

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA

Case Number: 22-09348CFANO

STATE OF FLORIDA,

Plaintiff,

VS.

JUAN ARIEL MOLINA-SALLES,

Defendant.

DEPOSITION OF:	DANIEL HORVATH
TAKEN BY:	Counsel for the Defendant
DATE:	November 20, 2024
TIME:	9:34 a.m. - 10:09 a.m.
PLACE:	ZOOM Videoconference
REPORTED BY:	Tamara M. Pacheco, RPR Notary Public, State of FL

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ZOOM VIDEOCONFERENCE APPEARANCES

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ALSO PRESENT:

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EXHIBITS

(No exhibits were marked for identification.)

1 WHEREUPON,

2 DANIEL HORVATH

3 (the deponent herein, being first duly sworn, was examined
4 and testified as follows:)

5 EXAMINATION

6 BY MS. BLAQUIERE:

7 Q Okay. Have you ever done a deposition before,
8 Mr. Horvath?

9 A Can you hold on? Lee Bentley is calling me. He
10 was going to join as well, the attorney.

11 Q Okay.

12 (Pause in deposition.)

13 A Sorry. Lee said he's having a technical issue,
14 and he wants me to wait until he can join shortly.

15 Q I can't. I have too many depositions today.
16 He's not a party to this case. I have depositions all day
17 on this case until 4 p.m., so we can't wait for him.

18 My name is Nichole Blaquiere. I, along with
19 Maria DeLiberato who is going to be joining us shortly --
20 if your attorney eventually gets on, that's fine, but
21 we're not waiting for him -- we represent Mr. Juan
22 Molina-Salles. And have you ever done a deposition
23 before?

24 A Yes.

25 Q All right. So you know to answer yes, no

1 instead of uh-huh. And if you don't know the answer, tell
2 us. Don't guess. If you are guessing at something, tell
3 us that that's what you're doing. Okay?

4 A I understand.

5 Q Okay. So, Mr. Horvath, where are you currently
6 employed?

7 A Archer Western Contractors.

8 Q And how long have you been with Archer Western?

9 A Three-and-a-half years.

10 Q Okay. And what do you do for Archer Western?

11 A I'm a project executive.

12 Q And what does that mean? Tell me what are the
13 duties of a project executive.

14 A Since I've been hired on, I'm currently on a 600
15 million dollar construction project called Gateway
16 Expressway in Clearwater, Florida, and I'm the -- I'm the
17 top manager on the project. So I'm responsible for
18 operations and everything involved with this construction
19 project.

20 Q Okay. So what are some of the things that you
21 are directly responsible for when they distribute your
22 duties or oversee other people. Just give me a general
23 idea of more than top manager of the operations.

24 A I manage the instruction, the administration,
25 the safety department, the equipment department, the

1 survey department, which I'll have lower level managers
2 who will handle the field operations and every aspect of
3 the job.

4 Q what's your background before Archer Western
5 employment?

6 A I worked with Granite Construction for sixteen
7 years in the construction industry.

8 (Ms. DeLiberato enters Zoom.)

9 Q How do you spell that?

10 A Granite, G-R-A-N-I-T-E.

11 Q I apologize. I just didn't hear what the name
12 was. And do you have any relevant educational background
13 to be the project executive?

14 A I have a civil environmental engineering degree,
15 a bachelor's of science in engineering from the University
16 of Michigan.

17 Q And as the project executive, that was your role
18 back in September of 2022 as well, correct?

19 A Correct.

20 Q What about training in Human Resources? Do you
21 have any training for that?

22 A I have -- besides the required annual EEO
23 compliance training and just experience on the --
24 management experience on projects would be the training
25 I've received in HR.

1 Q Okay. And then what relevant safety training
2 have you been through?

3 (Mr. Bentley enters Zoom.)

4 A I mean, over the 20-plus years of experience,
5 I've been through an OSHA 30-hour course. On construction
6 projects, we have weekly safety huddles with topics that
7 involve different types of hazards and trainings on jobs.
8 There's fall protection, electrical, equipment safety,
9 traffic-related safety, competent person training,
10 rigging, confined spaces, excavations. Pretty much
11 everything involved with heavy civil construction.

12 Q Okay. Do you have continuous education training
13 on the safety portion of the training?

14 A Continuing education? I guess what do you mean
15 by continuing education?

16 Q Are there yearly trainings that you have to do
17 or anything like that on best practices?

18 A Our company has a safety training matrix
19 requirement, certain courses you have to take
20 periodically. I think safety might be every four years
21 you need to refresh that or different topics like that.
22 They're not -- that's in company training, not out of
23 company certifications or anything.

24 Q Okay. Let's go to the hiring practices for the
25 Gateway Expressway project. Can you explain to me your

1 company's hiring practices for this project?

2 A Sure. So Archer Western has a process set up
3 where any hourly applicants need to go online, fill out an
4 online application. Sometimes that can be a walk-in. It
5 can be from an advertised posting somewhere, or it can be
6 from somebody knowing somebody. But everyone has -- to
7 get hired on as an hourly employee, you have to fill out
8 an online application, which triggers a superintendent on
9 a job to interview or talk to applicants and decide if
10 they want to hire them or not and agree on what their
11 hiring rate of pay will be.

12 And then they're brought to the -- if they
13 decide they want to hire them, all new hires come in and
14 fill out a new-hire packet with their proper
15 identification required by the company. They fill out
16 that and are run through the E-Verify process, and our
17 administration -- our administrative assistants would walk
18 them through the process. They fill out the paperwork,
19 and it's sent to our regional office for further
20 processing. They are given a safety orientation and then
21 released to go work.

22 Q What's involved in that safety orientation?

23 A It's a couple of hours project or presentation,
24 slide deck, PowerPoint slide deck put on by our safety
25 managers that goes over key requirements of our safety

1 policies and introduction to the project and
2 personnel/management. Different parts of the safety
3 manual are gone over, reviewed by the safety professional
4 presenting to them.

5 Q what safety orientation does law enforcement
6 receive when they are hired to do construction detail for
7 the company?

8 A You're asking -- can you say that again?

9 Q what safety orientation does Archer Western
10 provide law enforcement when they are hired for traffic
11 detail for the company's project?

12 A There's no formal orientation for police
13 officers that were brought on. For each shift, they are
14 supposed to go through a prework Task Hazard Analysis with
15 the crew that they're going to be working for to go over
16 what their duties are for that specific shift and where
17 they're going to be located and any specific hazards
18 associated with that work.

19 Q Do you know specifically how Kody Gardner ran
20 his safety instructions to law enforcement working traffic
21 detail for the Gateway Expressway project?

22 A No, not specifically.

23 Q Do you know if law enforcement were instructed
24 to wear safety vests if they ever exited their vehicle
25 when they were working a traffic detail?

1 A That was -- that was part of the policy.

2 Q Okay. So do you know if anyone trained Kody
3 Gardner on that policy?

4 A No, I don't know specifically.

5 Q Whose job is it to know?

6 A That would have been his -- Kody was an MOT,
7 maintenance of traffic foreman. His supervisor would have
8 been our maintenance of traffic superintendent.

9 Q Okay. Back to a little bit earlier where you
10 were going over hiring practices, any of your employment
11 advertisements that you utilized for the Gateway
12 Expressway project, are any of them posted in dense known
13 Spanish-speaking communities?

14 A I don't know.

15 Q Okay. Do you know who is in charge of posting
16 employment notices for the Gateway Archer -- Gateway
17 Expressway project?

18 A I mean, it would have been our -- we have a
19 recruiting part of our regional and corporate office, but
20 I would have to defer to our regional HR manager.

21 Q Earlier you were also mentioning about
22 employment documents to go through the E-Verify website.
23 What documents does Archer Western require?

24 A Our E-Verify process?

25 Q Yes.

1 A There's a federal E-Verify form, I believe, that
2 we utilize.

3 Q Right. What documents do you require potential
4 employees to provide you as part of the application
5 process?

6 A The I-9 federal required documents.

7 Q And can you list those or identify those for me?

8 A Not all of them, but I know your passport, a
9 social security card, a driver's license, and there's
10 other options too. I can't recall right now without
11 looking at the form.

12 Q Okay. And who is responsible for putting
13 someone's documents and I-9 form through the E-Verify
14 website?

15 A Our project admin fills out the paperwork and
16 scans it and sends it to our regional office HR who then
17 posts that to wherever it goes.

18 Q Who does the regional HR report to?

19 A The regional HR manager reports to the regional
20 vice-president.

21 Q Do you also report to the regional
22 vice-president?

23 A Not directly. There's another manager in
24 between me and him.

25 Q Okay. How does someone get notified that the

1 I-9 employment verification form has been rejected?

2 A The regional HR would immediately let us on the
3 project know.

4 Q Okay. And that didn't happen in this case when
5 Juan Molina-Salles was employed by Archer Western back in
6 September of 2022?

7 A I believe he was hired on before that --

8 Q When was --

9 A -- under a different name.

10 Q But when he was hired. Was that in 2021 that he
11 was hired?

12 A I don't know exactly, but it was roughly less
13 than a year before then.

14 Q Okay. So the name that Juan Molina-Salles had
15 provided I believe was -- it was something different, but
16 the company did not -- was not alerted that the ID and the
17 I-9 verification was fraudulent. Is that --

18 A Not to my knowledge.

19 Q Okay. Would that ever -- would that information
20 ever get transmitted to you?

21 A Yes.

22 Q Okay. Under your watch for the Gateway
23 Expressway project, have there been any state and
24 federal -- state or federal agencies investigating the
25 Archer Western company?

1 A Yes.

2 Q And can you tell me what the result of those
3 investigations were?

4 A After this incident, the US Attorney's office
5 opened an investigation into our hiring practices.

6 Q And have there been any proceedings, or what's
7 the outcome of that investigation?

8 A I'm not involved enough to speak to that.

9 Q Are you subpoenaed in that case? Have you been
10 subpoenaed?

11 A No.

12 Q Have you been asked to respond to that
13 investigation in any way?

14 A I've had a meeting with my attorney.

15 Q And is that it?

16 A Yes.

17 Q Okay. Have there been other -- any other
18 investigations by the state or federal agencies aside from
19 hiring practices specifically with regards to safety
20 protocols?

21 A We've had a -- OSHA has investigated a
22 fatality -- two fatalities on our project.

23 Q And what was the outcome of that? What was the
24 impact on the company as a result of the OSHA
25 investigation?

1 A We ended up settling with them, with OSHA on
2 paying a fine on one of them, and the other one, there was
3 no findings or fines enforced.

4 Q Okay. Which one was related to Deputy Michael
5 Hartwick's death?

6 A Neither.

7 Q So OSHA has not done an investigation into
8 Archer Western for Deputy Michael Hartwick's passing?

9 A Not to my knowledge.

10 Q Okay. Have you -- aside from Deputy Hartwick's
11 death, have you been involved in any other work-related
12 injury or lawsuits? Not OSHA investigations but lawsuits.

13 A No.

14 Q Okay. Do you know how often safety procedures
15 were reviewed with law enforcement officers when they
16 would be employed for traffic details?

17 A The crews are instructed to do it before every
18 shift. I can't verify that happened.

19 Q Earlier you said the person responsible for
20 ensuring Kody Gardner administered those instructions to
21 law enforcement officers would be his supervisor. Who was
22 his supervisor at that time back in September of 2022?

23 A Deidre Borce.

24 Q How do I spell that, please?

25 A D-E-I-D-R-E, I believe, the first name. Last

1 name Borce, B-O-R-C-E.

2 Q Is there anything that Kody Gardner is supposed
3 to submit to his supervisors or the company indicating
4 that he goes over every day with the law enforcement
5 officers, that he's gone over the safety procedures for
6 them, like a checklist or anything like that?

7 A We have a standard form called a Task Hazard
8 Analysis that at the pre-shift meeting everyone on his
9 crew is supposed to sign, but we did not require for the
10 officer to sign that pre-shift safety meeting form.

11 Q Okay. But you said you still required Kody
12 Gardner to go over those items with law enforcement even
13 if you don't require law enforcement deputies to actually
14 sign them?

15 A Yes.

16 Q Thank you. And you did -- you did indicate that
17 safety vests were part of the mandatory safety procedures
18 for law enforcement when they exited their vehicles back
19 in September of 2022 and before?

20 A Yes.

21 Q And afterwards, correct?

22 A Yes.

23 Q Were there -- how were safety violations
24 reported as law enforcement violated the Archer western
25 Gateway Expressway safety policies?

1 A They would -- I would expect the superintendents
2 to handle the situation and speak to officers if they were
3 notified by their foreman if they're not following
4 procedure. If there was a continued problem, then I would
5 expect the superintendent to bring it to my attention or
6 the safety managers.

7 Q Did anything like that happen over the length of
8 time for the Gateway Expressway project?

9 A No.

10 Q Regarding specifically Deputy Hartwick's death,
11 what was your role in this matter once you became aware of
12 it?

13 A what was my role? I was still the active top
14 manager on the project. I was involved with the on-site
15 investigation and everything, all the projects involved
16 after the incident.

17 Q what was the results of the investigation on the
18 Archer western side?

19 A As far as what?

20 Q Is there any kind analysis as to how the
21 accident occurred and how it can be prevented again? I
22 don't know. You tell me.

23 A well, we instructed everybody to -- again, we
24 reinforced that any time a police officer is involved with
25 an operation that they need to be part of the pre-task

1 safety -- pre-shift safety meeting, and they need to be
2 wearing their high visibility vest. There needs to be
3 clear instruction of what their duties are and where
4 equipment is going to be running, what hazards are
5 associated with the operation.

6 Q was there any kind of analysis as to who was at
7 fault for the accident within the Archer Western
8 organization?

9 A There was talk of -- during the investigation,
10 you know, we went over the facts we knew at the time. Was
11 there lighting in the area? Where was the loader operator
12 and machine heading? Why was the officer outside of his
13 vehicle? But without direct interview with the operator
14 or the officer, we really don't know who was really at
15 fault.

16 Q But was the review -- what was the outcome of
17 the review regarding lighting? Was there adequate
18 lighting, or was there not?

19 A We determined the lighting in the area and the
20 roadway lighting, the high mast lights were all active.
21 We believe the police officer's cruiser's strobes were on,
22 and the headlights on the machine itself we believe were
23 working. So we thought there was adequate lighting.

24 Q In your reports, did anyone make documentation
25 about what was working on the front-loader that day,

1 September 22nd, 2022?

2 A I don't remember for sure. I mean, it could
3 have been. Operators are required to fill out an
4 inspection checklist before they operate the machine each
5 night, but I don't recall if we have that or not.

6 Q were you able to look at the -- anyone from
7 Archer Western able to look at the front-loader after
8 Deputy Hartwick's death to see what was working or not
9 working on the front-loader?

10 A I don't recall if we did that or not. I know
11 the loader was impounded by the police immediately
12 actually, so I imagine we didn't have time or the ability
13 to do that.

14 Q would there be any documentation of any efforts
15 made to try to do that, or if it was successful, would
16 there be any documentation with Archer Western then on
17 that?

18 A I don't believe so.

19 Q Can you explain further what reporting process
20 you have to do after -- immediately after Deputy
21 Hartwick's death regarding safety issues with any
22 regulatory agencies?

23 A we would have notified -- our safety manager
24 handles all of that. with any fatality, our legal
25 department would have been involved, and I believe they

1 would have -- they notified OSHA within 24 hours.

2 Q And then what does OSHA do after Archer Western
3 reports a death?

4 A I can't speak to that.

5 Q No one contacts you or has asked you for further
6 forms or reports?

7 A In other cases, yeah, they follow their
8 procedure and set up an introductory meeting and open
9 their investigation and go from there. I don't believe
10 they did that in this case.

11 Q Do you know why?

12 A No.

13 Q Did the Archer Western have the MOT personnel
14 like Kody Gardner re-review with law enforcement best
15 safety practices after Deputy Hartwick's death?

16 A They were instructed to.

17 Q Do you know if that happened?

18 A No. I can't -- I can't say for sure.

19 Q Do you know how often they were instructed to
20 re-review safety procedures for law enforcement working
21 traffic detail after Deputy Hartwick's death?

22 A Before every shift.

23 Q would there have been any change in hiring
24 practice since Deputy Hartwick's death?

25 A No. I wouldn't say changes.

1 Q what would you say?

2 A More attention.

3 Q what was lacking previously?

4 A I think -- I think there would have been more
5 training for administrative staff on reviewing
6 identification.

7 Q what were the internal meetings -- were you
8 involved in any internal meetings related to Deputy
9 Hartwick's death that specifically addressed safety
10 concerns?

11 A I'm sorry, I didn't catch the end of that.

12 Q I apologize. Were you involved in any internal
13 meetings relating to Deputy Hartwick's death that
14 addressed safety concerns?

15 A I was involved with the investigation, internal
16 investigation.

17 Q Okay. And we may have already gone over it, but
18 what were the results of the internal investigation
19 regarding how to better ensure safety for traffic details
20 for your workers, anything like that?

21 MR. BENTLEY: I'm going to object to that to the
22 extent it's calling for the witness to relate
23 anything that he may have heard from the attorneys
24 involved in the internal investigation. So do you
25 understand that, Dan? I'm instructing you not to

1 answer if an attorney told you what the results of
2 the investigation were and what changes you should
3 make, but I don't have any objection to you answering
4 any questions with respect to any changes that were
5 made at the site following the internal
6 investigation.

7 THE DEPONENT: Yeah, I understand.

8 Q (By Ms. Blaquiere) Go ahead. So are you
9 refusing to answer the question, Mr. Horvath, based your
10 counsel's recommendation?

11 A I mean, like I mentioned before, we instructed
12 the field crews to have these -- make sure the police
13 officers are involved with the Pre-shift Task Hazard
14 Analysis meetings and make sure they're putting on their
15 vests. Tell them to stay in their vehicle. You know,
16 there's no reason to be outside the vehicle if they don't
17 need to be. And that was the main change there, just
18 reinforcing our existing policies, procedures.

19 Q Okay. Have you understood all of my questions
20 up to this point?

21 A Yes.

22 Q And have you been able to answer them fully and
23 accurately to the best of your ability?

24 A Yes.

25 MS. BLAQUIERE: I don't know if my co-counsel,

1 Ms. DeLiberato has any questions. I don't have
2 anymore questions other than I've already asked.

3 MS. DELIBERATO: No questions.

4 MR. VONDERHEIDE: No questions from the State of
5 Florida. Thank you.

6 MS. CONSTANTINE: No questions from me either.
7 Thank you.

8 MS. BLAQUIERE: Okay. would you like to read or
9 waive your deposition, Mr. Horvath, before it's
10 submitted.

11 MR. BENTLEY: Dan, I'd like you to request a
12 reading, please.

13 (Deposition concludes at 10:09 a.m.)

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COUNTY OF PINELLAS)
STATE OF FLORIDA)

CERTIFICATE OF OATH

I, the undersigned authority, certify that
DANIEL HORVATH personally appeared before me by ZOOM
videoconference and was duly sworn.

witness my hand and official seal this 30th day
of January, 2025.

Tamara M. Pacheco

Tamara M. Pacheco, RPR
COMMISSION # 474485
EXPIRES: March 30, 2028

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CERTIFICATE OF REPORTER

STATE OF FLORIDA)

COUNTY OF PINELLAS)

I, Tamara M. Pacheco, certify that I was authorized to and did stenographically report the Deposition of Daniel Horvath; that a review of the transcript was requested; and that the transcript is a true and complete record of my stenographic notes.

I further certify that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

Tamara M. Pacheco

Tamara M. Pacheco, RPR

