believe so.

7 FREDERICK: Which in which in which includes  
8 high blood pressure, abnormal cholesterol levels.  
9 Does that sound right?

10 VARELA: Yes.

11 FREDERICK: And then increased weight  
12 circumference. Correct?

13 VARELA: Correct.

14 FREDERICK: Which is then linked to a higher  
15 risk of heart disease. Right?

16 VARELA: Correct.

17 FREDERICK: It also is something that is  
18 more likely to cause complications after surgery.  
19 Correct?

20 VARELA: Yes.

21 FREDERICK: And, in fact, sleep apnea, is  
22 all people with sleep apnea are also more likely to  
23 have irregular results on liver function tests.

24 VARELA: I'm not sure about that. It's kind  
25 of outside my scope.

1           FREDERICK: Correct? Okay. Well and their  
2 livers are more likely to show signs of scarring known  
3 as nonalcoholic fatty liver disease. You're familiar.

4           VARELA: Again,

5           FREDERICK: With.

6           VARELA: I wouldn't.

7           FREDERICK: That?

8           VARELA: Know.

9           FREDERICK: Okay. Will you trust me on  
10 that, or do you need to see a reference for that?

11          VARELA: I I can trust you on it.

12          FREDERICK: Okay.

13          VARELA: It appears you're reading off of,  
14 like, a Wikipedia page or something. I have her sleep  
15 apnea.

16          FREDERICK: No. It's actually Mayo Clinic.

17          VARELA: There we go.

18          FREDERICK: And and then, of course,  
19 complications include fatigue, cardiovascular  
20 problems, hypoxia. Correct?

21          VARELA: Correct.

22          FREDERICK: And hypoexema. Correct?

23          VARELA: If that's what you're reading, I I  
24 will take your word for it.

25          FREDERICK: And, also, heart heart

1 arrhythmias. Right?

2 VARELA: Yes.

3 FREDERICK: So it's a serious problem, isn't  
4 it?

5 VARELA: Yes.

6 FREDERICK: And anybody who has sleep apnea,  
7 it's a general health risk, isn't it?

8 VARELA: Yes.

9 FREDERICK: It's not just a risk for truck  
10 drivers, is it?

11 VARELA: No. About 90% of the population  
12 has sleep apnea.

13 FREDERICK: About nine?

14 VARELA: Yes.

15 FREDERICK: Okay.

16 VARELA: Do you know what that number is for  
17 truck drivers?

18 FREDERICK: I don't, but I'm.

19 VARELA: The original.

20 FREDERICK: But.

21 VARELA: I.

22 FREDERICK: I'm.

23 VARELA: I I.

24 FREDERICK: Sure.

25 VARELA: I.

1           FREDERICK: It's higher.

2           VARELA: I'm.

3           FREDERICK: I know you want to tell me, but  
4 I'm not asking that right now. But but my guess is  
5 and I don't remember that I've specifically read this,  
6 but but my guess is is about three to four times  
7 higher.

8           VARELA: Correct.

9           FREDERICK: Well, it makes sense. Right?  
10 Look. Lawyers do a lot of sitting around. Truck  
11 drivers do possibly even more. Mhmm. And I've read  
12 about it. I've you know, when I stop somewhere, when  
13 I stop somewhere and I go to pilot because they're  
14 always on the side of the interstates. You look at  
15 the truck drivers and let's just say they don't appear  
16 to be the healthiest nor the stores that are attached  
17 to them. When when you look at a the restaurants  
18 attached, there there are not very many vegetarian  
19 restaurants attached to the pilots. Right? Is that a  
20 fair statement?

21           VARELA: Correct. Yep.

22           FREDERICK: They also they just tend to be  
23 bigger people, and there's a lot of smoking. There's  
24 so I get it. They're not they're not always the  
25 healthiest demographic. Right?

1 VARELA: Correct.

2 FREDERICK: But they're no different than  
3 anybody else as it relates to the potential risks if  
4 they have sleep apnea, are they?

5 VARELA: Nope. Aside from the fact that.

6 FREDERICK: Okay.

7 VARELA: They have a lot more sleep apnea  
8 and health conditions than the general population.

9 FREDERICK: Right. But it's still the same  
10 diagnosis, the same disease, the same health issues.  
11 Correct?

12 VARELA: Right.

13 FREDERICK: It's.

14 VARELA: Correct.

15 FREDERICK: Just it's just important that  
16 and that's why the DOT, has screening because if you  
17 wreck a truck, the magnitude of the damage that you  
18 can cause is greater than what I can do in my car. I  
19 mean, theoretically.

20 VARELA: Correct. I don't know. What what  
21 kind of car you have?

22 FREDERICK: I I have a Volvo S 60 R8, which  
23 is a recharge plug in hybrid. And so since it's a  
24 Volvo, they're designed.

25 VARELA: It.

1           FREDERICK: Not to crash. No. They're not.  
2 They're but they have this this is all.

3           VARELA: Takes.

4           FREDERICK: This is sort of aside, but my  
5 car, if I were to, be distracted, the first thing  
6 it'll do is it'll give me just a little warning, and  
7 then it'll give me a verbal, not a verbal, a sound.  
8 And, if I wouldn't respond to that, it would slow the  
9 car down and pull it over and stop it on its own.

10          VARELA: A lot of new cars are are like  
11 that. Yes.

12          FREDERICK: Yeah. So I haven't gotten to  
13 that point. And but, anyway yeah. So but, I mean,  
14 theoretically, if some pardon?

15          VARELA: Have you been tested for sleep  
16 apnea?

17          FREDERICK: No. Well okay. Let's go off  
18 the record for a sec.

19          REPORTER: I'll go off the record. It is  
20 10:06 AM EST. We are back on the record. It is 10:10  
21 AM EST.

22          FREDERICK: Okay. Okay. So let's talk a  
23 little bit about the pricing of the product. Okay.  
24 So explain to me how the sales process works, if you  
25 would, please.

1           VARELA: The driver calls us. We educate  
2 them on what the process is, explain what the price  
3 is, and they purchase it or they don't. If they Hey.  
4 Hey, Ron. Can I ask you a clarifying question? I  
5 apologize. Are you talking about the sleep study  
6 still?

7           FREDERICK: Well, the sleep study we didn't  
8 get to the pricing for the sleep study, but why don't  
9 we go through that first, and then we'll jump.

10          VARELA: All.

11          FREDERICK: In.

12          VARELA: Right. I thought this.

13          FREDERICK: Well, as.

14          VARELA: Thanks.

15          FREDERICK: We sort of could, and I can flow  
16 either way, so we're good. So how much does the sleep  
17 study cost?

18          VARELA: We just lowered the price to be  
19 competitive with the other two companies, so now we're  
20 charging \$220.

21          FREDERICK: And what were you charging when  
22 Mr. Ragland had his sleep study?

23          VARELA: I believe it was 275, but our  
24 salespeople have leeway to match others, so it could  
25 could have gone down to 220. I I'm not positive how

1 much he paid for it.

2           FREDERICK: You know where it would say that  
3 in the documentation?

4           VARELA: Not sure.

5           FREDERICK: But that was a fee that  
6 everybody would pay up front to do the study.  
7 Correct?

8           VARELA: Correct.

9           FREDERICK: Okay. And so after the sleep  
10 study, it takes how long to get the results back?

11          VARELA: With the device we use, they upload  
12 the morning after it's done. Within 24 to 48 hours,  
13 the physician will will read it, write his  
14 interpretation, and then we'll call the call the  
15 driver to relay that to.

16          FREDERICK: And the position, is somebody on  
17 staff at work steps?

18          VARELA: Them. Contracted. The physicians  
19 that read for us also read for multiple other  
20 companies.

21          FREDERICK: Okay. And, I mean, look. The  
22 data is what the data is. Right?

23          VARELA: Yeah. We use one of the reasons we  
24 use the watch pad is because it has the only FDA  
25 approved auto scoring algorithm or one of the only.

1 But.

2 FREDERICK: What? One of the only now or  
3 the only?

4 VARELA: I I don't know I don't know if  
5 there's others that are it it's been a while, so there  
6 could be others, but.

7 FREDERICK: What.

8 VARELA: It's.

9 FREDERICK: We know?

10 VARELA: It takes the human human side out  
11 of it. We can't manipulate data. It is what it is.

12 FREDERICK: Right. So and and that's  
13 really, helpful. Okay. So so then so then somebody  
14 says, I I want this unit. Right? I want to do this.  
15 I you've convinced me that I've got a real problem.  
16 How do I go about getting it? What what are they  
17 told?

18 VARELA: But are you talking about the test  
19 or.

20 FREDERICK: No. No.

21 VARELA: The.

22 FREDERICK: No.

23 VARELA: CPAP?

24 FREDERICK: No. The no. The test has  
25 already come out, and I've got the the person has

1 sleep apnea. So now.

2 VARELA: So.

3 FREDERICK: It's.

4 VARELA: Once once the test is back and the  
5 person has screen has been diagnosed with moderate  
6 severe sleep apnea, needs to get a CPAP machine, Our  
7 therapist will run through all their options. So if  
8 they do have insurance, we let them know what what  
9 steps they need to take to go through a provider to  
10 get that in their local area. They're also informed  
11 that they can get it from wherever they would like to.  
12 They don't have to get it from us. If they do want to  
13 get it from us, then we're we give them the cost of  
14 it.

15 FREDERICK: So if they have insurance,  
16 Workstep is Workstep is able to sell the unit to the  
17 ins.

18 VARELA: No. We we don't sell it. We don't  
19 we don't have any insurance contracts.

20 FREDERICK: Okay.

21 VARELA: We're at Direct Care.

22 FREDERICK: I'm sorry. You're a direct  
23 what?

24 VARELA: Direct Direct Pay, Direct Care.

25 FREDERICK: Okay. So you're only going to

1 sell the units to people that do not have insurance.

2 VARELA: Yes.

3 FREDERICK: Yes?

4 VARELA: Yes.

5 FREDERICK: Thank you. And about how many  
6 times per year do you sell units to people, that do  
7 not have insurance?

8 VARELA: I don't have that number.

9 FREDERICK: Well, that would be a very easy  
10 number to find out, wouldn't it?

11 VARELA: Are you referring to people who are  
12 buying direct from us?

13 FREDERICK: Yes.

14 VARELA: People who are going through their,  
15 companies that we have contracts with?

16 FREDERICK: Well so first, let's talk about  
17 people that buy it directly from you.

18 VARELA: I would need to look that up.

19 FREDERICK: How easy would that be to do?

20 VARELA: I mean, I'd have to get it  
21 inspected here. I don't have it here. So.

22 FREDERICK: Okay. But there's a code for  
23 for a unit that you've sold. Correct?

24 VARELA: Yes.

25 FREDERICK: And that would be in Salesforce.

1 Right?

2 VARELA: Yes.

3 FREDERICK: So how easy would it be for you  
4 to find that number?

5 VARELA: I can, I mean, I can get the  
6 number? It's just I don't have any way to do it now.

7 FREDERICK: Okay.

8 VARELA: And and for just for the record,  
9 we'd probably continue our objection. I think you've  
10 asked for that discovery, which we've objected to, but  
11 we can discuss that some other time if you'd like.

12 FREDERICK: I understand.

13 VARELA: Thank you.

14 FREDERICK: What what percentage of so once  
15 you have the study and people have insurance, do you  
16 forward the study information to a health care  
17 provider who will then prescribe the unit, or.

18 VARELA: We.

19 FREDERICK: How does that work?

20 VARELA: We give it to the driver if they  
21 want to go through their insurance, give them the  
22 steps so that they can take it to their health care  
23 provider to start that process.

24 FREDERICK: About what percentage of the  
25 people that you do studies for have their own

1 insurance?

2 VARELA: I I don't know.

3 FREDERICK: You have no idea? Are you the  
4 person responsible for, or does it come under your  
5 domain to buy the CPAP machines?

6 VARELA: Yes.

7 FREDERICK: Okay. And and where are are  
8 they warehoused?

9 VARELA: Some of them.

10 FREDERICK: Okay. So some are drop shipped?

11 VARELA: Yes.

12 FREDERICK: Okay. So where are they  
13 warehoused?

14 VARELA: Iowa.

15 FREDERICK: Iowa?

16 VARELA: Yeah.

17 FREDERICK: So how many do you keep  
18 warehoused?

19 VARELA: We don't. We use a 3PL.

20 FREDERICK: Three p l. I don't understand  
21 that.

22 VARELA: 3rd.

23 FREDERICK: Term.

24 VARELA: Party logistics company. They're  
25 one of the largest medical device suppliers, as a

1 third party. So they have a stock of them. When we  
2 sell one and put it into the system to go out, it  
3 comes out of that manufacturer's stock. We don't we  
4 don't actually have the devices as our own.

5 FREDERICK: So so when you sell a device,  
6 they are shipping the device out of their own  
7 inventory, and they bill you for.

8 VARELA: Yes. Yes.

9 FREDERICK: It? Do you do do they hold any  
10 on your behalf, before you order them and they take  
11 them out of the existing stock? So you just order  
12 them one off.

13 VARELA: No. Yes.

14 FREDERICK: Okay. And do you approve the,  
15 purchase orders for those?

16 VARELA: Yes. Well, it there's not really  
17 an approval process.

18 FREDERICK: So explain to me how that  
19 happens.

20 VARELA: Once the CPAP is sold. So if it's  
21 by our therapist, he just places the order. I don't  
22 have to approve the order. He he has access to.

23 FREDERICK: And then what.

24 VARELA: Move.

25 FREDERICK: About.

1 VARELA: Forward.

2 FREDERICK: What about payment? How does  
3 payment take place?

4 VARELA: Over the phone by credit card. I  
5 think we use Stripe within Salesforce.

6 FREDERICK: No. I'm talking about to the  
7 3rd party logistic.

8 VARELA: They invoice us.

9 FREDERICK: They send out a specific invoice  
10 for each unit And who approves those invoices?

11 VARELA: Right.

12 FREDERICK: Do you?

13 VARELA: Technically, would be me, but I our  
14 AP department just pays them.

15 FREDERICK: Okay.

16 VARELA: There's.

17 FREDERICK: Is.

18 VARELA: Not.

19 FREDERICK: That.

20 VARELA: An approval process.

21 FREDERICK: Is that a line item that you're  
22 responsible for?

23 VARELA: Yes.

24 FREDERICK: Okay. And what what line item  
25 on the general ledger is is that called?

1 VARELA: I would have.

2 FREDERICK: Do.

3 VARELA: To go back and look at an old  
4 budget. I don't.

5 FREDERICK: You.

6 VARELA: Know.

7 FREDERICK: Do you remember what the budget  
8 numbers are for CPAP machines or.

9 VARELA: No. I.

10 FREDERICK: What's.

11 VARELA: Don't.

12 FREDERICK: Your projected is?

13 VARELA: I don't.

14 FREDERICK: Well, you've got, what, three or  
15 four people that are selling the CPAP machines.  
16 Right?

17 VARELA: Correct? No. One one nouns.

18 FREDERICK: One now?

19 VARELA: And, again, here, are we still  
20 talking about the direct or to our business clients?

21 FREDERICK: So explain the difference to me  
22 as to how that works functionally.

23 VARELA: We have trucking companies we work  
24 with that we do their testing and treatment  
25 compliance.

1           FREDERICK: Okay. And then you're so  
2 somebody somebody is referred in for testing. There's  
3 a positive test, and then you send the who sends the  
4 the unit and to where?

5           VARELA: In that situation, we have  
6 partnered groups around the country that they do the  
7 testing and setups.

8           FREDERICK: Okay. And they they set it up  
9 and you don't did you it doesn't go through your  
10 company's GL at all with the exception of the setting  
11 up the testing, right, and the services that you run  
12 for the trucking companies. Correct?

13          VARELA: Yeah.

14          FREDERICK: Okay. So let's.

15          VARELA: Correct.

16          FREDERICK: Just talk let's just talk about  
17 the direct items like Mr. Ragland.

18          VARELA: Okay.

19          FREDERICK: So so at that point, someone in  
20 your office and who would that be is the one that,  
21 sells the the unit.

22          VARELA: Luke, that would have been for.

23          FREDERICK: Prashil. And is Prashil the  
24 only person that sells the units?

25          VARELA: Yes.

1           FREDERICK: Is and how is Prashil evaluated  
2 performance wise?

3           VARELA: Be more specific.

4           FREDERICK: Sure. Part of is Prashil, a man  
5 or a woman?

6           VARELA: Ma'am.

7           FREDERICK: Thank you. Is you do annual or  
8 periodic performance evaluations?

9           VARELA: Yes.

10          FREDERICK: What criteria are used to  
11 evaluate him?

12          VARELA: Objection for me. You can answer.  
13 Mostly from a service based and, performance in the  
14 sense of administrative work being done, calls being  
15 answered.

16          FREDERICK: Is selling units a part of his  
17 performance evaluation?

18          VARELA: No.

19          FREDERICK: So, would you so about how many  
20 units would Percalle, sell in a week?

21          VARELA: I don't have the number.

22          FREDERICK: You could would he be able to  
23 gather that information pretty quickly? Or if you ask  
24 them that question, do you feel he'd be able to  
25 answer?

1           VARELA: It varies week to week so much that  
2 that's not a at at.

3           FREDERICK: About how many per month do you  
4 sell?

5           VARELA: I don't have the specific number.  
6 I would say, potentially, 30.

7           FREDERICK: 30 per month. So about between  
8 300 a year or so or little more, little less?

9           VARELA: Little more, little less.

10          FREDERICK: Okay. Okay. And so and that's  
11 been since you've been working there?

12          VARELA: The number was probably lower the  
13 number was significantly lower when we first started.

14          FREDERICK: Right. Well, sure. Okay. And  
15 about how many years has it been the to the three to  
16 400 a year area.

17          VARELA: Right now, I think.

18          FREDERICK: Range?

19          VARELA: That's where we're at now. It was,  
20 again, less than that before.

21          FREDERICK: Okay. And so about what  
22 percentage of those people, pay cash versus the  
23 financing option?

24          VARELA: I'm not sure.

25          FREDERICK: You don't know? But that would

1 be easy to find out too, wouldn't it?

2 VARELA: We could figure it out. Yeah.

3 FREDERICK: Okay. And that would be  
4 something that you could figure out with very little  
5 effort. Right?

6 VARELA: I don't know if you would say a  
7 little effort, but I can figure it out.

8 FREDERICK: Well, I mean, within the  
9 Salesforce record, do you scan documents that come  
10 back electronically or retain those?

11 VARELA: Yes.

12 FREDERICK: Okay. So Mr. Ragland filled in  
13 a application. Right?

14 VARELA: Correct.

15 FREDERICK: So you would have a scanned copy  
16 of that. Correct?

17 VARELA: Correct.

18 FREDERICK: And those are coded in a  
19 particular way when they come in? It's an entry into  
20 Salesforce.

21 VARELA: Yeah.

22 FREDERICK: Okay. So it'd be very easy to  
23 do a search of the entire database of Salesforce to  
24 see how many times that particular code came up,  
25 wouldn't it?

1 VARELA: No. Not for a scanned document.

2 FREDERICK: But I asked you if they're once  
3 they come in that they're coded into Salesforce.

4 VARELA: Sorry. I I may have answered that  
5 incorrectly then. It comes in directly into  
6 Salesforce, but I I I don't know what the specific  
7 code would be to search for a document in that in that  
8 way.

9 FREDERICK: Who's the person most  
10 knowledgeable about the operation of Salesforce?

11 VARELA: Would be somebody on our IT team.

12 FREDERICK: What about within your team? Is  
13 there somebody that's most.

14 VARELA: Within.

15 FREDERICK: Me?

16 VARELA: My team, it's probably me.

17 FREDERICK: Probably you. Okay.

18 VARELA: That's why we have IT teams to.

19 FREDERICK: That's.

20 VARELA: Help.

21 FREDERICK: Okay.

22 VARELA: Us.

23 FREDERICK: That's.

24 VARELA: Figure.

25 FREDERICK: That's.

1           VARELA: All this out.

2           FREDERICK: All right. I just, you know, I  
3 just asked the questions. I don't know all the  
4 answers, but don't tell my son that. Do Do you have  
5 any children?

6           VARELA: Hello?

7           FREDERICK: No?

8           VARELA: Hello?

9           FREDERICK: Okay. So let's talk a little  
10 bit about the the financing option. Does everybody  
11 get approved for financing?

12           VARELA: Yes. But through our the payment  
13 plan that you're,

14           FREDERICK: Yeah.

15           VARELA: I.

16           FREDERICK: The.

17           VARELA: Believe,

18           FREDERICK: Payment plan.

19           VARELA: Referencing, yes, through us.

20           FREDERICK: Everybody gets approved?

21           VARELA: Correct.

22           FREDERICK: Okay. So what what does the  
23 application feed do?

24           VARELA: It pays for my team to do the  
25 administrative side of things, building that record,

1 setting up the payment plans, getting the document out  
2 to them, scanning it into the system.

3 FREDERICK: So there's really no  
4 underwriting. People are not nobody's ever turned  
5 down. Right?

6 VARELA: No.

7 FREDERICK: Okay. And then there's this fee  
8 for administration, which as you.

9 VARELA: Yeah.

10 FREDERICK: Call it what what is that?

11 VARELA: That's having an employee go  
12 through, make sure payments are made. If the payments  
13 aren't made, following up with that driver to get  
14 those taken care of and essentially just following  
15 through to make sure that everything's taken care of.

16 FREDERICK: So a cash buyer of the CPAP  
17 machine would not pay the administrative fee. Right?

18 VARELA: Yep.

19 FREDERICK: And the cash buyer would not be  
20 paying the application fee either, would they?

21 VARELA: No. We also wouldn't have to do  
22 the extra work.

23 FREDERICK: So in Mr. situation and we'll  
24 just go to to to plaintiff's exhibit three. Well, one  
25 second. It would show that up. So what how do you

1 determine the application fee?

2 VARELA: All right. As I just explained, it  
3 has to do with setting up the forms, getting them  
4 scanned, getting the payments, scheduled out.

5 FREDERICK: But but how.

6 VARELA: It's.

7 FREDERICK: Do you.

8 VARELA: Just.

9 FREDERICK: Determine.

10 VARELA: Add admin time.

11 FREDERICK: How do you determine the number  
12 of the application fee?

13 VARELA: We took a round roundabout  
14 guesstimate on how much time it would take us.

15 FREDERICK: So is that application fee the  
16 same for everybody.

17 VARELA: Yes.

18 FREDERICK: No matter what unit they buy,

19 VARELA: I believe.

20 FREDERICK: No matter how many payments it's  
21 made over?

22 VARELA: So. But believe so.

23 FREDERICK: Okay. Got it. And what about  
24 the administration fee? How does that work?

25 VARELA: Again, it's time to go back through

1 and have to check payments and follow-up.

2 FREDERICK: No. No. Is it a percentage of  
3 the purchase, or is it a flat fee?

4 VARELA: It's a fixed fixed price.

5 FREDERICK: Okay. Now let's talk about  
6 terms of the financing options. What what options are  
7 available to someone?

8 VARELA: There's just the one.

9 FREDERICK: Just three three monthly  
10 payments plus the down payment.

11 VARELA: Correct. So we we basically break  
12 the cost of the machine up. There's an, application  
13 fee and the administrative fee.

14 FREDERICK: The reason I asked that is let's  
15 go to exhibit plaintiff's exhibit two, which you'll  
16 see, which is a two page document. And at the very  
17 bottom, you'll see work steps 0124. And if we switch  
18 to the next page, which is 0125, I just saw six  
19 biweekly payments there as well, so I wasn't quite  
20 sure whether there were different.

21 VARELA: Believe we did that, but I don't  
22 think we actually had anybody who ever used that.

23 FREDERICK: Okay. That's the only reason.

24 VARELA: And.

25 FREDERICK: I was.

1 VARELA: I.

2 FREDERICK: Asking.

3 VARELA: I don't think it's something that  
4 we actually offered. I I we had the form, but I don't  
5 believe we offered it.

6 FREDERICK: Okay. But you regularly offer  
7 the the three month program or today, 30 days, 60  
8 days, 90 days out. Right?

9 VARELA: 30, 60. Yeah. Yeah. Correct.

10 FREDERICK: Thank you. Okay. So let's go  
11 to exhibit number three, And I'll represent to you, as  
12 you can see, that this is Mr. Ragland's contract. Do  
13 you see that?

14 VARELA: Yeah.

15 FREDERICK: And the bait stamps at the  
16 bottom is work steps zero five, and there's a second  
17 page to it, which is six. Okay? So as I understand  
18 this, you're given information. And is this the  
19 application? No. Or.

20 VARELA: Yeah. I believe.

21 FREDERICK: Yes?

22 VARELA: That's the application that they  
23 fill online.

24 FREDERICK: I don't. Okay. And this gives  
25 you everything you need to approve the the payment

1 plan. If somebody said, bankruptcy, yes, and not  
2 discharged, would you still go ahead with the plan?

3 VARELA: No.

4 FREDERICK: You would not.

5 VARELA: No.

6 FREDERICK: Would you charge the customer  
7 the \$46 application fee then?

8 VARELA: I don't believe we would at that  
9 point. No.

10 FREDERICK: You would not. Okay.

11 VARELA: We ask them these questions before  
12 we send that out.

13 FREDERICK: Okay. But if they.

14 VARELA: So.

15 FREDERICK: Made.

16 VARELA: They've.

17 FREDERICK: A mistake.

18 VARELA: Gotta they've gotta have a bank  
19 account, that we can use a debit card for, and they  
20 can't have had a bankruptcy.

21 FREDERICK: Okay. So they have to have a  
22 they would so so so they're going to apply with your  
23 entity down. They're going to apply with your entity  
24 on the phone, and you do that's basically the  
25 application that they're doing, but you're

1 prequalifying them on the phone. And if you can't, If  
2 they don't meet your criteria, which is no bankruptcy,  
3 and they have to have a debit card.

4 VARELA: Yes.

5 FREDERICK: Or a checking account number,  
6 routing number.

7 VARELA: We do debit card.

8 FREDERICK: Debit card only. Credit cards  
9 are no good.

10 VARELA: Yeah.

11 FREDERICK: So if they.

12 VARELA: Because they they can have a \$300  
13 credit card for one payment, and then, well, I proceed  
14 again.

15 FREDERICK: Sure. But if they don't meet  
16 those two credit criteria, they're not going to pay  
17 even though they've made an application to you,  
18 they're not going to be approved.

19 VARELA: Object to form.

20 VARELA: You.

21 FREDERICK: And.

22 VARELA: Can.

23 FREDERICK: They're.

24 FREDERICK: They're.

25 VARELA: Answer.

1           FREDERICK: I'm sorry. And they're not  
2 going to pay the fee. Right?

3           VARELA: Correct.

4           FREDERICK: Okay. So you give another  
5 option to people as well. Correct?

6           VARELA: But, I'm not sure what you're  
7 talking about.

8           FREDERICK: Well, I'm talking about United  
9 Credit.

10          VARELA: Yeah.

11          FREDERICK: Is that.

12          VARELA: Yeah.

13          FREDERICK: Another option?

14          VARELA: Yes.

15          FREDERICK: So explain how that works to me.

16          VARELA: United Medical Credit is a medical  
17 credit company that they fill out their application,  
18 and it's just a third party, credit medical credit  
19 company, kind of like CareCredit, but they usually  
20 work with people who have more challenged credit.

21          FREDERICK: Okay. So somebody calls United  
22 Credit, and we'll just sort of use Mr. Ragland's  
23 situation because that's the only one I have here.  
24 Let me just find it. They so the purchase price would  
25 be \$1400 for his unit. That would be if he paid cash.

1 Correct?

2 VARELA: I believe so. Yes.

3 FREDERICK: Do you want to do you want to  
4 why don't we show you plaintiff's exhibit one, which  
5 was previously marked in Mr. Ragland's deposition as  
6 defendant's exhibit 15. Have you seen that document  
7 before?

8 VARELA: I believe so.

9 FREDERICK: Okay. So it says in the middle  
10 there that the purchase price is \$1400. Do you see  
11 that?

12 VARELA: Yes.

13 FREDERICK: And we covered how it can be  
14 financed for 541 and 331 a month for three months.  
15 Correct?

16 VARELA: Correct.

17 FREDERICK: And it says or we can finance  
18 through United Medical for 1534. So explain how that  
19 works to me, please.

20 VARELA: When I saw this, I actually  
21 counseled Prashile on this and told him we it needed  
22 to be 1400 if they went through United Medical Credit.  
23 It shouldn't have been the 1534. United Medical  
24 Credit takes something like 10% or somewhere around  
25 there out of what we get paid.

1           FREDERICK: So are you saying that if you  
2 were to finance it through if if Mr. Ragland would  
3 have, financed it through United Medical Credit or  
4 United Medical, Work steps would have received 10%  
5 less than.

6           VARELA: Yes.

7           FREDERICK: 1500.

8           VARELA: Yes.

9           FREDERICK: Okay. So you're suggesting that  
10 it's a lot like it works with CareCredit.

11          VARELA: It's similar to a CareCredit  
12 program where, essentially, they they pay it up front,  
13 and the financed amount is through that 3rd party.

14          FREDERICK: Right. In essence, it's sort  
15 of, like, factoring some of it or you're selling it at  
16 a discount.

17          VARELA: Yes. Yes.

18          FREDERICK: Correct? Now would you sell the  
19 same unit at 1400?

20          VARELA: Yes. Yes.

21          FREDERICK: Is the unit that you sell to  
22 other people let me let me ask you a different  
23 question. How many different units do you sell?

24          VARELA: There are primarily two CPAP  
25 manufacturers right now that are industry standard.

1 one is made by React Health. The other is made by  
2 ResMed. Philips Respironics used to be the number  
3 two, but they had a worldwide recall and have gotten  
4 out of the respiratory business.

5 FREDERICK: Okay. And do you know which  
6 unit Mr. Raglandbog?

7 VARELA: I believe he got the ResMed.

8 FREDERICK: RASMET?

9 VARELA: ResMed, r e s m e d.

10 FREDERICK: RASMET. Okay. Thank you. And  
11 did you only sell one model of that?

12 VARELA: Whatever they have available. Once  
13 once a new model comes out, they discontinue the  
14 previous model, so he either has a ten or or 11. I  
15 don't I don't know which one.

16 FREDERICK: So you sold the same unit when  
17 you're selling that unit. And then when the inventory  
18 of that unit runs out, you would then take the next  
19 upgraded model?

20 VARELA: Correct.

21 FREDERICK: Okay.

22 VARELA: The main reason for this is  
23 compliance for trucking clients.

24 FREDERICK: Got it. So how much and the  
25 device, if it was paid for by cash, would have been

1 \$1400 with Mr. Ragland.

2 VARELA: That's correct,

3 FREDERICK: Is that is that the price of the  
4 is it currently the 11 that's being used?

5 VARELA: Yes.

6 FREDERICK: Is that the price of the 11 as  
7 well?

8 VARELA: No. We've actually had to lower  
9 our price a bit to stay competitive with our  
10 competition.

11 FREDERICK: So how much is it now?

12 VARELA: 1200.

13 FREDERICK: So was the market at 1200 and  
14 you were at 1400 back when Mr. Ragland bought his unit  
15 in 2022?

16 VARELA: We were working through a shortage  
17 at the time because of the Phillips issue, and so  
18 everybody had their prices a bit higher.

19 FREDERICK: Okay. So you were competitive  
20 at that point?

21 VARELA: Yes.

22 FREDERICK: And now to remain competitive,  
23 you had to drop the price a bit?

24 VARELA: That is correct.

25 FREDERICK: I'm hopeful your margins got

1 better though, that they dropped the price the  
2 suppliers dropped the price too.

3 VARELA: I can't comment on that.

4 FREDERICK: I'm hopeful. Whatever.

5 VARELA: I appreciate it, though.

6 FREDERICK: I mean, really. You know? I  
7 mean, profit is not a dirty word. So okay. So we  
8 would be able to request invoices for, what was sold  
9 to CareCredit when those were done. Correct? Or what  
10 they what they would provide to you for proceeds as  
11 well? You would have copies of those. Not  
12 CareCredit. I'm sorry. I didn't mean CareCredit. I  
13 meant United Credit.

14 VARELA: Can I give him I I yeah? I believe  
15 so.

16 FREDERICK: Now okay. Can we take about a  
17 five to ten minute break while I, a, go to the  
18 bathroom, and, b, just organize myself a little more?

19 VARELA: Yeah. That sounds great.

20 FREDERICK: Okay.

21 VARELA: We'll.

22 FREDERICK: Thank.

23 REPORTER: Okay.

24 VARELA: Keep our audio on. So you guys  
25 just hop when you're ready, but we'll we'll, turn off

1 our video in the meantime.

2 FREDERICK: Okay. Okeydoke.

3 REPORTER: Okay.

4 FREDERICK: Thanks.

5 REPORTER: I'll go off the record. It is  
6 10:50 AM EST. We are back on the record. It is 11:02  
7 AM EST.

8 FREDERICK: Okay. So let's talk a little  
9 bit about the financing program again.

10 VARELA: Okay.

11 FREDERICK: Are you still running the  
12 financing program the same way?

13 VARELA: No. Check the form that you can  
14 answer.

15 FREDERICK: How is it different?

16 VARELA: We've gotten rid of the application  
17 and admin fee.

18 FREDERICK: So you're just doing a 90 day  
19 same as cash program.

20 VARELA: Essentially.

21 FREDERICK: With no additional fees.

22 VARELA: Yes.

23 FREDERICK: When did that change?

24 VARELA: Same objection. You can answer.  
25 Okay. So when all of this came about, we stopped

1 doing any kind of, payment plans and then determined  
2 that people were having a hard time getting shoes, so  
3 we started probably about six or eight months ago.

4 FREDERICK: So April, May ish.

5 VARELA: Somewhere around there. Yeah.

6 FREDERICK: Okay. Doing the program and  
7 charging no fees over the cost of the unit or the  
8 retail price of the unit is perfectly fine. I just  
9 want you to know that.

10 VARELA: Yeah.

11 FREDERICK: Now out of the do do your  
12 competitors offer a similar program?

13 VARELA: I'm not sure.

14 FREDERICK: Well, did you know at some  
15 point?

16 VARELA: Our our competitors also take  
17 insurance, and they work with other traditional health  
18 care facilities.

19 FREDERICK: Okay.

20 VARELA: We're we're tracking specific and  
21 direct pay, so different model.

22 FREDERICK: So different model. Okay. Now  
23 about what percentage of your business comes from  
24 Ohio?

25 VARELA: Object to form as you can answer

1 your I honestly don't know, but I.

2 FREDERICK: Slim.

3 VARELA: Do know that it's slim.

4 FREDERICK: Based upon what what do you  
5 determine that from?

6 VARELA: I we don't get a ton of business  
7 from Ohio for testing.

8 FREDERICK: Okay. I mean, there's there  
9 there are lot of trucking companies, even good sized  
10 trucking companies that are in Ohio. I mean, JB Hunt  
11 is not in Ohio. But, you know, you don't you don't  
12 have a sense of that.

13 VARELA: I don't.

14 FREDERICK: Do you do you believe that, of  
15 course, we can look this up with data, but for the  
16 people that use the financing option, were there more  
17 than 35 in Ohio?

18 VARELA: Nope. Take the form that.

19 FREDERICK: And,

20 VARELA: She.

21 FREDERICK: Well,

22 VARELA: Can answer.

23 FREDERICK: Let me let me finish the the  
24 timeline. From, let's say, the six years before, Mr.  
25 Ragland filed his complaint, which was Which would

1 have been December 21, 23. So going back to December  
2 21, 2023. I mean, 17th.

3 VARELA: Object to the form. You can answer  
4 if you don't.

5 FREDERICK: Do you want me to repeat.

6 VARELA: Don't.

7 FREDERICK: It?

8 VARELA: Believe I don't believe we had  
9 direct, offerings before 2019, 2020. And, no, I I  
10 don't believe there would have been 35 people that  
11 used it from Ohio.

12 FREDERICK: Okay. As it relates to the  
13 company work steps, what other divisions are there?

14 VARELA: Functional testing, which is  
15 figuring out what a worker's physical ability is. A  
16 majority of that business comes from oil and gas and  
17 industrial type companies. And then we have our  
18 occupational health group, which acts as a third party  
19 administered TPA.

20 FREDERICK: 22.

21 VARELA: Doing for physicals, drug testing,  
22 respirator fit, that type of work.

23 FREDERICK: And as a percentage of business  
24 from the the whole company about what percentage of  
25 the business does the CPAP, program make out?

1           VARELA: Very, very small. I don't I don't  
2 know what it is, but it's probably less than 10% or a  
3 a small group within that.

4           FREDERICK: And then what is the total  
5 revenue that your division creates during the course  
6 of a year?

7           VARELA: Object. Okay. Answer if you know.  
8 Can you be more specific as far as and I I say that  
9 because you said CPAP. Are you talking.

10          FREDERICK: Sure.

11          VARELA: About the sleep business? Are you  
12 talking about our direct business, such as Mr. Reglan  
13 or b to b business?

14          FREDERICK: Fair fair question. So the  
15 sleep division generally.

16          VARELA: I would say one think, and I I I'm  
17 I'm guessing it's close. Probably 1.6 to 1,700,000  
18 annually. We're a relatively small group.

19          FREDERICK: Sure. No. It's fine. And so  
20 you're suggesting that the company as a whole's  
21 revenue is around ten what? 5th 14 to 16,000,000?

22          VARELA: I I, honestly, I don't know. I  
23 just know that we're.

24          FREDERICK: You're small, and that's what  
25 you bring in.

1 VARELA: Yes.

2 FREDERICK: Okay. And I'm and I'm not  
3 looking for precise numbers. Right? So I just want  
4 to get a sense of that. And you're familiar with the  
5 fact that that people that paid cash did not pay these  
6 additional fees. Correct?

7 VARELA: Correct.

8 FREDERICK: Okay. What is Congo forms?

9 VARELA: An application through Salesforce.

10 FREDERICK: What what.

11 VARELA: To get.

12 FREDERICK: Does.

13 VARELA: Things signed,

14 FREDERICK: It what does it do?

15 VARELA: Allows for forms to be signed  
16 filled out via web web form.

17 FREDERICK: Like, electronically?

18 VARELA: Yeah.

19 FREDERICK: Okay. That's a yes?

20 VARELA: Yes.

21 FREDERICK: Thank you. You just were very  
22 soft, and I didn't think she got that. And what is  
23 Pete Gallagher's function?

24 VARELA: He is the former CEO.

25 FREDERICK: Okay.

1           VARELA: Or I don't I I don't know if he's  
2 president or CEO. Larry Feeler and him were CEO and  
3 president, so one of the two.

4           FREDERICK: So his signature on the contract  
5 was electronic that he signed all of the documents.  
6 Right?

7           VARELA: It was yeah. It was set up that  
8 way.

9           FREDERICK: And I asked you before or in in  
10 interrogatory number 16, I asked for the number of  
11 sales that work steps made of CPAP equipment to  
12 individuals that paid out of pocket. Do you know the  
13 answer to that question?

14          VARELA: Next to the form, you can answer  
15 for that. Okay. I'm not I'm not positive.

16          FREDERICK: Well, do you have a rough idea?

17          VARELA: I don't a majority of them I would  
18 I would say majority of our pay drivers were direct  
19 pay in full.

20          FREDERICK: And and how many so how many  
21 sales would that equate to per year or going back to,  
22 December 21, 2017? Let's just say the beginning of  
23 2018.

24          VARELA: I don't know what it was back then.  
25 We can go back to the answer I gave you before,

1 roughly 30, give or take a few, a month.

2 FREDERICK: Okay.

3 VARELA: The further back you go, the less  
4 it was.

5 FREDERICK: Okay. So when did it start  
6 ramping up?

7 VARELA: I mean, it's been progressively  
8 ramping up since the beginning. It's kind of been a  
9 progressive deal.

10 FREDERICK: Right. Because you came in back  
11 in January of 19. Correct?

12 VARELA: I I believe that's when we started  
13 the direct.

14 FREDERICK: I'm just I'm just looking at  
15 your LinkedIn page.

16 VARELA: Okay.

17 FREDERICK: That says vice president sleep  
18 medicine work steps starting in January 2019. And  
19 before that, you were technical director at Eureka  
20 Health from August 17 to January 19.

21 VARELA: Okay. That's.

22 FREDERICK: So.

23 VARELA: What it says. It's probably  
24 relatively accurate. But, again,

25 FREDERICK: That's not the best that's not.

1 VARELA: Your.

2 FREDERICK: The.

3 VARELA: Your.

4 FREDERICK: Best.

5 VARELA: Eureka.

6 FREDERICK: Answer.

7 VARELA: Eureka was acquired by Worksteps,  
8 so it's.

9 FREDERICK: A.

10 VARELA: Kind of just been.

11 FREDERICK: Little murky.

12 VARELA: Yeah.

13 FREDERICK: So so somewhere in January 19 is  
14 when you geared up the this per the direct sale or or.

15 VARELA: If I remember correctly, it was at  
16 the end of 2019.

17 FREDERICK: Okay. Got it. Okay. Now as a  
18 from a population standpoint, Ohio has approximately  
19 5% of the nation's population. So a normal  
20 distribution of sales not accounting for any  
21 deviations in the number of truckers that live in  
22 various states would sort of expect that one out of  
23 every five sales, give or take, let's say 10%, would  
24 be from Ohio. Does that sound.

25 VARELA: Would I wouldn't say that.

1           FREDERICK: Well, which part do you disagree  
2 with?

3           VARELA: You're talking about the general  
4 public, but, realistically, we're talking about  
5 trucking. We're only we're a 100% trucking  
6 transportation, so those numbers change dramatically.

7           FREDERICK: Well, I I I get that part. But  
8 Ohio.

9           VARELA: And there's not opposed to what you  
10 said earlier, there's really not that much you know?  
11 You may see a lot of trucks there, but it's just not a  
12 heavy trucking state.

13           FREDERICK: So I just looked at something  
14 that says that Ohio has about how many do you know how  
15 many truck drivers there are in the country?

16           VARELA: No.

17           FREDERICK: Says Ohio has about 71,000 truck  
18 drivers,

19           VARELA: Okay.

20           FREDERICK: And Says Ohio is number this is  
21 from the FCC, website that it goes Texas, California,  
22 Pennsylvania, Florida, and Ohio is the largest number  
23 of trucking truck drivers in the country. So.

24           VARELA: Okay. How many Concentrix are  
25 there?

1           FREDERICK: Pardon?

2           VARELA: How many Concentrix are there?

3           FREDERICK: You know, you know, I don't know  
4 that answer, don't you?

5           VARELA: I I I I don't know the answer  
6 either. I,

7           FREDERICK: Okay. Because you get most of  
8 your business through Concentra.

9           VARELA: That's yeah. We've established  
10 that.

11          FREDERICK: Right. Let me look.

12          VARELA: What I can tell you is that Ohio is  
13 not one of our bigger states for business.

14          FREDERICK: Okay. Let's go off the record  
15 for a moment. I'll have a number for you.

16          REPORTER: Yep. I'll go off the record.  
17 It's 11:22 AM EST. We are back on the record. It is  
18 11:22 AM EST.

19          FREDERICK: I got 30 Concentra locations in  
20 Ohio.

21          VARELA: Yep.

22          FREDERICK: So and and, of course, a couple  
23 in Northern Cincinnati and Erie right next to Ohio,  
24 which probably covers both, but figure around 30.

25          VARELA: Right.

1           FREDERICK: Do you know how many there are  
2 nationwide?

3           VARELA: I know there's 100. The number 800  
4 or something like that is coming up, but I I don't  
5 know.

6           FREDERICK: This this says I'm going to  
7 publish this for you. Here's the screen that I found  
8 that shows 237 visible, but we counted the number in  
9 Ohio, And it says.

10          VARELA: Okay.

11          FREDERICK: That 550 results, which I'm  
12 assuming I'm going to make this smaller. It only  
13 looks like there's 550 in the country, but only 237  
14 within this map. But, obviously, I imagine there's  
15 some in Florida, etcetera, so that's what I've.

16          VARELA: Yeah.

17          FREDERICK: Got. But they probably figure  
18 people aren't going to drive from Ohio to Florida to  
19 go to a Concentra office. So if it is if it is 30,  
20 that seems pretty consistent with around the 5% mark.  
21 That's that very.

22          VARELA: Okay.

23          FREDERICK: Math there. Okay. Now You it  
24 would it be accurate to say that the application fee  
25 and the administrative fee were paid, directly by, Mr.

1 Ragland.

2 VARELA: He Peyton. Correct?

3 FREDERICK: Yes. Yeah.

4 VARELA: So, yeah, he was so then yes.

5 FREDERICK: And that it was imposed directly  
6 on Mr. Ragland.

7 VARELA: Object to form you can answer.  
8 Yes.

9 FREDERICK: And it was, those fees were a  
10 charge that were incident to the extension of credit  
11 with the financing program. Correct?

12 VARELA: Object to the form you can answer.  
13 They were application and administrative fees, fees.

14 FREDERICK: Right.

15 VARELA: That we used because of the extra  
16 markup to break up the payment of the CPAP issue.

17 FREDERICK: Right. But but the question  
18 that I asked was, were they incident to or a condition  
19 of the extension of credit by work steps to Mr.  
20 Ragland?

21 VARELA: Same objection. He's an answer. I  
22 yes. But I don't believe that it was credit.

23 FREDERICK: Okay.

24 VARELA: It was a payment.

25 FREDERICK: Well.

1 VARELA: Plan.

2 FREDERICK: Well, I understand. You realize  
3 that there are legal definitions as to what is credit  
4 and not credit. Correct?

5 VARELA: Same objection. If that's what  
6 you're telling me, then yes.

7 FREDERICK: Okay. And you realize that you  
8 cannot charge more to a cash buyer I'm sorry, to a  
9 credit buyer than you do a cash buyer, don't you?

10 VARELA: Object to form. Not sure. Again,  
11 we had admin admin fees and the application fee in.

12 FREDERICK: Right.

13 VARELA: Those report.

14 FREDERICK: And those were only applied to  
15 people that bought the CPAP machines through your  
16 financing program. Correct?

17 VARELA: Through payment plan. Yes.

18 FREDERICK: Right. And and those fees would  
19 not have applied to a cash buyer. Correct?

20 VARELA: Correct.

21 FREDERICK: Okay. And you did not single  
22 Mr. Ragland out, but anybody that used the financing  
23 program paid these fees. Correct?

24 VARELA: Correct.

25 FREDERICK: And in fact and we're just going

1 to pull up and show plaintiff's exhibit 13. Which is  
2 the Salesforce module creating a lead with financing.  
3 Correct?

4 VARELA: Yes.

5 FREDERICK: See that? And this spans from  
6 work steps 0087. Can you see that at the bottom, or  
7 do you want us to make that bigger?

8 VARELA: I see it. You're good.

9 FREDERICK: You're good? And that spans to  
10 work step 0123, which is 37 pages. Do you see that at  
11 the at the right hand side?

12 VARELA: Yes.

13 FREDERICK: And that covers the entire  
14 module for creating a lead with financing.

15 VARELA: Please.

16 FREDERICK: And and there's actually so  
17 there's actually a separate procedure to creating a  
18 lead with financing as then there is for a lead for  
19 cash. Correct?

20 VARELA: Correct.

21 FREDERICK: And you do understand what the  
22 term financing means, don't you?

23 VARELA: Yes.

24 FREDERICK: Okay.

25 VARELA: I'll know my objection, but he can

1 answer.

2 FREDERICK: What what does the term  
3 financing mean to you?

4 VARELA: Object to form you, and answer.  
5 Breaking up payments at basically a payment plan.

6 FREDERICK: And is your understanding the  
7 same as the understanding of, work steps?  
8 Understanding.

9 VARELA: Object to the form. I believe I I  
10 don't know.

11 FREDERICK: Well, is there anybody above you  
12 at in the medical, the sleep division at work steps?

13 VARELA: Not in the select division. No.

14 FREDERICK: Okay. But there are people in  
15 work steps in general.

16 VARELA: Yes.

17 FREDERICK: Now who is your who do you  
18 report directly to?

19 VARELA: Our chief back officer. Ben.

20 FREDERICK: To your chief medical.

21 VARELA: Hoffman.

22 FREDERICK: Officer? And who is that?

23 VARELA: Doctor Ben Hoffman.

24 FREDERICK: Hoffman, h o f.

25 VARELA: But.

1           FREDERICK: F.

2           VARELA: In the in what in the time frame  
3 that this was happening, that was Pete Gellher.

4           FREDERICK: Pete.

5           VARELA: Yes.

6           FREDERICK: Geller,

7           VARELA: It's Gellher. Gallahe.

8           FREDERICK: G e l g a l.

9           VARELA: R.

10          FREDERICK: Okay. A doctor or no doctor?  
11 And what was his role then?

12          VARELA: Yeah. That like I said, I don't  
13 know if he was president or CEO or it was.

14          FREDERICK: Okay. He was the one that  
15 signed the application. And when did he leave?

16          VARELA: Yes. Believe within the last year.

17          FREDERICK: Okay. Okay. And I want to  
18 clarify. Its work steps policy to offer individuals  
19 who pay out of pocket the option of paying for the  
20 CPAP machine in cash or financing their purchase of  
21 CPAP equipment at the time period when Mr. Ragland  
22 bought his machine.

23          VARELA: Yes. But the financing option was  
24 secondary. Wait.

25          FREDERICK: Correct. Somebody because you

1 would typically say, here's what the price is, and  
2 we'd need, what, payment before we ship it out. And  
3 they might say, I don't know if I can do that, and you  
4 would offer either United Credit or the financing  
5 option. Correct?

6 VARELA: Yes.

7 FREDERICK: Okay. Give me well okay. There  
8 was a recall on the ResMedico recall related to  
9 magnetic interference. Are you familiar with that?

10 VARELA: Yes.

11 FREDERICK: Would that affect Mr. Ragland's  
12 machine?

13 VARELA: No.

14 FREDERICK: Why why not?

15 VARELA: Because I I'm not positive, but I  
16 don't believe he was on a full face mask. And does he  
17 have a, implanted medical device?

18 FREDERICK: So I don't know, but I would  
19 assume not. But but I'm not I I'm, you know, I I.

20 VARELA: If.

21 FREDERICK: Am.

22 VARELA: If he did if he did have an  
23 implanted medical device, he probably wouldn't be  
24 driving because it would disqualify him from from  
25 that. So the the recall from both Philips and ResMed

1 was because that magnetic device was if I and you're  
2 going to have to read ResMed's release on it, but my  
3 understanding is ResMed did it more out of caution  
4 versus actual issues. But when you have a magnet  
5 that's attached to something on the head, and if it  
6 falls down, it can interfere with, say, like a  
7 pacemaker or defibrillator.

8 FREDERICK: Okay. So it could be like a  
9 cochlear.

10 VARELA: It it it.

11 FREDERICK: Machine.

12 VARELA: Was from it was from a mask. It  
13 wasn't from the machine itself.

14 FREDERICK: No. No. I was thinking, like,  
15 cochlear implant or or.

16 VARELA: Yeah.

17 FREDERICK: Or a pacemaker or defibrillator.

18 VARELA: Yeah.

19 FREDERICK: Okay. Okay. Give me two  
20 minutes. Make sure I don't have anything else, and  
21 I'll be right back.

22 REPORTER: I'll.

23 VARELA: Sounds good.

24 FREDERICK: We'll go off the record.

25 REPORTER: Go off the record. It is 11:36

1 AM EST. We are back on the record. It is 11:40 AM  
2 EST.

3 FREDERICK: Okay. Got a few questions about  
4 the device. You said.

5 VARELA: Okay.

6 FREDERICK: The device that you guys were  
7 using has been approved by the FDA for testing.

8 VARELA: Yes.

9 FREDERICK: Are are they are there.

10 VARELA: I.

11 FREDERICK: Studies out there about its,  
12 efficacy?

13 VARELA: Believe so. Yes.

14 FREDERICK: Do you know?

15 VARELA: All available online.

16 FREDERICK: Okay. And is that widely  
17 considered to be an accurate test or as accurate as  
18 you would get in a hospital setting?

19 VARELA: Yes. In in the home setting, it's  
20 probably one of the more accurate tests because it  
21 actually gives us sleep, wake, and sleep staging, and  
22 only counts respiratory events in sleep versus the  
23 traditional at home test.

24 FREDERICK: And do you put a mask on or wear  
25 anything, or is it all how do you apply the test to

1 yourself? Or.

2 VARELA: It's a watch that they wear in the  
3 wrist, a probe on the finger, and one wire that tapes  
4 to the chest. As we discussed earlier, I can't get  
5 into specifics on how it does what it does, but that  
6 available is that that information is available  
7 online.

8 FREDERICK: Okay. Okay. Are you aware that  
9 the when you apply the, the administrative fee and the  
10 application fee as finance charges that the calculated  
11 rate exceeds 25% annually?

12 VARELA: Jack's the form that you can  
13 answer. What wasn't aware because it was a fee that  
14 we were using for administrative, and we don't do  
15 annual percentage rate.

16 FREDERICK: I understand. But are you aware  
17 that that when you calculate that out according to the  
18 requirements as to how you calculate, data under the  
19 Truth in Lending Act that that rate, exceeds 25%.

20 VARELA: If that's what you're telling me is  
21 true, then I'll take your word for it.

22 FREDERICK: Where where is that? What? The  
23 leap year calculation. So I'm going to pull up  
24 exhibit 35. 1st page. Let me And I'll represent to  
25 you that this is a printout utilizing the National

1 Consumer Law Center's interest rate calculation, and  
2 this is applying for Ragland using all the fees as  
3 finance charges, setting it as the increment for the  
4 first payment as zero with four monthly payments of  
5 I'm sorry. One payment, the initial payment at \$541,  
6 and then three additional payments at \$331. Do you  
7 see that?

8 VARELA: Yes.

9 FREDERICK: And you see that the total of  
10 payments is \$534. \$1534. I'm sorry. You see that?

11 VARELA: Yeah. I can see the screen.

12 FREDERICK: And and that's consistent with  
13 the numbers on plaintiff's exhibit three. Do you  
14 recall that? Or you need to see it?

15 VARELA: Yes. Yeah.

16 FREDERICK: Okay. And using that  
17 calculator, it shows that the annual percentage rate  
18 is 49 point 3588. We're rounded to two decimal  
19 points, 49.36. Do you see that?

20 VARELA: Yes.

21 FREDERICK: Do you have any reason to  
22 disagree with the way that the calculations were made?

23 VARELA: Yeah. If you're telling me that's  
24 how how it's supposed to be done, that's.

25 FREDERICK: Okay.

1           VARELA: Can't forget.

2           FREDERICK: And are you aware that under  
3 Ohio law, the usury rate is 8% unless you meet any  
4 particular exceptions to the, usury limit?

5           VARELA: Object to the form. Be an answer.  
6 If that's what you're telling me, then then that's why  
7 we're here.

8           FREDERICK: Okay.

9           VARELA: I guess that's true.

10          FREDERICK: Do you need to see the statute,  
11 or do you trust me?

12          VARELA: I'll take your word for it.

13          FREDERICK: Okay. And are there any  
14 specific exemptions that, you feel WorkSteps meets  
15 under Ohio law?

16          VARELA: Check the phones. You can answer.  
17 I don't I'm not permit completely permit the clock.

18          FREDERICK: So you don't know any  
19 personally.

20          VARELA: No.

21          FREDERICK: And it'll be okay if your lawyer  
22 has searched them if he finds them. I'm not  
23 suggesting that that I'm just asking about your  
24 personal awareness. Go ahead and answer.

25          VARELA: Okay. Right. Yeah.

1           FREDERICK: Okay. And those exceptions are  
2 in Ohio revised code section 1343.01, which, you know,  
3 if you don't have any awareness of that, then I won't  
4 go through it. I don't believe I have any further  
5 questions at this time. Do you want to instruct about  
6 service or, I mean, about reading signature?

7           VARELA: Ron, I'm I'm going to have maybe  
8 ten minutes of questions. Would you give us maybe two  
9 minutes to for me to get it organized?

10          FREDERICK: Sure.

11          VARELA: I'll send you all the documents  
12 I'll be using, but I don't think I'll be very lengthy.  
13 Just give us a moment.

14          FREDERICK: Okay.

15          VARELA: Sure.

16          FREDERICK: And then I, of course,

17          REPORTER: Okay.

18          FREDERICK: Might have a few rebuttals to  
19 yours, which.

20          VARELA: Sure.

21          REPORTER: Okay. I'll go off the record.  
22 It is 11:49 AM EST. We are back on the record. It is  
23 11:58 AM EST.

24          VARELA: Thank you. Mr. Varela, I'm going  
25 to ask you, hopefully, not too many questions, but I'm

1 going to ask you a few questions about work steps  
2 generally and then a few questions about Mr.  
3 Ragland's, interactions with Worksteps specifically.  
4 Okay. When Worksteps began the sleep slash CPAP line  
5 of business, did it, intend to target a certain market  
6 or customer type? Yes. It's a 100% trucking  
7 specific. And are these individuals who have been,  
8 told that they need to obtain treatment for sleep  
9 apnea in order to maintain their Department of  
10 Transportation medical, examination card? They've  
11 been screened positive for needing to be evaluated to  
12 have sleep apnea or to see if they have sleep apnea  
13 and therefore would need to use, CPAP device for,  
14 their CDL Okay. Compliance. I appreciate that  
15 distinction. There are some some percentage of of the  
16 folks who come to you are required as a condition of  
17 maintaining their Department of Transportation card to  
18 treat for sleep apnea using a CPAP machine? Yes. K.  
19 Does WorkSteps accept health insurance as payment for  
20 CPAP machine? No. Is WorkSteps registered as a  
21 provider with any health insurance companies? Yeah.  
22 Is WorkSteps registered as a durable medical equipment  
23 provider with Medicare or Medicaid? Yeah. Does  
24 WorkSteps provide any actual treatment of apnea? We  
25 provide the CPAP device, which is a treatment for

1 sleep apnea. Are individuals typically treating with  
2 other professionals in their personal lives, if you  
3 know? I don't know. Okay. Have you ever spoken to  
4 Mr. Ragland, about anything? I don't believe I have.  
5 Do you have any understanding of whether Mr. Ragland  
6 was treating with a health care provider for his sleep  
7 apnea? I do not know. Do you have any understanding  
8 of whether Mr. Ragland was told by a health care  
9 provider that at some point he no longer had sleep  
10 apnea? I do not know. Do you know whether he was  
11 told by a health care provider that he was able to  
12 stop using the CPAP machine? I do not know. Does  
13 WorkSteps advertise to the general public? No. What  
14 happens if a driver does not make a payment to,  
15 WorkSteps? We will call and see if we can try to get  
16 a payment from them. But in the event they don't pay,  
17 we essentially just write it off. So does work steps,  
18 actually submit anyone to a collection process? No.  
19 Does WorkSteps ever charge, interest on late payments?  
20 We had it written in to have, I I think it's on that  
21 document, that they signed if they missed a payment,  
22 but we I can't remember any time having actually gone  
23 through and charged somebody for it. Okay. Let me  
24 turn now to Mr. Ragland specifically. And, Ron, did  
25 you did you actually receive the email that I sent a

1 few minutes ago?

2 FREDERICK: Oh, I have not looked. Give.

3 VARELA: That's.

4 FREDERICK: Me.

5 VARELA: Okay.

6 FREDERICK: A.

7 VARELA: It it's just the copies of the  
8 documents that I'm going to ask John to take a look  
9 at,

10 FREDERICK: Right.

11 VARELA: And.

12 FREDERICK: I.

13 VARELA: I can.

14 FREDERICK: Have.

15 VARELA: Share with you the Bates.

16 FREDERICK: I have.

17 VARELA: Labels.

18 FREDERICK: It.

19 VARELA: Great.

20 FREDERICK: I.

21 VARELA: The.

22 FREDERICK: Have.

23 VARELA: First.

24 FREDERICK: It.

25 VARELA: Is John, I'll pass this to you, but

1 let me make sure I've got the Bates numbers. It's  
2 work steps 42 through 47.

3 FREDERICK: Are these the one or did you  
4 already introduce this before?

5 VARELA: I think this was introduced during  
6 Mr. Ragland's deposition, but then no. This was  
7 produced in discovery. So, no, I haven't introduced  
8 any anything today, but.

9 FREDERICK: No. No. I was just.

10 VARELA: Plan to.

11 FREDERICK: Did it before my request would  
12 be to let me know. I wasn't there, so that won't make  
13 sense to me. But did you use the same exhibit number  
14 so as not to confuse everything?

15 VARELA: The same exhibit number as from.

16 FREDERICK: I.

17 VARELA: Mr. Ragland's deposition?

18 FREDERICK: Yeah. If you introduced it in  
19 Mr. Riegland's deposition.

20 VARELA: I didn't take his deposition, but I  
21 think this exhibit was introduced. I just don't know  
22 what specific number,

23 FREDERICK: Okay. You follow.

24 VARELA: Unfortunately.

25 FREDERICK: What I'm saying. I just I get

1 confused.

2 VARELA: Yeah. I I do, and I'm sorry. I  
3 don't I don't know, but this will be our exhibit one,  
4 I guess, for purposes of today.

5 REPORTER: Okay.

6 FREDERICK: Okay.

7 REPORTER: I'll mark it as such.

8 VARELA: Thank you. Mr. Varela, could you  
9 identify this document? That's the, medical  
10 examination report form, the DOT physical. And this  
11 was is was this something submitted to work steps from  
12 Mr. Ragland? Yeah. I believe this is what he sent  
13 us. And what was the date, on his examination if  
14 you're able to tell? We might be able to point you to  
15 it to make it faster if it's helpful.

16 FREDERICK: Well, it says September.

17 VARELA: Certificate.

18 FREDERICK: Ten,

19 VARELA: Sign.

20 FREDERICK: 2022.

21 VARELA: Six ten 22? Yes. Great. And let  
22 me ask you to take a look at a couple of specific  
23 items for you. So if you turn with me to page 45 or  
24 accepts 45 as it's like there on the bottom. You see  
25 there's a a list of questions about conditions,

1 etcetera. Was was Mr. Aglin asked about sleep  
2 disorders? Should be in here. Sleep disorder, pause.  
3 Yes. Humor? No. Okay.

4 FREDERICK: What are you looking at? Where  
5 specifically are you looking?

6 VARELA: On page 45, question 25, and it  
7 looks like this document actually cuts off the top.  
8 But That was 1026. Have you had a sleep test? Yeah.

9 FREDERICK: Oh, okay. Got it.

10 VARELA: So he's indicating there that he  
11 has not at least been diagnosed with apnea at any  
12 point prior to his examination.

13 FREDERICK: Okay.

14 VARELA: I'm asking John. I apologize. Oh,  
15 yeah. No. He he indicated that not. Yes. Then,  
16 John, on page 46, there's an entry under, the heading  
17 physical examination. Could you read that? Under I'm  
18 sorry. What? Under physical examination, it's about  
19 three quarters of the way down the page. Positive OSA  
20 screen. Okay. And then on the next page, work steps  
21 47, there's a box that says monitoring required due to  
22 and there's an entry there. Could you read that  
23 entry, please? Awesome. Scratch. 47. Oh, date slip  
24 study. And then, lastly, on the on the first page,  
25 how long was Mr. Ragland's DOT card approved for as a

1 result of this examination? Expiration date, 9/10/22.

2 Do you know when Mr. Ragland.

3 FREDERICK: But where.

4 VARELA: Provided?

5 FREDERICK: Where where do you see that?

6 VARELA: 43 at the bottom right corner.

7 Medical examiner's certificate expiration date.

8 FREDERICK: 43. Okay. Hold on. Expiration  
9 date. Okay.

10 VARELA: And, John, I'm now going to hand  
11 you document that was sent to you guys as exhibit two  
12 this morning. This is pages work steps 23 through 41.  
13 And I'd ask that that be, marked and identified as  
14 exhibit two, please.

15 REPORTER: Yes. I'm going to make.

16 VARELA: Thank.

17 REPORTER: Them.

18 VARELA: You.

19 REPORTER: Defense exhibit just because we  
20 had the plaintiff's exhibit. Is that okay?

21 VARELA: Of course. That's great. Thank  
22 you. John, if you look with me on page 34 of this,  
23 work steps 34 Yep. And I know this prints in kind of  
24 a screwy fashion, but I'm seeing an entry that says  
25 system information created by Pedro Oliveras,

1 September one, 2022 at 8:51 AM. Are are you seeing  
2 that Yes. Page 34? Is that the date on or about Ms.  
3 that Mr. Ragland would have contacted WorkSteps to  
4 begin the sleep study process? Yes. As far as I  
5 know. Okay.

6 FREDERICK: Where do you see September?

7 VARELA: And that's roughly.

8 FREDERICK: Where do you see the date?

9 VARELA: Well, I know these are these are  
10 printed so strange, but on page 34 all the way to the  
11 left, there's it's a very narrow vertical column. And  
12 there's entries for created by and last modified by.

13 FREDERICK: Okay. Got.

14 VARELA: Are.

15 FREDERICK: It.

16 VARELA: Are you with me?

17 FREDERICK: Yep.

18 VARELA: Okay. Great. And, John, that that  
19 was nine days before Mr. Ragland's certificate  
20 expired? Correct. And that's around the time he  
21 would have uploaded the June 22 examination form?  
22 Correct. Okay. Great. And I'll ask you now to turn  
23 with me to page 25. And on this page, there are a  
24 couple of entries from Lauren Davis. Let me know when  
25 you see those. Yep. What what is the date on which

1 these entries were made? September 15th. Of what  
2 year? 22. And what is she telling Mr. Ragland there?  
3 The test has been ordered. It's been registered, and  
4 that's, the PIN number has been set. So the test is  
5 ready to go. So on or around September 15, 2022, Mr.  
6 Ragland has the sleep study in hand? Yes. Some  
7 somewhere around there. Yeah. Okay. And is able to  
8 begin using it? Yeah. Great. The next document I'm  
9 going to ask you to take a look at and and, Ron, for  
10 your all's reference, this is number three of what  
11 we've just passed along the email, but this was also  
12 produced in discovery. It's pages Work steps 16  
13 through 19. And you're there?

14 FREDERICK: Yep.

15 VARELA: Great. Mr. Varela, what is this  
16 document? This is a sleep study report. K. Is this  
17 something that was provide this is I think you you  
18 referenced in your earlier testimony, once the driver  
19 takes the test or, report is generated and then,  
20 reviewed by the or the results are generated. They're  
21 reviewed by a physician. The physician issues a sleep  
22 study report. Yes. And that's what this document is?  
23 Yes. Thank you. What was the date of this document?  
24 Do you want the date of the test or the date of when  
25 the document is finalized? You you read my mind. I'd

1 like both. So tell us first the date of the study.  
2 The study was run on December 20th. Of what year?  
3 2022. And the physician, read it and wrote his  
4 diagnosis on December 22, 2022. Okay. And what were  
5 the findings of the physician? Mr. Reglan had severe  
6 sleep apnea. He needed to be treated with sleep  
7 apnea. And this discusses let me ask you this. What  
8 is if you would, turn to page 17 for me. There are  
9 some names of agencies and boards and anagrams that I  
10 don't recognize. Could you explain what is the Motor  
11 Carrier Safety Advisory Committee? The Federal Motor  
12 Safety Carrier, Federal Motor Carrier Safety  
13 Administration is the group that sets safety  
14 regulations for, motor carriers. K. And what what  
15 are the guidelines that are being referenced? The 20  
16 I think this is a 2012 2016, review basically said  
17 that drivers with moderate to severe sleep apnea  
18 needed to be treated for for that and use treatment  
19 compliantly in order to keep their CDLs. Okay. Thank  
20 you. I'll ask that this be, marked and identified as  
21 defense exhibit three, please. I'm sorry. I I didn't  
22 hear a con did you get that?

23 REPORTER: Yes. Yep. Sorry.

24 VARELA: Okay.

25 REPORTER: Okay.

1           VARELA: My apologies. John, I'll direct  
2 you back to the, Salesforce materials, which are  
3 exhibit two. And if you will turn with me to page 41  
4 40 and 41 of that document. I'll ask you a few  
5 questions. And, the questions I'm asking you about  
6 are the entries made by Mr. Gounder. Mhmm. What are  
7 the date of of this in of this first entry? December  
8 22, 2022. So that's the same date as the day the  
9 sleep study resulted? Yes. And what is Prashile  
10 telling Mr. Ragland here? That he has, sleep apnea  
11 and let's see, his level of sleep apnea and talks to  
12 him about CPAP. Looks like he established that he did  
13 did not have insurance, and so he went over pricing  
14 and financing. And he emailed Mr. Reglan his results.  
15 And then it looks like below that, Priscilla has made  
16 entries on attempts to follow-up on that initial  
17 conversation. And he may how many attempts does he  
18 make? It's like one, two, three, four, five, six,  
19 seven, eight. And then on page 41, there are several  
20 entries, but there's the second one down. It starts  
21 with spoke to patient. Could you read that, please?  
22 Spoke to patient. He is getting CPAP from a different  
23 company. Test closed. Then, of course, we we know  
24 that Mr. Adwin ultimately came back and did purchase  
25 the CPAP. And.

1           FREDERICK: Where are you look?

2           VARELA: Turn with me to page 38. There's a  
3 top line entry on page 38, again, from Pershyl. If  
4 you would let us know what the date of that is.  
5 January 24th 2023. K. And what is what is Prashile  
6 saying in this entry? Patient called and was set up  
7 with CPAP. All questions answered, he will, start  
8 using it tonight. Was encouraged to call back with  
9 questions. And and then Jody, who is no longer with  
10 us, and just that it was added to the compliance  
11 system. So Mr. Ragland's beginning his usage of the  
12 CPAP machine around January 24, 2023? Yes. Last  
13 document I'm going to hand to you. This is work steps  
14 one through four. It was sent to you all this morning  
15 as exhibit four. I'll ask this court reporter that  
16 that be marked and identified as defense exhibit four,  
17 please.

18           REPORTER: Yes.

19           VARELA: And, John, do you identify what  
20 this document is? This is a compliance report through  
21 ResMed's, AirView, which is the compliance reporting  
22 system. So this is is this a report that the machine  
23 records and then generates on on request or  
24 periodically? Okay. And you can take a moment to  
25 flip through that document. I just have a couple of

1 very general questions for you. Got it. Agree.  
2 Okay. Can you tell approximately when Mr. Ragland  
3 stopped using the CPAP machine? Looks like the either  
4 the end of March or beginning of April. And there  
5 doesn't appear that there has been any use of the CPAP  
6 machine since late March, early April of 2023. Yep.  
7 K. I think that's all the questions that I have.

8 FREDERICK: Okay. Great. I've got a few,  
9 So let me just let's talk about this. So what is the  
10 difference between obstructive sleep apnea and severe  
11 obstructive sleep apnea?

12 VARELA: Oh, it's just a severity of sleep  
13 apnea?

14 FREDERICK: Right. But it's got a different  
15 diagnosis code. Correct?

16 VARELA: No. G 47.33 is obstructive sleep  
17 apnea. Well, we don't use insurance, so, ICD ten  
18 codes aren't really relevant for what we're talking  
19 about.

20 FREDERICK: Well but they're relevant to  
21 somebody's physical condition. Correct?

22 VARELA: I don't believe there's a separate  
23 code for obstructive sleep apnea versus mild,  
24 moderate, or severe. If I'm wrong, please let me  
25 know. But my understanding is g 47.33 is the

1 obstructive sleep apnea diagnosis.

2           FREDERICK: Which which code?

3           VARELA: G 47.33? It's been a few years  
4 since I've been in the hospital, so I'm I'm I'm pretty  
5 sure that's.

6           FREDERICK: No. It is.

7           VARELA: Okay.

8           FREDERICK: So there's no difference in the  
9 specific ICDM nine code, but there certainly is a  
10 difference between what a what a doctor observes as to  
11 the severity of that independently and puts that in  
12 the notes. Correct?

13           VARELA: Correct. But, also, it's a little  
14 bit different as you you'll note because we only work  
15 with the truck driving, truckers specifically. That's  
16 why the sleep study itself has the FMCSA information  
17 in there. FMCSA basically states at or around the  
18 moderate level is where it can affect driving.

19           FREDERICK: Right. Okay. And and that's  
20 fine, but because that's what Mr. Ragland came in to  
21 consortia for was a a CDL exam. Correct?

22           VARELA: If He went to Concentra for the CDL  
23 exam and was flagged for potentially having sleep  
24 apnea, so he came to us to be tested.

25           FREDERICK: Right. I.

1 VARELA: For.

2 FREDERICK: Was just.

3 VARELA: Sleep.

4 FREDERICK: Asking.

5 VARELA: Apnea.

6 FREDERICK: About his experience with  
7 Concentra was to get a CDL exam. Correct?

8 VARELA: In order to keep his CDL license,  
9 yes.

10 FREDERICK: Okay. And and health is, very  
11 personal, isn't it?

12 VARELA: Geismar form. Could be.

13 FREDERICK: Well so if we're looking at if  
14 we're looking at mild sleep apnea, you said moderate  
15 is what can cause the drowsiness to affect one's  
16 driving.

17 VARELA: According to the research, risk of  
18 crash comes after that at that level. Yes.

19 FREDERICK: At my at at moderate sleep.

20 VARELA: All right.

21 FREDERICK: Apnea.

22 VARELA: Yeah.

23 FREDERICK: And and moderate sleep apnea,  
24 you might have between 15 29 events per hour. Right?

25 VARELA: Yep.

1           FREDERICK: Where with if you have, no other  
2 symptoms other than the hypony events of between five  
3 and I'm sorry. That that means that a person who  
4 sleeps eight hours stops breathing or wakes up between  
5 a 120 and 239 times an evening. Right?

6           VARELA: I don't know. If we go by hour,  
7 the index so 5th 15 to 3rd 15 to 29 times per hour is  
8 moderate. 30 and above is severe per hour.

9           FREDERICK: Okay. Right. And that means  
10 that when you have severe, it means you'd be stopped  
11 breathing and or wake up 240 times or more for eight  
12 full hours of sleep.

13          VARELA: If that's the math on it.

14          FREDERICK: 30 times eight is two 40.

15          VARELA: Okay.

16          FREDERICK: Okay. And and at that point,  
17 you're at significant risk for developing other  
18 related, complications. Correct?

19          VARELA: Correct.

20          FREDERICK: Because if you stop breathing,  
21 your brain is not getting the normal, complement of  
22 oxygen, is it?

23          VARELA: We've established this earlier.  
24 Yes.

25          FREDERICK: I understand. But now we're

1 going through it based upon these questions. And and  
2 the CDL is something that would allow you to live your  
3 personal life in a health I'm sorry. Scratch that.  
4 The CDL is just a card that you may have that allows  
5 you to do a particular job. Correct?

6 VARELA: Object to form that you can answer.  
7 The commercial, driver's license? Yes.

8 FREDERICK: And and yet, if you are going to  
9 have a if you have severe obstructive sleep apnea, you  
10 are at significant risk of developing or having more  
11 complications to either preexisting diseases and  
12 conditions or developing those conditions. Correct?

13 VARELA: Correct.

14 FREDERICK: And those are deeply personal,  
15 aren't they?

16 VARELA: Object to form. Beacon agent.  
17 Again, for some people, probably.

18 FREDERICK: Do you know of any people that  
19 their health is not personal?

20 VARELA: Object to point to nature. That  
21 calls for I I mean, I hate to put this right through.  
22 I guess, kind of speculation because, you know, if  
23 health is personal, what does personal mean?

24 FREDERICK: I I just asked you, do you know  
25 of any people who their health is not.

1 VARELA: Not.

2 FREDERICK: A personal issue?

3 VARELA: A personal issue?

4 FREDERICK: Yeah.

5 VARELA: Yeah.

6 FREDERICK: You do?

7 VARELA: I mean, it has to do with you, but  
8 also not everybody looks at health as as you're saying  
9 personal. People don't internalize it.

10 FREDERICK: Is your.

11 VARELA: People.

12 FREDERICK: Health.

13 VARELA: A lot of people don't care about  
14 it.

15 FREDERICK: Is your health an issue that or  
16 something that affects your family?

17 VARELA: Yes. But a lot of people don't  
18 take that into consideration.

19 FREDERICK: Or do they.

20 VARELA: If.

21 FREDERICK: Not.

22 VARELA: You.

23 FREDERICK: Take it?

24 VARELA: One only needs to look at the US  
25 and our obesity rates and everything else. It's

1 people can say that it affects their family, but they  
2 don't take that their health into their own control to  
3 to do something about.

4 FREDERICK: Does that make it not personal?

5 VARELA: I think kinda yeah. It's at that  
6 point, wouldn't be a really personal issue.

7 FREDERICK: So or is it accurate that people  
8 tend not to take care of underlying health issues at  
9 times until it smacks them in the face such that they  
10 need to make note of it.

11 VARELA: That could be accurate?

12 FREDERICK: And some people, even when they  
13 are smacked in the face, choose not to do something  
14 about it then either. Right?

15 VARELA: Yeah.

16 FREDERICK: But yet that decision is a  
17 decision that's a personal decision. Correct?

18 VARELA: Sure.

19 FREDERICK: And.

20 VARELA: Well, could you say that it's a  
21 personal decision in the sense.

22 FREDERICK: Likewise,

23 VARELA: Of, we'll take this. A medical  
24 examiner is making a truck driver get this for in  
25 order to continue to work that's outside of their.

1           FREDERICK: Well, it's a personal decision  
2 whether to to take.

3           VARELA: Keep.

4           FREDERICK: Your.

5           VARELA: A job.

6           FREDERICK: Doctors.

7           VARELA: Or not.

8           FREDERICK: And.

9           VARELA: Keep a job?

10          FREDERICK: Hold on. Let me let me let me  
11 well, I I you.

12          VARELA: I.

13          FREDERICK: Talked to him, so I didn't hear  
14 you, but.

15          VARELA: I I.

16          FREDERICK: It's.

17          VARELA: Apologize.

18          FREDERICK: Okay. But but I think what you  
19 said is it's a person's personal decision whether to,  
20 what, keep a job or take a job.

21          VARELA: Keep a job or leave a job.

22          FREDERICK: Or leave a job?

23          VARELA: Yeah.

24          FREDERICK: Yeah. It would be their  
25 personal decision. I agree with you. And and,

1 likewise, the underlying the underlying results of  
2 obstructive sleep apnea, common results are feeling  
3 tired and exhausted when you're waking up. Correct?

4 VARELA: Majority of, sleep apnea patients  
5 are unaware of of that.

6 FREDERICK: Well, when you say unaware, you  
7 don't mean that they're unaware that they feel tired  
8 and exhausted. You mean they're they're.

9 VARELA: I'll give.

10 FREDERICK: Not.

11 VARELA: You an.

12 FREDERICK: Aware.

13 VARELA: Example.

14 FREDERICK: Well, hold on. Let.

15 VARELA: I'll.

16 FREDERICK: Me.

17 VARELA: Give.

18 FREDERICK: Let.

19 VARELA: You.

20 FREDERICK: Me.

21 VARELA: An example when I.

22 FREDERICK: I I want to just finish my  
23 question. Maybe you can give me one later. They're  
24 they're not aware that the feeling tired or exhausted  
25 when they wake up is a symptom of sleep apnea, but

1 they're aware that they're tired or exhausted or or do  
2 you disagree with that?

3 VARELA: I disagree with that. And I can  
4 give you an example if you would like.

5 FREDERICK: Sure.

6 VARELA: So I give a talk, at a lot of  
7 trucking conferences, where we talk about not under  
8 not feeling sleepy because the state that we wake up  
9 in and the state that we're in every day is just our  
10 normal state. So I equate it back to when I  
11 originally got glasses. I can see in here just fine,  
12 but I need to wear glasses when I'm driving. When I  
13 first started working at the hospital, I got good  
14 insurance. So I was like, I'm going to go get  
15 everything checked out, and I got I realized I was,  
16 what's it, nearsighted? I could see close. I can't  
17 see far. Once I put those glasses on, there was an  
18 entire other world out there that I didn't know  
19 existed, and sleep apnea is very similar to that.  
20 People who wake up every morning exhausted don't know  
21 that they're exhausted because that's their normal  
22 state. And you can look it up online. I I want to  
23 say it's something like 90% of sleep apnea patients  
24 don't aren't symptomatic because the state you wake up  
25 in every morning and the the way that you are every

1 day is just how you are. We hear a lot of times from,  
2 people, specifically men, the reason I come home and  
3 take a nap after I've worked a long day is because I  
4 work hard. People who sleep efficiently shouldn't  
5 need to take a nap.

6 FREDERICK: But the symptoms and the  
7 feelings people have are common to all people with  
8 sleep apnea. Correct? Generally?

9 VARELA: Again, but the majority of them who  
10 are untreated may not actually feel those symptoms.

11 FREDERICK: Right. So there's no  
12 distinction between a truck driver who doesn't know  
13 they have sleep apnea and anyone else who doesn't know  
14 they have sleep apnea. Correct?

15 VARELA: Sure.

16 FREDERICK: The thing that we know is that  
17 treatment for sleep apnea, when you get treatment for  
18 sleep apnea, has a especially with a CPAP machine, has  
19 a very high, success rate in relieving symptoms of  
20 sleep apnea. Correct?

21 VARELA: Correct.

22 FREDERICK: And it also has a very high  
23 incidence of improving sleep because you're not  
24 stopping sleeping. Correct? And increases your  
25 ability of your brain to function because your brain

1 is not deprived of oxygen. Correct? And it also  
2 helps your, pulmonary system because your lungs and,

3 VARELA: That's.

4 FREDERICK: Blood are not, deprived of  
5 oxygen. Correct?

6 VARELA: Sure.

7 FREDERICK: So it has a very positive health  
8 effect on anyone who, has at least moderate sleep  
9 apnea over not using a CPAP machine. Correct?

10 VARELA: Yes.

11 FREDERICK: And based upon what I've been  
12 reading, if you have mild sleep apnea, which means you  
13 might stop breathing or have some hyponic hyponia  
14 event between five and 15 times per hour, a health  
15 care professional would generally tend not to treat  
16 that. Correct?

17 VARELA: Every every group's different, but  
18 that's possible. Yes.

19 FREDERICK: This time, I'm just reading from  
20 the, Cleveland Clinic Health, Disease and it's  
21 circular on obstructive sleep apnea.

22 VARELA: Okay.

23 FREDERICK: So do you trust that they're an  
24 authoritative source?

25 VARELA: Sure.

1           FREDERICK: But, certainly, at the moderate  
2 area of obstructive sleep apnea, someone should look  
3 into or seriously consider or get a CPAP machine or  
4 other type of treatment for that. Correct?

5           VARELA: Yes.

6           FREDERICK: I don't know that I have  
7 anything else.

8           VARELA: Nothing for me.

9           FREDERICK: Okay. Do you want to instruct  
10 them about, signature?

11          VARELA: Yeah. We'll take a copy to review  
12 inside.

13          REPORTER: Okay. The.

14          FREDERICK: Okay.

15          REPORTER: Witness will read. Attorney  
16 Frederick, would you like the final transcript?

17          FREDERICK: Not yet.

18          REPORTER: And attorney, would you like to,  
19 order a a copy of the final transcript?

20          VARELA: Yes. We'd like a a mini or  
21 condensed.

22          FREDERICK: You'll get a bunch of different  
23 options, John.

24          VARELA: Yeah.

25          FREDERICK: You'll you'll no. No. You'll

1 like you'll get a bunch of different things. You will  
2 really like the product you get.

3 REPORTER: Okay. So I'll just confirm we  
4 have the witness reading, and opposing counsel will  
5 order, and not just yet for attorney Frederick. I  
6 will go off the record. It is 12:36 PM, eastern time.

7

8 (Exhibit # was marked for identification.)

9

(Signature Reserved.)/(Signature Waived.)

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(Whereupon, at <TIME>, the proceeding was  
concluded.)

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CERTIFICATE OF NOTARY PUBLIC

I, , A Remote Online Notary of the State of  
<STATE>, duly authorized to administer oaths, do  
hereby certify:

That I am a disinterested person herein;  
that the witness, , named in the foregoing deposition,  
was by me duly sworn to testify the truth, the whole  
truth, and nothing but the truth; that the deposition  
was reported by me, , and is a true and correct record  
of the testimony so given.

IN WITNESS WHEREOF, I hereby certify this  
transcript at my office in the County of <COUNTY>,  
State of <STATE>, this 4th day of December 2024

Remote Online Notary Public in and for the  
State of <STATE>

## CERTIFICATE OF TRANSCRIBER

I, <TRANSCRIBER NAME>, do hereby certify that this transcript was prepared from the digital audio recording of the foregoing proceeding, that said transcript is a true and accurate record of the proceedings to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

<TRANSCRIBER NAME>

**IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO**

HERMAN RAGLAND	)	Case No. CV-23-990433
	)	
<i>Plaintiff</i>	)	Judge Michael P. Shaughnessy
	)	
v.	)	<b><u>DEFENDANT’S</u></b>
	)	<b><u>SUPPLEMENTAL RESPONSE</u></b>
	)	<b><u>TO PLAINTIFF’S FIRST SET OF</u></b>
	)	<b><u>INTERROGATORIES</u></b>
	)	
WORKSTEPS, INC.	)	
	)	
<i>Defendant</i>	)	

Comes the Defendant, WorkSTEPS, Inc. (“WorkSTEPS”), by counsel, and hereby submits its Supplemental Response to the First Set of Interrogatories from the Plaintiff, Herman Ragland (“Plaintiff”):

**INTERROGATORY NO. 10:** Please state whether You have sold CPAP equipment to other individuals using the same Contract form used for Mr. Ragland’s purchase.

**SUPPLEMENTAL ANSWER:** WorkSTEPS objects to this Interrogatory on the grounds that it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, WorkSTEPS has sold CPAP equipment to other individuals using the same Contract form used for Mr. Ragland’s purchase.

**INTERROGATORY NO. 14:** Please state whether You use different purchase contracts, forms, and/or disclosures depending on the method by which You sell the CPAP equipment.

**ANSWER:** WorkSTEPS objects to this Interrogatory on the grounds that it seeks irrelevant information and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, WorkSTEPS has utilized the contract form discussed in the Answer to Interrogatory No. 10 since June 2020 when the purchaser elects to make multiple

payments. WorkSTEPS does not utilize a contract form or disclosures when the purchaser elects to make a single payment.

**INTERROGATORY NO. 21:** Please state whether it is Your policy to offer individuals who pay out of pocket the option of paying in cash or financing their purchase of CPAP equipment.

**ANSWER:** WorkSTEPS objects to the Plaintiff’s attempt to define the term “financing.” Without waiving said objection, WorkSTEPS allows purchasers of CPAP equipment to elect to make a single payment or to make multiple payments for same.

Respectfully Submitted,

/s/ Benjamin M. Fiechter

Joseph B. Colvin

Craig C. Dilger

Benjamin M. Fiechter (to be admitted *pro hac vice*)

Stoll Keenon Ogden, PLLC

500 West Jefferson Street, Suite 2000

Louisville, Kentucky 40202

[joseph.colvin@skofirm.com](mailto:joseph.colvin@skofirm.com)

[craig.dilger@skofirm.com](mailto:craig.dilger@skofirm.com)

[benjamin.fiechter@skofirm.com](mailto:benjamin.fiechter@skofirm.com)

(502) 333-6000

*Counsel for Defendant, WorkSTEPS, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was served by e-mail and U.S. Mail, postage prepaid, upon the following on this the 6<sup>th</sup> day of August, 2024.

Ronald I Frederick  
Jacquelyn S. Frederick  
Scott Zajackowski  
Frederick & Berler, LLC  
767 East 185<sup>th</sup> Street  
Cleveland, Ohio 44119  
[ronf@clevelandconsumerlaw.com](mailto:ronf@clevelandconsumerlaw.com)  
[jacquelynf@clevelandconsumerlaw.com](mailto:jacquelynf@clevelandconsumerlaw.com)  
[scottz@clevelandconsumerlaw.com](mailto:scottz@clevelandconsumerlaw.com)

/s/ Benjamin M. Fiechter  
\_\_\_\_\_

*Counsel for Defendant, WorkSTEPS, Inc.*

4873-8379-4346.1

**Annual Percentage Rate Calculation**

Prepared using software associated with the  
publications of the National Consumer Law Center

December 3, 2024

Calculation of APR with all fees as finance charges  
Ragland v. Worksteps

Amount Financed:	\$1,400.00
Finance Charge:	\$134.00
Total of Payments:	\$1,534.00
Amount of most common payment:	\$331.00
Number of Payments (Monthly):	4
Number of days in irregular first period:	NA
Amount of any irregular first payment:	\$541.00
Amount of any irregular final payment:	NA
Annual Percentage Rate (APR):	49.3588%
APR (rounded to 3 places):	49.359%
APR (rounded to 2 places):	49.36%

## Annual Percentage Rate Calculation

Prepared using software associated with the  
publications of the National Consumer Law Center

December 3, 2024

Calculation of APR with all fees less the application fee as finance charges  
Ragland v. Worksteps

Amount Financed:	\$1,446.00
Finance Charge:	\$88.00
Total of Payments:	\$1,534.00
Amount of most common payment:	\$331.00
Number of Payments (Monthly):	4
Number of days in irregular first period:	NA
Amount of any irregular first payment:	\$541.00
Amount of any irregular final payment:	NA
Annual Percentage Rate (APR):	31.5385%
APR (rounded to 3 places):	31.539%
APR (rounded to 2 places):	31.54%

11:18

5G

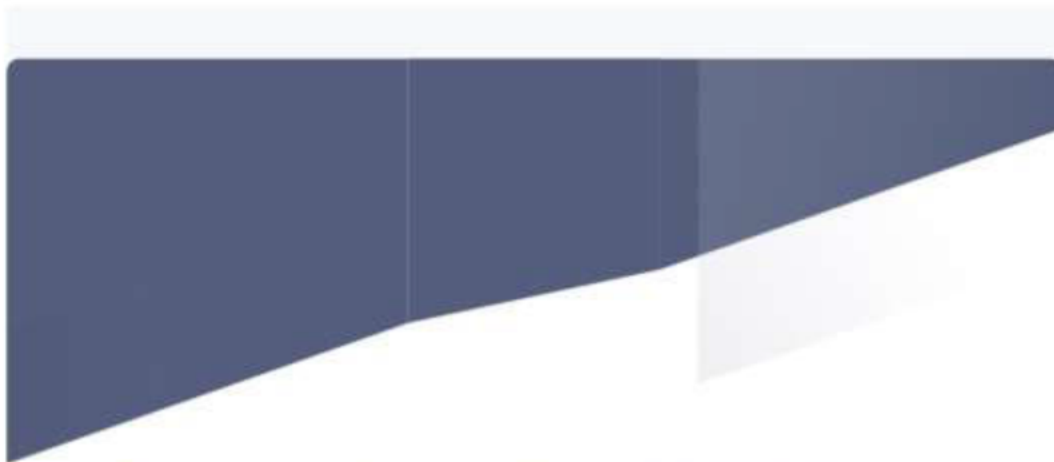


**Inc WorkSTEPS**

8/31/22

To: [REDACTED] .. >

# Your WorkSTEPS, Inc receipt [[#1744-3347](#)]



Receipt from WorkSTEPS, Inc

Receipt #1744-3347

AMOUNT PAID DATE PAID

\$250.00

Aug 31, 2022, 1:56:40 PM

PAYMENT METHOD



-



## SUMMARY

Sleep Test

\$250.00

2:17

35m

\*\*\*\*\*



# January 2023 card statement



Page 2 of 3  
Platinum Card | Platinum Mastercard ending in 1769  
Dec 20, 2022 - Jan 19, 2023 | 31 days in Billing Cycle

## Transactions

Visit [capitalone.com](https://capitalone.com) to see detailed transactions.

### LAVERN M SMITH # [REDACTED] Payments, Credits and Adjustments

Trans Date	Post Date	Description	Amount
Jan 6	Jan 6	CAPITAL ONE MOBILE PYMTAuthDate 06-Jan	[REDACTED]

### LAVERN M SMITH # [REDACTED] Transactions

Trans Date	Post Date	Description	Amount
Dec 18	Dec 20	[REDACTED]	[REDACTED]
Dec 18	Dec 20	[REDACTED]	[REDACTED]
Dec 19	Dec 21	[REDACTED]	[REDACTED]
Dec 20	Dec 21	[REDACTED]	[REDACTED]
Dec 22	Dec 23	[REDACTED]	[REDACTED]
Dec 27	Dec 28	[REDACTED]	[REDACTED]
Dec 30	Dec 31	[REDACTED]	[REDACTED]
Jan 2	Jan 3	[REDACTED]	[REDACTED]
Jan 4	Jan 6	[REDACTED]	[REDACTED]
Jan 8	Jan 9	[REDACTED]	[REDACTED]
Jan 8	Jan 9	[REDACTED]	[REDACTED]
Jan 8	Jan 9	[REDACTED]	[REDACTED]
Jan 9	Jan 9	[REDACTED]	[REDACTED]
Jan 11	Jan 13	[REDACTED]	[REDACTED]
Jan 12	Jan 12	[REDACTED]	[REDACTED]
Jan 13	Jan 14	WORKSTEPS SLEEPAUSTINTX	\$541.00

LAVERN M SMITH # [REDACTED] Total Transactions \$ [REDACTED]

### HERMAN RAGLAND # [REDACTED] Payments, Credits and Adjustments

Trans Date	Post Date	Description	Amount
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### HERMAN RAGLAND # [REDACTED] Transactions

Trans Date	Post Date	Description	Amount
Jan 15	Jan 16	[REDACTED]	[REDACTED]
Jan 18	Jan 19	[REDACTED]	[REDACTED]

HERMAN RAGLAND #1579: Total Transactions \$ [REDACTED]

Total Transactions for This Period \$ [REDACTED]

## Fees

Trans Date	Post Date	Description	Amount
Total Fees for This Period			\$0.00

Additional information on the next page



Page 3 of 3  
Platinum Card | Platinum Mastercard ending in 1769  
Dec 20, 2022 - Jan 19, 2023 | 31 days in Billing Cycle

## Transactions (Continued)

### Interest Charged

Interest Charge on Purchases	[REDACTED]
Interest Charge on Cash Advances	[REDACTED]
Interest Charge on Other Balances	[REDACTED]
<b>Total Interest for This Period</b>	<b>[REDACTED]</b>

Totals Year-to-Date

**From:** WorkSTEPS Sleep <[sleep@worksteps.com](mailto:sleep@worksteps.com)>

**Date:** April 13, 2023 at 1:01:08 AM EDT

**To:** [REDACTED]

**Subject:** Receipt for purchase of: CPAP

Hi,

Thank you for your purchase with WorkSTEPS, Inc.! Below you will find a receipt of your transaction!

--Transaction Information--

Merchant WorkSTEPS, Inc.

Amount 331.00USD

Description CPAP

Date 4/13/2023 12:01 AM

ID TR-012349

--Payment Information--

Type Credit

Brand [REDACTED]

Name Lavern Smith

Last 4 Digits [REDACTED]

--Customer Information--

Email [REDACTED]

Thank you!

WorkSTEPS, Inc.