

1 OFFICE OF THE ATTORNEY GENERAL

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4 IN RE: STANKOSKI/STOUT EEO
COMPLAINT INVESTIGATION

5

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8 CONFIDENTIAL INTERVIEW OF

9 STEPHANIE BOSTOS-DEMERS

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11 Taken at the offices of
The State of Ohio
12 180 East Broad Street
9th Floor Conference Room
13 Columbus, Ohio 43215

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on April 16, 2008, at 9:03 a.m.

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17 Reported by: Sara S. Clark, RPR/CRR/CCP/CBC

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1 PRESENT:

2 Ben Espy, Esq.
Executive Assistant Attorney General
3 Administration
30 E. Broad Street, 17th floor
4 Columbus, Ohio 43215

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6 Julie M. Pfeiffer, Esq.
Assistant Attorney General
7 Employment Law
150 East Gay Street
8 Columbus, Ohio 43215

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1 MR. ESPY: Good morning.

2 THE WITNESS: Good morning.

3 MR. ESPY: Ms. Demers, my name is Ben

4 Espy. I'm the executive assistant to the

5 Attorney General, and I'm assisted by Julie

6 Pfeiffer, senior attorney at the employment

7 section.

8 On April the 8th we were asked to

9 investigate some allegations involving sexual

10 harassment of two of the employees in the

11 office. The Attorney General asked us to

12 inquire into these allegations. And this

13 morning, we're going to take your testimony

14 under oath.

15 THE WITNESS: Okay.

16 MR. ESPY: And we cannot assure you

17 confidentiality. Some of these documents may be

18 deemed to be public.

19 THE WITNESS: Okay.

20 MR. ESPY: And we'll try to get as many

21 details as we possibly can, the chronology of

22 the events and your involvement.

23 THE WITNESS: Okay.

24 MR. ESPY: Do you have any questions?

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1 THE WITNESS: I produced a time line,
2 which I believe you have. I do know a lot of
3 the dates in my mind; but there may be some
4 dates that you ask me about that are on my time
5 line that, you know, without looking at it, I
6 may be a little fuzzy.

7 MR. ESPY: Well, you answer based on
8 your best recollection.

9 THE WITNESS: Very good. Thank you.

10 MR. ESPY: Raise your right hand and be
11 sworn, please.

12 STEPHANIE BOSTOS-DEMERS
13 being first duly sworn, as hereinafter
14 certified, says as follows:

15 EXAMINATION

16 BY MS. PFEIFFER:

17 Q. Stephanie, I believe you know that we're
18 here today based on some complaints made by two

19 individuals employed in the general services
20 division, Cindy Stankoski and Vanessa Stout,
21 claiming that their supervisor, Tony Gutierrez,
22 sexually harassed them in various ways from
23 approximately September 10th of 2007 until
24 approximately December, January of 2007 and 8.

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1 A. Okay.

2 Q. Is that your understanding?

3 A. It's my understanding with respect to
4 Cindy Stankoski. Vanessa Stout, I was -- I'm
5 not clear of the dates of her alleged
6 harassment.

7 Q. Okay. That's fair.

8 If I tell you she was hired November
9 26th of 2007, does that sound right?

10 A. That sounds exactly right.

11 Q. Okay. All right. It's my understanding
12 that at some point in time you or someone in
13 your office was approached by a Mariellen
14 Aranda; is that correct?

15 A. Correct.

16 Q. Can you describe for me your knowledge
17 about that.

18 A. Okay. Mariellen Aranda was an employee

19 in the general services section. For some
20 reason, she contacted Molly Taylor, who was
21 formerly in human resources and served as
22 administrative director.

23 Q. Was she administrative director at the
24 time that she was contacted by Mariellen Aranda?

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1 A. Correct. I didn't have a deputy
2 director then. Molly was kind of serving in
3 that role. In any event, Molly came to me and
4 said that Mariellen had come to her.

5 Q. Okay. Did she discuss with you at that
6 point what the substance of that -- the
7 conversation was?

8 A. That Mariellen was very upset with Tony.
9 Apparently Tony had said some things to her, not
10 in a sexual nature, but very mean spirited, and
11 that she wanted a transfer. She wanted to get
12 away from him.

13 Q. Okay. And what did you do?

14 A. We scheduled a meeting with Mariellen.

15 Q. You and Molly and Mariellen?

16 A. Right.

17 Q. Okay. I apologize. Before we go into
18 that meeting, could you state for the record

19 what your position is with the Attorney

20 General's office.

21 A. Sure. I'm human resources director.

22 Q. And as human resources director, what's

23 your function?

24 A. Well, with respect to anything, or

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1 sexual harassment in general, specifically?

2 Q. Give me your general job duties, what

3 your responsibilities are.

4 A. Okay. I report through -- my chain of

5 command is Joyce Chapple and Ed Simpson. I'm

6 responsible for overseeing hirings, promotions,

7 transfers, raises. Oh, my goodness. Any FMLA,

8 ADA, EEO, to some extent, but that's typically

9 handled by Angela Smedlund.

10 Q. Okay.

11 A. You know, it depends on the day. It

12 seems like my duties evolve. But generally, all

13 human resources functions. I provide advice and

14 counseling and guidance to the 17th floor.

15 Q. Okay. And you report directly to Joyce

16 Chapple?

17 A. Correct.

18 Q. And Ed Simpson?

19 A. Well, Joyce reports to Ed.

20 Q. Okay.

21 A. So if you want to look at it that way.

22 Q. So you report directly to Joyce Chapple;

23 Joyce Chapple reports directly to Ed Simpson?

24 A. Correct.

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1 Q. Who does Ed Simpson report directly to?

2 A. I guess Marc Dann.

3 Q. Okay. Now, with respect to EEO matters,

4 what is your function?

5 A. That's difficult for me to say. I

6 believe that if I'm notified of an EEO matter, I

7 need to report that up my chain to ensure that

8 things are handled appropriately. When Angela

9 investigates matters, sometimes she'll recommend

10 discipline as a result, and I administer the

11 discipline. My function in that role has been

12 very limited, to be perfectly honest. I mean,

13 I've never responded to an EEOC charge. I think

14 the policy says that people can come to me and

15 complain to me, to the EEO officer, to their

16 supervisor.

17 Q. Okay. To your knowledge, is it your

18 responsibility to investigate complaints that

19 would fall under the EEOC guidelines?

20 A. No, it's not my responsibility. I have

21 offered to do that, and especially offered to do

22 that in this particular situation. But

23 typically, that is handled by Angela.

24 Q. And to your knowledge, when did Angela

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1 Smedlund become the EEO officer?

2 A. Gosh, Julie. I don't know. Because I
3 became HR director in July of '07, and she was
4 already the EEO officer.

5 Q. Okay. So to your knowledge, she was EEO
6 officer at least in July of '07?

7 A. Yes.

8 Q. Is she still the EEO officer, to your
9 knowledge, now?

10 A. To my knowledge, yes.

11 Q. Okay. Before I interrupted the flow,
12 you were -- I think you stated that you
13 scheduled a meeting with Mariellen Aranda.

14 A. Yes.

15 Q. And the meeting consisted of you, Molly
16 Taylor and Mariellen Aranda.

17 A. Yes.

18 Q. Could you tell us the substance of that

19 conversation.

20 A. Okay. I remember it was -- I believe it

21 was Monday, October 15th. Mariellen was very

22 upset. She was angry at Tony. She relayed that

23 he had made a comment to her, must have been the

24 week prior, and she said that witnesses had

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1 overheard it. He said something to the effect
2 of, shut up, don't speak unless you're spoken
3 to. And she was very upset, that no one had
4 ever spoken with her in that manner.

5 And then she relayed some other things
6 that she felt Tony was doing that could be
7 inappropriate. She wanted -- she made no bones
8 about it, she was very adamant that she was
9 fearful of Tony, that she didn't want him to
10 know that it was her that had come to HR, but
11 she wanted a transfer.

12 Q. Okay. Do you have a date when this
13 occurred?

14 A. When she came to me?

15 Q. Yes.

16 A. I believe that meeting was on October
17 15th. I went back and looked at my Outlook
18 calendar, and I had a meeting, and it just said

19 employment matter, and that's what sparked my
20 memory, because I would not have put her name --

21 Q. Okay.

22 A. -- because she was so fearful.

23 Q. Okay. You said that she relayed other
24 matters that she felt were inappropriate.

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1 A. Uh-huh.

2 Q. Do you remember what those other matters
3 were?

4 A. Yes. Well, I produced some notes that I
5 found recently. She brought up the issue of
6 Cindy Stankoski. She told us that Cindy is a
7 good friend of hers -- or was a good friend of
8 hers at the time; I don't believe they're
9 friends anymore -- and that Cindy had been out
10 with Tony Gutierrez, and that in the course of
11 the evening -- and this was an evening in
12 September; it was a -- you know, a month prior;
13 it hadn't happened just then -- that Cindy was
14 calling her and sending her text messages, that
15 she was out to dinner with Tony, that they were
16 drunk, that now I'm at Marc Dann's house, this
17 is getting weird. Jessica Utovich is here. And
18 that's all in the text messages that were

19 produced. But that Mariellen was very concerned
20 about Cindy. And Cindy kept saying, come and
21 get me, I don't know how I'm going to get home,
22 I'm drunk. Mariellen's like, I live in
23 Lancaster, I can't drive, that call James or
24 call Erika. I'm just giving names as an

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1 example. Call somebody else, I can't come.
2 Mariellen expressed that she was very
3 upset by it, that she was up all night worrying
4 about Cindy. And I believe she also relayed to
5 us a situation where Tony had to go to
6 Cincinnati for business. They had to
7 transport -- it was either some vehicles or some
8 computer equipment. And that on the way back,
9 that Cindy and Tony had stopped at a bar in
10 Grove City. And I believe Cindy had either
11 called her from the bar or sent her text
12 messages, and that later she called -- about
13 6:30 p.m. called Cindy to make sure she was
14 okay, and Cindy said, yeah, I'm already back to
15 my car.

16 Q. Okay.

17 A. She also, by the way, mentioned
18 something in the course of that interview about

19 Tony making a statement about someone that had
20 called in that I believe was gay and/or
21 African-American, and made some inappropriate
22 comment about the race, or there's nothing worse
23 than a gay, black man or something like that.
24 THE WITNESS: I apologize, sir.

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1 Q. Okay. So she told you that?

2 A. She told us that, I believe, also in the

3 course of the interview.

4 Q. Okay.

5 A. She told us some other things. I mean,

6 she was just kind of -- I want to say spilling

7 her guts about Tony at that point.

8 And she -- I think she had mentioned

9 that he had asked maybe Erika to come to the

10 house or come over to the apartment, you can use

11 the pool or the hot tub or the gym, something

12 like that.

13 Q. She thought that Tony had asked Erika

14 Haske --

15 A. Yes, Haske.

16 Q. -- over to the apartment to use the hot

17 tub?

18 A. Correct. And I don't know when. That

19 had happened sometime prior, allegedly. I don't

20 know if it was true.

21 Q. To your knowledge, was she giving you

22 this information to tell you what the atmosphere

23 was like?

24 A. I think so. I think she was -- she was

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1 very, very upset with Tony. Very angry. Very
2 outraged. And I think she had -- she was just
3 concerned, I think, for her own well-being and
4 the other folks in the section.

5 Q. And she asked for a transfer?

6 A. She did.

7 Q. Did she have an idea as to where she
8 wanted to transfer?

9 A. No.

10 Q. She just wanted out --

11 A. Yes.

12 Q. -- of general services?

13 A. Yes.

14 Q. Is there anything else you can remember?

15 A. Oh, let me think. I remember her saying
16 that Tony treated her differently from the other
17 ladies. Mariellen is a very sweet girl, very
18 quiet girl. And that she expressed that Tony

19 would ask people in the section to go out for

20 drinks but never her.

21 Q. Okay.

22 A. I believe I asked her, has he ever done

23 anything inappropriate to you, inappropriate

24 comment, and her answer was no. No, he doesn't

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1 really speak to me. He pretty much ignores me,
2 I believe.

3 Q. Okay. So her -- her problem was the way
4 he treats others?

5 A. Her problem at the time was the way he
6 had treated her very recently about shut up,
7 don't speak until you're spoken to. And in the
8 course of that, she was concerned for her
9 friend, Cindy, and maybe some of the other
10 ladies.

11 And I think she may have also expressed
12 that, I mean, he doesn't treat the men very
13 well; he's not exactly nice to them.

14 Q. Okay.

15 A. She may have. I -- I don't -- I've
16 heard that in the course of conversations.

17 Q. Okay.

18 A. Yeah, she thought he was not a very nice

19 person. Let's put it that way.

20 Q. How did you leave the conversation?

21 A. I believe that we told -- again, Julie,
22 she was in tears. She was upset. I remember
23 now, she told us that she was smoking again,
24 that she had given up smoking, and she was

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1 smoking again, and that she was on Prozac. And
2 she was very adamant that Tony can't know it was
3 me that came to HR. Tony can't know it was me.

4 Let me back up. She had produced those
5 text messages to Molly, from her private e-mail
6 to Molly's private e-mail.

7 Q. Okay.

8 A. I had Molly print them off, and we
9 brought them in. And she had talked about these
10 were the text messages that Cindy was sending me
11 when she was at the apartment. She, again, was
12 adamant, please, Tony can't know it was me that
13 came to HR; Cindy can't know it was me. No one
14 can know. And what I told her was I will do my
15 best to assure that he does not find out, and I
16 will work on getting you transferred. I need --
17 I need to take this up the chain. I need to
18 talk to my bosses about it. I'll get back with

19 you.

20 Q. Okay. Did she explain why it was that

21 she didn't want Cindy to know that she had told

22 you?

23 A. She was -- I think she was -- she had

24 said that -- I know I asked her in the course,

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1 something to the effect, you know, is Cindy
2 experiencing a problem, does she need to come to
3 HR, does she want to talk to me, is she -- you
4 know, what's going on down there. I mean, I
5 remember -- at the time, Julie, I didn't know --
6 there were so many rumors going around that I
7 had heard that I didn't know if what was going
8 on between Tony and Cindy was a consensual
9 affair, relationship, or if he was allegedly
10 harassing her. So I tried to pry, Mariellen,
11 what's going on down there? And I don't think
12 she really knew. But Cindy was her friend, and
13 Cindy said -- pretty much had told her, I really
14 don't want anything to do with HR. I'm not
15 going to HR.

16 Q. Okay.

17 A. And Cindy was afraid that -- I'm sorry.

18 Mariellen was afraid that if Cindy found out it

19 was her, she would be very upset with her, as
20 well. She was also very fearful of Tony's
21 retaliation.

22 Q. Okay. It was your understanding from
23 that conversation that Cindy Stankoski did not
24 want to be involved in anything?

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1 A. Correct.

2 Q. And you weren't sure at that point

3 whether or not any relationship she may or may

4 not have had with Tony at that point was

5 consensual?

6 A. Correct.

7 Q. It could have been, to your knowledge?

8 A. You know, the rumor mill is sometimes

9 bigger than life. And I had heard -- to be

10 perfectly frank, I had heard rumors that Cindy

11 was having a relationship with Tony, and I had

12 heard rumors later that Vanessa was Tony's

13 girlfriend.

14 Q. Okay. So you told Mariellen Aranda that

15 you were going to take this up the chain?

16 A. I said I had to.

17 Q. Okay.

18 A. Because, let's face facts, Tony's --

19 Tony would boast that he was Marc Dann's best
20 friend. And everybody knew they were roommates.

21 Q. Did you hear Tony boast about that?

22 A. About --

23 Q. Being Marc Dann's best friend?

24 A. Yes.

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1 Q. In what context did you hear him

2 boasting about that?

3 A. You know, just casual conversation. We

4 would be -- you know, I'd be in his office or

5 something, and he'd talk about Marc, the soccer

6 games.

7 Q. What about the soccer games?

8 A. Some -- maybe something about their kids

9 playing soccer, or that their wives were

10 friends, or that he lived down the street from

11 Marc.

12 Q. What's your understanding of Marc's --

13 the relationship between Marc Dann's wife and

14 Tony Gutierrez's wife?

15 A. I've heard, again through the rumor

16 mill, that they are very good friends.

17 Q. Okay.

18 A. I have no personal knowledge.

- 19 Q. At this point, right around this time
20 when Mariellen came to talk to you, and even
21 thereafter, have you gained any information with
22 regard to the influence, if any, these wives
23 have over personnel decisions?
24 A. No, I haven't.

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1 But I heard something, and I don't know
2 if it's true, but it was very upsetting to me at
3 the time -- and I know I'm jumping ahead -- but
4 I had a conversation -- this is in March, after
5 the girls came to me, I went to Ed, and I had a
6 conversation with him about the matter -- I'm
7 sure we'll get into that -- and I had heard --
8 and I don't remember where I heard this -- that
9 Ed called Alyssa, Marc's wife. I don't know if
10 that's true or not. But I remember I was very
11 upset, thinking, why would we involve her in a
12 business matter? I later heard, I believe from
13 Cindy, that after she came to human resources,
14 Tony Gutierrez was parading Alyssa --

15 And I know she doesn't go by Dann. I
16 don't know her last name.

17 Q. I believe it's Lenhoff. Does that sound
18 right?

19 A. Lenhoff.

20 Q. Okay.

21 A. -- on the 15th floor, and that they
22 stopped to say hello to everybody except Cindy.

23 Q. Okay. Did you witness that?

24 A. No. That's just what Cindy told me.

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1 Q. Cindy told you, okay.

2 So you've heard Tony Gutierrez brag
3 about being Marc Dann's best friend. Have you
4 ever heard Tony Gutierrez talk about his
5 connections with the Mafia?

6 A. No. But he did make a comment to me
7 once, when I was still in civil rights on the
8 15th floor, there was a dispute between him and
9 Kevin McIver in the opinion section, and I kind
10 of was in the middle of it and was trying to
11 play peacemaker, it was a fine conversation, but
12 he was laughing and joking, and he said, you
13 don't know how many times I've been threatened
14 to be buried in concrete. And I remember
15 thinking, oh, my goodness, okay, I'm just going
16 to walk away now.

17 Q. Tony Gutierrez said that?

18 A. Tony said that in front of Kevin McIver

19 and I.

20 Q. Okay.

21 A. I've never heard anything about the Mob.

22 That's, again, one of the rumors.

23 Q. Okay.

24 A. Yeah.

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1 Q. Now, after your conversation with
2 Mariellen, did you then take these concerns up
3 the chain?

4 A. I did.

5 Q. Okay. What did you do?

6 A. I was in a conference room -- and to the
7 best of my recollection, it was the same day
8 that -- when Bob Fiatal started in the office as
9 the superintendent of BCI -- they were holding a
10 press conference in the teleconference room, I
11 was in some meeting regarding some matter in the
12 16th floor Conference Room 1, and I recall that
13 Ed and Joyce were on the floor, and I grabbed
14 them or I told them I needed to speak with them
15 about something. Because I remember Joyce kept
16 going back and forth, because she was so in awe
17 of Bob coming on board, and she kept wanting to
18 see the press conference.

19 But I believe it was that day, and I
20 shared with them that Ms. Aranda had come to me,
21 and that she had raised some concerns about
22 Tony, and I proceeded to tell them about, you
23 know, the alleged evening that Cindy was at the
24 apartment, and Marc Dann was there, and that

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1 Cindy had been text messaging, and I had, you
2 know, access to the -- no, at that point in
3 time, I had the text messages. And I asked
4 them, what do you want me to do about it? Do
5 you want me to launch an investigation? Should
6 I, you know, go down and talk to Cindy? And
7 they said, no, no, not at this time; we'll take
8 care of it.

9 Q. Okay. And who said that?

10 A. Joyce and Ed. It was a meeting with
11 both Joyce and Ed. I said, you know, I really
12 need to talk to you guys. And I asked them, you
13 know, about Mariellen transferring, you know.
14 And I explained that she was very upset, very
15 fearful of Tony, and that -- you know, I
16 rehashed the whole conversation about she was
17 fearful about that if Tony found out it was her
18 that came to HR and reported on him, that she

19 would suffer retaliation. And I believe at that
20 time, they approved her to be transferred. We
21 just didn't know where.

22 Q. At that same meeting?

23 A. Yes.

24 Q. Okay. Was anyone present during this

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1 meeting except for Joyce Chapple, Ed Simpson and
2 you?

3 A. I don't think so. I don't think Molly
4 was there. In fact, I know it was just me.

5 Q. Okay. And you stated that they said,
6 no, don't start an investigation, don't worry
7 about it, we'll take care of it?

8 A. Correct. Because I said, do you want me
9 to go and talk -- interview Cindy. And they
10 said, well, has she come to complain? I said,
11 no, it's my understanding she doesn't want to.
12 They said, no, just leave it alone for now.

13 We'll take care of it. I said, okay.

14 Q. Did they instruct you to write up a
15 memorandum?

16 A. No.

17 Q. A report?

18 A. No.

19 Q. Did you write up any kind of a report or
20 memorandum?

21 A. No, just -- I had my notes.

22 Q. Okay.

23 A. Which I didn't even give them a copy at
24 the time. I just hung on to them, found them in

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1 my spiral notebook.

2 Q. After they told you not to worry about
3 it and that they would take care of it, did you
4 follow up with them, or did they follow up with
5 you?

6 A. You know, Julie, I really honestly don't
7 remember the sequence then. I remember that we
8 found out there was a position opening up in
9 organized crime.

10 Q. Okay.

11 A. They needed -- Frank Lockhart and Fred
12 Moore were looking for an equipment coordinator.
13 And Molly had a relationship, I believe, with
14 Frank and/or Fred, and she said, hey, I think I
15 have someone in mind for you. And she, I
16 believe, said, you know, Mariellen Aranda's
17 name. They said, that would be great.

18 And then we approached Mariellen about

19 it, and she really wanted the job. She was very

20 excited about it.

21 Q. Okay. Do you remember when this would

22 have been that you approached her with it, if

23 she came to see you on October 15th?

24 A. Yeah. I should have reviewed my

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1 information. I found some e-mails that
2 Mariellen and I exchanged. I believe it was
3 later in October. Maybe around the 22nd or
4 25th. Because I wanted to make sure Mariellen
5 understood that this was a voluntary transfer
6 that she wanted, that we weren't forcing her to
7 transfer.

8 Q. Okay. I'm going to hand you what I
9 think is the time line that you referenced and
10 ask you if you can identify it.

11 A. Okay. Yes, I prepared this at your
12 request.

13 Q. Okay. On one of those pages I think it
14 says 10-22 -- the entry that says 10-22-07.

15 A. Yes, okay, 10-22-07.

16 Q. Is that when you consulted Mariellen
17 Aranda about the position in OCIC?

18 A. That's when I would have first -- now,

19 Molly may have done so before that. That's very

20 possible.

21 Q. Okay.

22 A. But for me, yes.

23 Q. Okay. And was she transferred to the

24 OCIC position?

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1 A. Yes.

2 Q. And when was she transferred?

3 A. I want to say -- did I not put this on

4 here? No. November -- it looks like pay period

5 November 23rd, '07 was the official date.

6 Q. After -- did she ever complain about

7 anything with regard to general services or

8 Anthony Gutierrez after the 15th?

9 A. No. She was -- well, we -- I may have

10 had some follow-up conversation with her, are

11 you okay. And I believe everything was okay, I

12 believe. I don't recall. I just recall her

13 being very happy about the transfer.

14 Q. Okay.

15 A. Very happy.

16 Q. To your knowledge, no more complaints

17 after that?

18 A. No.

19 Q. I'm going to hand you what I believe

20 are -- you stated that you had made some notes

21 of your meeting with Mariellen Aranda on

22 10-15-07.

23 A. Okay.

24 Q. I'll ask you if those are your notes.

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1 A. My chicken scratch, yes. Yes.

2 MS. PFEIFFER: We'll label the time line

3 as Exhibit 10.

4 --0--

5 (Exhibit 10 marked.)

6 --0--

7 MS. PFEIFFER: And we'll label

8 Stephanie's notes as Exhibit 11.

9 --0--

10 (Exhibit 11 marked.)

11 --0--

12 BY MS. PFEIFFER:

13 Q. Other than Mariellen Aranda, did anyone

14 consult with you regarding any issues they were

15 having in general services?

16 A. I remember James Ford coming to Aleatha

17 Botts, my deputy director, about Tony's

18 treatment of him. Apparently Tony had told him,

- 19 you've got 90 days to find a new job. Charlie
- 20 Rosol came to me on a couple of occasions about
- 21 Tony's treatment of him and, also, you know,
- 22 this whole situation.
- 23 Q. Okay. Do you recall approximately when
- 24 James Ford complained to you about Tony

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1 Gutierrez telling him that he had 90 days to
2 find a job?

3 A. Yeah. Again, it wasn't me. I believe
4 he met with Aleatha Botts.

5 Q. Aleatha.

6 A. I want to say -- oh, my goodness --
7 earlier this year, maybe. Maybe January or
8 February.

9 Q. Okay. And Charlie -- you said Charlie
10 talked to you about Tony's treatment of him, and
11 then also what was going on.

12 A. Yeah. I believe that maybe Cindy had
13 communicated with Charlie about Tony. And I
14 believe Charlie told her -- at least what he
15 told me is -- hey, if you've got a problem, go
16 to HR. Go to HR. And on occasion, Charlie
17 would come up and we'd talk. I'd be like, you
18 know, how are things down there, you know. This

19 was after Mariellen was gone. I'm trying to
20 remember if Vanessa was there yet. I -- oh,
21 boy. This is where I'm a little fuzzy. I
22 apologize.
23 I believe Tony -- I'm sorry. I believe
24 Charlie -- Charlie really works hard, and he has

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1 a young child, and he was a little fearful of

2 Tony.

3 Q. Did he express that to you?

4 A. Yeah.

5 Q. How did he express that?

6 A. He just felt that, when this whole thing

7 was going on -- and somehow I need to interject

8 here that Tony, when I was conducting some

9 interviews with him, said, you know I know who

10 came to you. And I was shocked. And I'm like,

11 who came to me? He said, I know it was

12 Mariellen Aranda. And I remember saying, how

13 did you find out? Who told you? Was it someone

14 in human resources? I mean, I must admit, I, at

15 the time, thought the only person that could

16 have told him was Molly Taylor. He said, it

17 wasn't Molly. And Charlie confirmed, yeah, Tony

18 knows. He found out. And I said, how did he

19 find out, Charlie? How did he know it was

20 Mariellen that came to me? And he said, I --

21 you know, I don't know. I can't tell you.

22 Q. Do you know approximately when this

23 conversation you had with Tony occurred?

24 A. Yeah. It was -- I believe it was

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1 November 5th. I mean, I don't want to look at
2 my time line unless you tell me to, but I
3 believe it was November 5th. We were
4 interviewing for a maintenance supervisor
5 position out at the London facilities.

6 Q. Okay.

7 A. But I know Mariellen had communicated
8 with Charlie about being upset about Tony. And
9 Charlie may have been the one to convince her to
10 come to human resources.

11 Q. Okay.

12 A. But Charlie, again, did confirm, he
13 said, Tony knows, he knows it was Mariellen.

14 Q. Did he seem angry?

15 A. I think he was concerned, as I was.

16 Q. Okay. Did you talk to him about the
17 substance of why she was angry and what was
18 going on?

19 A. With Tony?

20 Q. Yes.

21 A. No, I did not. No. She had already
22 been transferred, you know, officially. You
23 know what? It couldn't have been November 5th.
24 That cannot be right, because she did not

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1 transfer until the 23rd.

2 Q. Go ahead and take a look at your time

3 line, if that will help you.

4 A. Well, no, wait. Maybe it was --

5 according to my time line, there's an e-mail,

6 Ms. Aranda notifies Mr. Gutierrez she's

7 transferring on 10-23. I -- Julie, I know that

8 Mariellen was already gone by the time that Tony

9 said, I know who it was.

10 Q. Okay.

11 MR. ESPY: Go to the next page on 11-5.

12 THE WITNESS: That's when I say that was

13 the interview, 11-5. I'm wondering if I got

14 Ms. Aranda's transfer date wrong. Maybe that

15 should have been 10-23 instead of 11-23. I will

16 check that; and if so, I will correct this.

17 BY MS. PFEIFFER:

18 Q. Do you have documentation in Exhibit 10

19 when Charlie Rosol came to talk to you?

20 A. (Witness shakes head.)

21 Q. No?

22 A. No.

23 Q. Okay.

24 A. No. Because Charlie was up on the floor

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1 quite a bit, doing other things, and
2 periodically he would pop his head in and we
3 would talk about, you know, things, and
4 sometimes we would talk about what was going on
5 in general services.

6 Q. Did he discuss with you whether or not
7 he believed that any general services employees
8 were being harassed?

9 A. Again, I think we had both heard the
10 rumors about the girls being Tony's girlfriend,
11 and especially Vanessa. So he had never said
12 anything about Vanessa Stout being harassed. He
13 may have -- he may have said something to me
14 about Cindy, about Tony's -- I'm trying to
15 think.

16 Somebody told me about an incident where
17 Tony put down a brochure for a casino, I believe
18 in Arizona, and, like, put it down in front of

19 Cindy and said, yeah, we'll talk about this
20 later, and Cindy saying something like, I wish
21 he'd quit acting like I'm his girlfriend. It
22 may have been Charlie who relayed that to me.
23 Q. If you want to take a look at Exhibit 11
24 and see if there's an entry in there.

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1 A. About that particular matter?

2 Q. Yes.

3 A. Okay. That would have been -- let's

4 see.

5 Okay. Yeah, it was Mariellen Aranda

6 that relayed that to me. Charlie -- what did

7 Charlie tell me? I remember Charlie telling me,

8 again, that Tony knew it was Mariellen that came

9 to me. And I remember Charlie telling me that

10 either -- Tony at first thought it was him, and

11 that he didn't trust him. I do think maybe

12 Charlie had said something about Tony maybe

13 being a little inappropriate with Cindy.

14 Q. Okay.

15 A. I can't give you specifics.

16 Q. Let me ask you this question. I know

17 you stated that after your conversation with

18 Mariellen Aranda, you didn't know whether or not

19 any relationship was consensual or not.

20 A. Yeah.

21 Q. That you thought that there was a

22 possibility that it might have been a consensual

23 relationship, from what you were told.

24 A. Right. From what I was told, it was

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1 Cindy went out for drinks with Tony. Somehow
2 they ended up at Marc Dann's apartment, there
3 was pizza, that Cindy kept conveying that she
4 was really drunk, this was getting weird, I'm
5 out with the boss, I think meaning Tony and Marc
6 Dann.

7 Q. In your conversations with Charlie
8 Rosol, did he tell you anything that changed
9 your mind and made you believe that definitely
10 this was not a consensual relationship?

11 A. No. I mean, I think -- I do remember
12 Charlie telling me things that he felt that Tony
13 was doing that were probably inappropriate.

14 Q. Do you remember what those were?

15 A. I don't.

16 Q. Okay.

17 A. I do remember he was -- he told me that
18 he was trying to convince Cindy that, you know,

19 if she was experiencing an issue with Tony, you
20 know, I guess maybe an unwelcomed relationship,
21 to come to human resources. And I kept asking
22 Charlie, is she going to come up, is she going
23 to come up. And he said no, no, no, she doesn't
24 want to talk to human resources.

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1 But to be perfectly honest, Julie, I do
2 think that Charlie did share some things with me
3 that he felt were probably not appropriate for
4 Tony to be doing to female staff members.

5 Q. Did you give him direction?

6 A. I told him to tell the girls to come to
7 human resources.

8 Q. Did you follow up with Joyce Chapple
9 and/or Ed Simpson?

10 A. Yeah, I did. Yes. Let me back up.

11 After I came to them in October, and
12 they said -- I said, do you want me to
13 investigate, do you want me to go, you know,
14 interview Cindy, and they said no, we'll handle
15 it, I followed up with Joyce. She told me that
16 she had given Tony a reprimand -- a very stern
17 reprimand about socializing -- I don't know what
18 she said; I can't speak for her.

19 But I also followed up with Tony on two
20 occasions, because he came to me, like, is
21 everything okay now, you know. And I remember
22 saying, Tony, I don't know what happened, but
23 listen -- and he didn't know who it was that
24 came to me at that point. He was like, so who

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1 was it? Who came to human resources? And I
2 said, I'm not telling you. It's irrelevant.
3 Forget about it. I don't want you ever to ask
4 me again. Because I -- I also was a little
5 fearful, like he could retaliate against the
6 young lady, Ms. Aranda.

7 So I said, Tony, I don't know what's
8 going on, but let me tell you something right
9 here and right now, you cannot take females out.
10 You can go out as a group, but don't ask the
11 young ladies out to dinner, don't ask them for
12 drinks, don't make inappropriate comments. It
13 has to stop. Do you understand me? And he
14 said, yeah, I understand. It's not gonna
15 happen. I said, okay, better not.

16 Q. Can you recall -- give me a specific
17 time frame as to when you had that conversation
18 with him?

19 A. I had it twice. Once, again, before he
20 knew, and then once at the -- we had a chief's
21 retreat out at London at OPOTA, and we were
22 standing there, and he kind of brought it up
23 again.

24 Q. Okay. Feel free to look on your time

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1 line. Can you give me at least a month the
2 first one occurred?

3 A. Oh. Probably right after it happened,
4 late October. Maybe mid to late October.

5 Q. Okay.

6 A. The second time, I believe the chief's
7 retreat was December 12th --

8 Q. Okay.

9 A. I don't know if I put that on here -- of
10 '07. Yes, 12-12-07.

11 And then, Julie, to answer your
12 question, though, there would be times
13 periodically throughout that, you know, we'd
14 kind of bring up the subject of Mariellen
15 Aranda, and I believe Cindy, definitely
16 Mariellen, you know, because she had been
17 transferred at that point. But Joyce told me
18 that she -- that she had reprimanded Tony.

19 Q. Okay.

20 A. So --

21 Q. Was it your understanding that that was

22 the result of what -- of the issues brought up

23 about Tony Gutierrez?

24 A. Right. Keep in mind one thing, that,

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1 you know, it was my impression that, okay, I
2 have this information that this third party
3 brings to me. I don't know what's going on. I
4 don't know the situation. In my mind, I'm
5 thinking, well, let me go interview
6 Ms. Stankoski, it let me go interview
7 Mr. Gutierrez, let me go interview people in the
8 vicinity to see what -- to kind of flesh it out.
9 Because, you know, a lot of times these types of
10 allegations, one person's saying one thing,
11 someone else is saying, no, that never happened.
12 I'm like, I don't know what to do. I'm like, do
13 you want me to go interview Tony and Cindy and
14 find out what's going on? And the answer was,
15 no, we don't want you to do that.
16 Q. When you would have these conversations
17 with Charlie, and you stated that he had brought
18 up issues that he thought -- surrounding

19 Cindy --

20 A. Right.

21 Q. -- did he talk about Vanessa Stout at

22 all?

23 A. No. Other than I think he had heard the

24 same rumor, that Vanessa was Tony's girlfriend.

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1 Q. Okay.

2 A. I remember having a conversation with
3 Charlie about that. And I remember having a
4 conversation with him about somehow Alyssa and
5 Tony's wife were friends, that Vanessa was
6 working in the booth on 17, and that they were
7 told she's never to be on the 17th floor again,
8 and that it somehow was sparked by the wives,
9 meaning Mrs. Gutierrez and -- I keep forgetting
10 her last name -- Ms.--

11 Q. I think it's Lenhoff. I hope I'm not --

12 A. Lenhoff.

13 Q. We can -- she's been referred to as

14 Mrs. Dann.

15 A. Yeah.

16 Q. And you said you heard that from

17 Charlie?

18 A. I did.

- 19 Q. When's the first time you became
20 involved in any kind of situation where Vanessa
21 Stout was complaining that she was being
22 harassed?
- 23 A. When Vanessa came to human resources.
24 And that was March 6th.

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1 Q. So prior to March 6th, you had not
2 received any information that Vanessa Stout was
3 being harassed by Anthony Gutierrez?

4 A. No. Again, I had only heard rumors that
5 she was his girlfriend.

6 Q. Tell me about when she came to human
7 resources on March 6th.

8 A. Okay. Can I back up? Because there's a
9 precursor.

10 Q. Sure.

11 A. At some point in time, I was called
12 in -- I remember this, because a meeting
13 appeared on my schedule that I needed to go to
14 Ed's office about an employment issue. And it's
15 probably in my time line, and I won't look at it
16 until you tell me. I'm thinking, oh, I've got
17 25 things going on, and now I have -- I don't
18 even know what this is about. So I remember

19 going in -- and this was after the conversation
20 with Charlie about Vanessa not being allowed to
21 be in the box upstairs on the 17th floor. And
22 Ed Simpson and I were in the office, and I
23 believe it was just the two of us, and he had
24 indicated something to the effect of they wanted

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1 to fire Vanessa Stout.

2 Q. Ed told you that they -- did he indicate

3 who "they" were or was?

4 A. I remember he said something about Marc

5 not wanting to see her, that she couldn't be on

6 the 17th floor.

7 Q. And they wanted her to be fired?

8 A. Yes.

9 Q. Okay. Go ahead.

10 A. And I said, you can't do that. You have

11 no reason to fire her. And I remember in the

12 course of the conversation, it was -- something

13 was raised about Vanessa and Tony and a

14 relationship. And I said, you can't fire her.

15 You can't. And there was some discussion about

16 that. I left, and then the next day or two, I

17 found out she was being transferred to IT.

18 Q. If you want to look on Exhibit 10 and

19 give us the date that that conversation

20 occurred.

21 A. According to my information, it was

22 either January 17th or January -- no, I'm sorry.

23 The meeting with Mr. Simpson was January 16th at

24 2:00 p.m --

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1 Q. Okay.

2 A. -- according to my Outlook calendar.

3 Q. Okay.

4 A. I found out she was being transferred, I
5 believe it was Friday, the 18th.

6 Q. Were you involved at all in her
7 transfer?

8 A. No. The only involvement I had, I asked
9 Ed, am I supposed to relay this information to
10 her? What am I supposed to tell her? He said,
11 no, Tony got us in this mess. Tony's going to
12 get us out of it. He can tell her.

13 Q. That's what he said to you?

14 A. (Witness nods head.)

15 Q. What was your response?

16 A. I said, okay. I said, well, Marc
17 Polster needs to know. He said, yeah, go ahead
18 and call Marc and tell him.

19 Q. Tell me what your understanding was of
20 where she was going to be transferred to.

21 A. IT. I remember they were trying to find
22 a place to put her. They were like, she can't
23 be in general services for her own good and for
24 the office. I really didn't understand what was

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1 going on, other than I heard that she was Tony's
2 girlfriend, that Alyssa was upset, Tony's wife
3 was upset, Marc did not want to see her face on
4 the 17th floor because of the wives.

5 Q. And you were not being consulted?

6 A. That's correct. Other than they were
7 going to fire her; I'm like, you can't do that.

8 And I -- well, never mind.

9 Q. Okay.

10 A. Okay. So then I call Marc Polster, and
11 I said, Marc, I'm calling to let you know that
12 you're going to be getting a new employee by the
13 name of Vanessa Stout. He's like, what? Who is
14 she? Why? I said, Marc, I'm really not at
15 liberty to say, being why or who or what. She's
16 being transferred by Ed Simpson. You'll have to
17 find a place for her. He said, well, can I get
18 some information? I said, I'll send you her

19 personnel file. I think he came up with some

20 duties for her.

21 Q. Was there an open position --

22 A. No.

23 Q. -- that she was transferred to?

24 A. Not to my knowledge. I don't know who

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1 came up with IT. Again, Julie, I was not --

2 Q. Did you fill out a personnel -- to your
3 knowledge, was a personnel action form created
4 for this transfer?

5 A. She was changed in HR2000.

6 Q. What's that?

7 A. I'm sorry. HR2000 is our database.

8 Q. Okay.

9 A. I have to go back and look for a
10 personnel action form. It could have been --
11 Janice Davis was in retirement mode at that
12 point in time, and Janice worked on it. Janice
13 may have forgotten to do Vanessa's necessary
14 personnel action form. I don't recall. I
15 remember telling Janice that Ms. Stout was being
16 transferred to IT. Again, the necessary entries
17 in HR2000 was made, probably OAKS, which is a
18 different database. We came up with a working

19 title, I believe special projects coordinator.

20 Q. Okay. So she was transferred to a

21 special projects coordinator. You said, we came

22 up with that.

23 A. HR. Because we had to have a working

24 title for her.

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1 Q. Okay. Who landed on that?

2 A. I think Janice Davis came up with that
3 one. We were trying to figure out, based on our
4 guidelines, what would be her title or role.

5 Q. Were you instructed by someone to say
6 she's moving to IT, you figure out where, and
7 you figure out what this position is going to
8 be?

9 A. I was told to talk to Marc Polster and
10 let him know that she was going to be
11 transferred. Marc's like, what am I going to
12 have her do? I said, Marc, you're going to have
13 to have her be -- her qualifications, she
14 obviously didn't have an IT background, so
15 really the only thing she could do was be an
16 assistant. Her position in general services was
17 telecommunications.

18 Q. Okay.

19 A. I didn't think she could really carry
20 through those duties over in IT. Marc, I think,
21 came up with the idea that she can assist this
22 person or that person.

23 Q. So you and Marc together made a place
24 for her in IT and HR came up with the name?

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1 A. Yeah. I informed Marc that you're
2 getting her. He's like, who is she? Why? I
3 was like, Marc, it's from the 17th floor. This
4 is my marching orders, that she's to be
5 transferred to your section.

6 Q. Okay. And you did this on the order of
7 Ed Simpson?

8 A. I wouldn't say -- maybe not order; but,
9 yes, he told me to do that. Yeah.

10 Q. Did you have any -- after she was
11 transferred and after you guys did what Ed
12 Simpson instructed you to do, did you have any
13 other conversations with Ed Simpson regarding
14 Vanessa Stout's transfer?

15 A. I don't recall, Julie, in all honesty.

16 Q. Did you have any discussions with Joyce
17 Chapple regarding the Vanessa Stout transfer?

18 A. I don't know if I did. I don't think

19 so.

20 Q. Anyone else in administration on the

21 17th floor?

22 A. I did speak with Sherry Maxfield. I

23 went to Sherry because Sherry's our chief

24 counsel, and I was very concerned because they

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1 wanted to fire the young lady, and I relayed
2 that information to Sherry.

3 Q. The information --

4 A. You know, that they wanted to fire
5 Vanessa.

6 Q. Did she give you any instructions?

7 A. She agreed with me that that would not
8 be an appropriate thing to do. Now, whether she
9 said or did anything, I don't know. But we did
10 have a conversation about it. It was a very
11 brief conversation. I was upset, and I felt
12 that, you know, someone needed to know.

13 Q. Okay. Did she give you any
14 instructions?

15 A. I don't believe so.

16 Q. Okay.

17 A. Because I had told her I told them, you
18 can't do that. You cannot fire that young lady.

19 So I think she knew I had taken care of it.

20 Q. Okay.

21 A. Or at least I thought I had.

22 Q. Okay. Let's stay on Vanessa Stout.

23 A. Okay.

24 Q. What I'm going to do is I'm going to

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1 hand you -- we'll label this Exhibit 12, which I
2 believe is Vanessa Stout's entire personnel
3 file.

4 A. Okay.

5 Q. And I want to talk about how she came
6 about being hired.

7 A. Okay.

8 --0--

9 (Exhibit 12 marked.)

10 --0--

11 BY MS. PFEIFFER:

12 Q. You testified earlier that you oversee
13 the hiring of individuals.

14 A. Correct.

15 Q. Is that correct?

16 A. Correct.

17 Q. Okay. Was there any point in time you
18 became involved yourself in the hire of Vanessa

19 Stout?

20 A. No.

21 Q. Okay.

22 A. Well, no. I -- my only involvement was

23 I saw this HR request come across my desk, and I

24 believe her background form. I was never

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1 consulted about hiring her. I didn't even know
2 there was a position.
3 And I remember looking through the
4 information, and I remember looking at the
5 address, Tuttle View Drive. And I thought,
6 huh, I've always been told that Tony Gutierrez
7 lives up near Tuttle Crossing with Marc Dann and
8 Leo Jennings. And I remember I went in to
9 Janice Davis, who would have processed this, I
10 said, Janice, do you have an address for
11 Gutierrez? The only address she had was
12 Youngstown. So I called Angie Smedlund. I
13 said, Ang, does Tony Gutierrez and Marc Dann, do
14 they live up -- I said, where do they live? She
15 confirmed it was near Tuttle Crossing. I
16 remember telling Angie, oh, I've got an
17 application on my desk, I said, I'll bet this
18 girl is a neighbor of Tony's. And Angie

19 probably -- I think she probably made some

20 comment like, yeah, you're probably right.

21 And attached to the information was her

22 background. We run background checks on all

23 applicants: Web check, FBI checks. And this

24 young lady had a criminal record.

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1 Q. Go ahead and look through that personnel
2 file and pick out what it is that you said you
3 saw on your desk and you saw the address.

4 A. Okay. I may have seen this; although
5 this doesn't be have her address on it
6 (indicating).

7 Q. Okay.

8 A. This is the HR request form. But
9 normally -- see, normally, if I approve, it
10 would have my name here where it says human
11 resources director (indicating).

12 MS. PFEIFFER: Let's mark that. We'll
13 pull that out and mark that Exhibit 13.

14 --0--

15 (Exhibit 13 marked.)

16 --0--

17 A. And here is an e-mail that I sent to
18 Tony. I would have already received her

19 background. See, this came out of sequence.

20 Normally, the process is there's an HR request

21 that gets approved.

22 Q. Which is Exhibit 13?

23 A. Correct.

24 Q. Okay.

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1 A. Then the background's run.

2 Q. Okay.

3 A. Okay?

4 I saw this, this background information

5 form.

6 Q. Okay. When you're saying "this," pull

7 it out, and we'll put --

8 A. I'm sorry.

9 Q. We'll label this background information

10 form Exhibit 14.

11 --0--

12 (Exhibit 14 marked.)

13 --0--

14 A. I'm not done. Yeah, this would have

15 been the whole background file. We keep

16 background files separately. When we're

17 processing the applicants, we have what we call

18 background files.

19 Q. Okay.

20 A. So this would have all -- Number 14

21 would have been the background. I had received

22 this with this okay. Maybe it didn't have the

23 okay at the time. And I remember looking

24 through this, and that's where I saw her

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1 address, Tuttle View Drive, and then I looked
2 through it closely, and I see she is reported
3 assault, DUI and harassment. That would trigger
4 me to think, we can't hire this person.

5 Q. Okay.

6 A. So I flipped back to her Web checks, and
7 there were convictions. There were some alcohol
8 convictions, and I believe there were some, I
9 think, theft. Well, let's see, disorderly
10 conduct, harassment. Yeah, retail theft.

11 Q. What is the Attorney General's policy on
12 hiring people with past convictions?

13 A. My understanding is that we don't do
14 that.

15 Q. Any convictions at all?

16 A. Definitely felony convictions.
17 Misdemeanor convictions, if I see a conviction,
18 I don't sign off on it. I do not approve it.

19 That goes up the chain.

20 Q. Okay.

21 A. We generally -- things like this,

22 harassment, theft, in my mind, would disqualify

23 an applicant.

24 Q. Okay. In your duties as human resources

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1 director, do you recall other situations where
2 applicants had these kinds of convictions and
3 were not hired?

4 A. Yes.

5 Q. Okay. So you said you reviewed it and
6 you saw those convictions. Then what did you
7 do?

8 A. And I remember Tony was bugging me,
9 bugging me, bugging me about this hire. I'm
10 like, Tony, I don't -- I don't have an HR
11 request, you know.

12 Q. Okay.

13 A. And I said -- moreover, I said, this
14 young lady has a record. I can't approve this.
15 And I -- I remember him taking it -- he said,
16 I'll take care of it.

17 Q. Okay.

18 A. And he took this whole packet. And it's

19 my understanding that he took it up to Ed.

20 Q. Why is it your understanding that he

21 took it to Ed?

22 A. I can't remember if he told me that. I

23 know for a fact he did take it to Ed, because Ed

24 approved it. And Ed and I have had a

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1 conversation. I remember him saying something
2 like, fine, I'll take care of it, and he just
3 went over my head.

4 Q. Okay.

5 A. And the next thing I knew, you know, it
6 had been signed off on.

7 Q. Okay.

8 A. And I remember, that's when I was like,
9 we still don't have -- I think I sent him an
10 e-mail, like, November 16th, we still don't have
11 an approved HR request. I can't process this.

12 MS. PFEIFFER: I'm going to mark your
13 e-mail as Exhibit 15.

14 --0--

15 (Exhibit 15 marked.)

16 --0--

17 BY MS. PFEIFFER:

18 Q. And when you state here, we don't have

19 the approved HR request form back yet, are you

20 referring to the form that's labeled Exhibit 13?

21 A. Yes.

22 Q. Okay. And I think you said before that

23 normally you first would have gotten this HR

24 request form.

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1 A. Yes.

2 Q. Then you would have gotten the

3 background information.

4 A. Right.

5 Q. Okay. That did not happen with Vanessa

6 Stout?

7 A. Not to my recollection, no. I remember,

8 I was like, what is this? Who are we hiring?

9 What position? And I said, I -- and I remember

10 thinking, I'll bet this is a neighbor.

11 Q. Did you, on your own, find out that she

12 was, in fact, a neighbor of Tony Gutierrez?

13 A. Somehow I found that out. And it may

14 have been because she told me when she came to

15 me on March 6th.

16 Q. Okay. You said you had a conversation

17 with Ed --

18 A. Yeah.

19 Q. -- where he told you that he had

20 approved the Vanessa Stout hire.

21 A. Well, here's what happened. At some

22 point, when they wanted to let the young lady

23 go, I pulled her personnel file. And I took it

24 to him, and I said, Ed, we've got a problem.

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1 This lady has a criminal background. And he
2 looked at it. He said, did I really sign off on
3 this? And I said, yes, you did.

4 Q. Can you hand me Exhibit 14?

5 A. Of course.

6 Q. I want to take just a minute.

7 A. And I believe -- I reminded him at the
8 time, Ed, I wouldn't sign off on that. Tony
9 took it from me, went over my head. He goes,
10 yeah, Tony probably twisted my arm, is what Ed
11 said.

12 Q. That's what Ed said?

13 A. (Witness nods head.)

14 Q. I want you to take a look at Page 10 of
15 Exhibit 14, up in the right-hand corner.

16 A. Oh, right here?

17 Q. Yes.

18 It looks like there's a stamp, and it

19 says approval date, HR director, personnel

20 officer, and then other.

21 A. Right.

22 Q. Could you explain for me what those

23 handwritten notes are.

24 A. Yeah. Let me explain the form first.

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1 This is a form we created in human resources
2 that we put on the top of the background checks
3 that kind of -- because we get so many, Julie,
4 that I like to see a summary, you know. If
5 they're all okay, then I -- I would normally
6 sign where it says HR director. If it's not
7 okay, which in this case, it wasn't, to me,
8 because obviously all this information was
9 listed on the form.

10 Q. What information?

11 A. License forfeiture, court suspension,
12 administrative license suspension, arrest,
13 warrant, failure to appear. You know, that
14 triggers me, I need to look at this one closely,
15 so I did.

16 Q. Okay.

17 A. But getting back to this, this is where
18 Ed Simpson signed, approved the background.

19 Q. That date is 11-17-07?

20 A. Looks like it. I can't tell if it's

21 11-7 or 11-17. But typically I would sign here,

22 HR director.

23 Now, that's not to say there haven't

24 been circumstances where I didn't sign off and

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1 someone did approve it.

2 Q. Do you have a specific recollection of

3 seeing that and specifically not signing your

4 name?

5 A. Yes. I wouldn't sign my name. I would

6 not sign my name. And I told Tony that.

7 Q. And is that when he said, don't worry,

8 I'll take care of it?

9 A. He said, I'll take care of it. And I

10 believe he took it up to Ed. I just -- I know

11 he -- he just went over my head.

12 Q. Did you go to anyone after that about

13 this dispute you were having with Tony?

14 A. Did I go to anybody? Like I said, I

15 remember having a conversation with Ed later.

16 Q. Okay.

17 A. I think I might have told Charlie.

18 Q. Okay.

19 A. I think I may have told Charlie, yeah,

20 you know, I can't approve her. I won't. I

21 said, you know, he just went right over me.

22 Q. Okay.

23 A. I remember I had a conversation with my

24 deputy director about it. I had a conversation

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1 with Jeanette Adkinson-Meitner -- and I can
2 spell that in a minute -- who does my
3 backgrounds for me. She's an HR employee. I
4 was like, look at this; I won't hire this
5 person.

6 Q. Okay.

7 A. So I know I talked to Aleatha about it.
8 I know I talked to Jeanette. I don't know if I
9 talked to Joyce about it or not.

10 Q. Okay. Let's go back to March 6th, 2008.

11 A. Okay. By the way, I never met Vanessa
12 Stout until March 6th. I had never even seen
13 her face.

14 Q. Okay. So you had no information with
15 regard to who she was?

16 A. No. I had never met her or even seen
17 her.

18 Q. Did she contact you to speak to you on

19 March 6th?

20 A. No. I was in the chief's -- we had a

21 chief's meeting that day downstairs in the

22 hearing lobby. I believe she had e-mailed

23 Aleatha Botts several times saying, I need to

24 speak with you -- I need to speak with you about

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1 an important HR -- or confidential matter. And
2 Aleatha came down. I had just delivered the
3 information I needed to deliver at the
4 meeting -- chief's meeting. She goes, I got
5 this e-mail from Vanessa Stout. I said, okay,
6 I'm coming. Let's go talk to her. Because,
7 again, I had heard she was the girlfriend, I
8 knew she had been transferred, I expressed that
9 to Aleatha, we knew about her background. I
10 said, okay. She's like, she's on her way over
11 to HR. I'm like, I'm coming.

12 Q. And tell me about that conversation that
13 you had with Vanessa.

14 A. Okay. Vanessa was very angry. She had
15 expressed that she had just been to visit her
16 friend, Cindy, in general services, and that
17 Tony was pressing her for her phone number --
18 her personal phone number. And she relayed that

19 she -- for whatever reason, unrelated, she did
20 say it was not related to Tony, but she changed
21 her number rather frequently, and that she
22 refused to give it to him. And then after she
23 left, somehow Cindy called her or somehow she
24 found out that Tony said, that's okay, you tell

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1 Vanessa I'm offended -- no, I'm sorry -- you
2 tell Vanessa I'm offended that she wouldn't give
3 me her phone number, but that's okay because
4 we're interviewing to fill her position.

5 And I looked at her, and I said,
6 Vanessa, I've never seen any HR request or
7 anything to fill your position. I was trying to
8 tread -- you know, because I knew they had
9 transferred this young lady. She's like, I
10 don't even know why I was transferred. I don't
11 know what I did. I'm over there cleaning
12 closets.

13 That's when she relayed -- I said, how
14 did you ever meet Tony Gutierrez? How did you
15 first come to know him? And she said she was a
16 neighbor, that she was living with her parents
17 in these apartments, and that the three
18 gentlemen, Leo, Marc, and Tony, lived across the

19 street, and that she didn't know who they were,
20 she would just see them coming and going and
21 thought they were the FBI. And at one point
22 that her father's car had been hit, and that she
23 somehow found out it was Tony, and she claims
24 Tony hit her dad's car, he was intoxicated,

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1 driving a State vehicle. She confronted him
2 about it. She said, I'm from Youngstown, I'm
3 tough, I just confronted him.

4 Somehow, in the course of events, that's
5 how they came to know each other. And that
6 somehow Tony found out she was unemployed and
7 said, oh, we'll get you a job.

8 And she also shared with us that at some
9 point, in the apartment -- she was visiting Tony
10 at the apartment or something, he said, I have a
11 gift for you, and in that, it was wrapped up or
12 in a bag or something, and when she opened it,
13 it was a dildo. And she was just, this is
14 gross.

15 And I can't remember -- I remember
16 Aleatha and I specifically asked her, Vanessa,
17 you know, please don't take this offensively,
18 but we need to know, have you ever engaged in a

19 consensual relationship with Tony. And her

20 answer was, no, never.

21 And she expressed that Cindy Stankoski

22 and her had become friends, that they had

23 commiserated about Tony's treatment of them, and

24 Cindy wanted to come to HR, and she would be

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1 coming the next day.

2 And I remember Aleatha and I asking
3 Vanessa, Vanessa, what do you want as a remedy?
4 And her point was, I want to -- I want to go
5 back to my old job in general services. I liked
6 it there. I liked working with Cindy. We said,
7 you even want to go back there when Tony's
8 working there? Her answer was, yeah, I want to
9 go back. I don't like working in IT.

10 Q. Okay. Did you find that odd that she
11 would want to go back?

12 A. I remember Aleatha was like, you want to
13 go back? You're claiming this man's harassing
14 you or whatever, and you want to go back working
15 for him?

16 Q. Right.

17 A. So, yeah, we did think it was a little
18 odd.

19 Q. Did she explain why she wanted to?

20 A. She just said, I enjoyed my job. I

21 liked working with Cindy, and I liked the people

22 over there, and I'm over here cleaning closets,

23 and I don't know what I did wrong.

24 And I remember telling her that -- she

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1 had talked about her past, you know, her
2 criminal -- I said, you know, Vanessa, you know,
3 you do have a criminal record. And I remember
4 saying something like -- something to the effect
5 about she probably shouldn't even have been
6 hired here, but she was. And I said, it is what
7 it is.

8 Q. Okay.

9 A. But I remember her volunteering her
10 background, her criminal --

11 Q. What was the reason -- why did that come
12 up, her criminal background?

13 A. I think she was saying she was from
14 Youngstown, rough, tough, she's had a shaky
15 past.

16 Q. Did you get the sense that she was
17 afraid of Tony Gutierrez?

18 A. No.

19 Q. No?

20 A. Not her. Cindy, yes. Not Vanessa.

21 Q. In that conversation with you, did she

22 claim that she was harassed by him?

23 A. I think, again, she alluded to the

24 dildo, him giving her the dildo, him kind of

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1 coming on to her.

2 Q. Okay.

3 A. So I don't know if she used the word
4 harassment; but she did say he came on to her,
5 and she found him to be disgusting.

6 Q. Okay. Did you give her any
7 instructions?

8 A. I said, you know, sit tight, Vanessa,
9 you know, obviously, this is very important
10 information that I have to -- you know, I'm
11 going to have to go to the 17th floor about
12 this. We're going to have to do some digging.
13 I guess I assumed at the time we would be
14 investigating, meaning Aleatha and I. That's
15 what we're trained to do. She was an EEO
16 officer, I came from civil rights, so we're just
17 automatically like, okay, we've got to take this
18 on and investigate.

19 Q. Okay.

20 A. We were prepared to do that. So we told

21 her, we said -- I remember her mentioning that

22 she and Cindy both had kept personal diaries.

23 Q. Okay.

24 A. And I think we said to her at some point

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1 maybe she would want to copy those, that we may
2 need them. But we told her, thank you for the
3 information and that we would be speaking with
4 Cindy and we would get back with her.

5 Q. Okay. Did you tell her at that point,
6 tell Cindy to come talk to us?

7 A. I think I did. I think she said Cindy
8 wants to come. And I think I said, tell Cindy
9 just to send me an e-mail when she's in the
10 office, and I'll tell her, come on up, something
11 like that.

12 Q. Okay. So after your meeting with
13 Vanessa on March 6th, what did you do?

14 A. By that time, it was time for me to go
15 home. It was late in the day.

16 Q. Okay.

17 A. And that was a Thursday, and my daughter
18 has dance class at 5:15, so I was bolting out

19 the door.

20 The next morning is when Cindy came. It
21 was the day of the snowstorm. And that's when
22 Cindy came and talked to us. So I didn't -- I
23 didn't do anything on March 6th, to be perfectly
24 honest, other than meet with Vanessa and tell

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1 her we'd get back with her.

2 Q. Okay.

3 A. March 7th, then, is the day that Cindy

4 came.

5 Q. And Cindy came to human resources?

6 A. She did.

7 Q. Okay. You interviewed her?

8 A. Aleatha Botts and I did.

9 Q. So it was the three of you in a room?

10 A. In my office.

11 Q. No one else?

12 A. No one else.

13 Q. What did she say?

14 A. Cindy was very -- unlike Vanessa, who

15 was just angry. Vanessa was very angry that how

16 dare Tony replace me. And I remember I kept

17 saying, Vanessa, I don't know what you're

18 talking about. I haven't seen an HR request for

19 it, you know. But, I said, I'll get to it.

20 Cindy came, and Cindy was very upset and

21 tearful. Cindy shared -- Cindy shared all of

22 the information that's contained in my notes

23 about the -- what the press -- the media's

24 calling the pizza party. She told me about the

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1 trip to Cincinnati. She told us about Tony
2 making a comment about food going right to her
3 ass. What else did she tell us? I'll let you
4 ask.

5 --0--

6 (Exhibit 16 marked.)

7 --0--

8 BY MS. PFEIFFER:

9 Q. I'll hand you Exhibit 16 and ask you,
10 are these your notes of these interviews? Will
11 they help you to refresh your recollection?

12 A. Sure.

13 Q. Okay.

14 A. Yeah. Cindy -- yeah, okay. Cindy -- I
15 knew Cindy's dad worked for OBA, our building
16 authority.

17 Q. Is it Ohio Building Authority, is that
18 OBA?

19 A. Yeah.

20 Q. Okay.

21 A. And I knew that it was her father that
22 had kind of prompted Tony to get Cindy a job.
23 Like, hey, do you have any positions available.
24 Well, Cindy relayed to us on the day she

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1 interviewed with Tony that it wasn't really an
2 interview, and she knew it right then and
3 there -- she relayed he asked her no questions
4 about her skills or experience; that it was
5 Tony, Pete, and Charlie; she said she knew
6 immediately, this guy is creeping me out, like
7 he kept biting his lip and making, you know,
8 kind of facial gestures. She knew right then
9 and there, this guy's a creep.

10 Q. Okay.

11 A. I know she told us that she's a -- I
12 can't pronounce the word -- but esthetician and
13 she works part-time in a salon.

14 She did express that she was friends
15 with Mariellen Aranda. Obviously, by this time,
16 Cindy knew, as well, that Mariellen had come to
17 human resources. And Cindy indicated at the
18 time she was furious with Mariellen; but,

19 looking back, she now understood why Mariellen

20 came.

21 Q. Okay.

22 A. She relayed that on September 10th that

23 Tony was pressuring her to go out and have a

24 drink with him after work. I think she

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1 indicated she asked a couple of the guys if they
2 would come, maybe Andy Miller. And no one would
3 come. I remember her telling us, I was trying
4 to get someone to come because I knew this
5 wasn't going to be good. Nevertheless, she went
6 out for a drink with him; that they went to
7 Ringside. And I remember her telling us that
8 she -- like, he bought shots of Crown Royal, and
9 I think she said she's a vodka drinker, that
10 possibly she ordered a beer because she was --
11 he was having her do these shots. And then they
12 proceeded from Ringside, I believe, to
13 Mitchell's.

14 Q. Did she say if he was drinking Crown
15 Royal?

16 A. Yes, she said he was ordering shots of
17 Crown Royal.

18 Q. And he was drinking them, as well?

19 A. Yes.

20 Q. And she was drinking them, too?

21 A. Yeah. We were like, why were you

22 drinking them, you know? Why? We were like,

23 Cindy, why? Her whole point was, he was my

24 boss. I didn't know what to do.

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1 Q. Okay. Did she express that she was
2 afraid of him?

3 A. I don't know if she used the word
4 "afraid"; but I know she was like, you know, he
5 was my boss. What would happen if I said no?

6 Q. Okay.

7 A. That was her theme.

8 Q. Okay.

9 A. Because we were just trying to be like,
10 well, Cindy, you know, why did you do it? Why
11 did you go? Did you try to -- why didn't you
12 just throw the drink out, you know?

13 Q. Yeah. What did she say?

14 A. She just said, you know, she felt that
15 she had to go and had to have that drink.

16 Q. Okay.

17 A. I think we even asked her, as they
18 proceeded from bar to bar -- I think at one

19 point she said she did not order a drink, like

20 she stopped, she knew she was becoming

21 intoxicated.

22 Q. Okay.

23 A. She relayed to us that -- boy, my

24 handwriting's bad. She told us that Tony would

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1 talk about the Mafia and his construction

2 business and his hatred for his wife, and he

3 would call his wife not very nice names.

4 She talked to us about an incident where

5 she had borrowed her parents' camera, a brand

6 new camera, and she broke it, and he covered for

7 her.

8 Q. Okay.

9 A. And that he told Cindy's dad, oh, I'm

10 really sorry I broke your camera. He's like,

11 don't worry, I'll take care of it. She was very

12 upset that she had broken her parents' brand new

13 camera.

14 That night of September 10th, they had

15 been -- they started out at Ringside, I believe

16 then they went to Tip Top, and then to

17 Mitchell's, or Mitchell's to Tip Top. So there

18 were three different places they went to. And

19 that Charlie Rosol had called Tony on his
20 BlackBerry, and that Tony bragged, I'm here with
21 a hot girl. And Charlie's like, who is it? Or
22 something about, like, you're not with Jessica,
23 are you? And I don't remember if Cindy said --
24 and I can't understand from my notes if Tony put

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1 Charlie on the phone -- I'm sorry, if Tony put
2 Cindy on the phone with Charlie, but somehow I
3 think Charlie knew it was her, like, who is
4 this, you know.

5 Q. Okay.

6 A. She also relayed that her girlfriend
7 from North Carolina called her on her phone, and
8 she said, I'm with my boss, and the girlfriend
9 said, is it that creep you talk about. And she
10 also relayed that Tony told this friend of hers
11 named Heather that they would all come down to
12 North Carolina and he would take the girls out
13 on his boat for a good time.

14 Q. Okay.

15 A. These are out of order.

16 Q. I think the one that you just had was
17 two-sided.

18 A. All right. So at that point, Tony

19 indicated that -- he said, let's go to
20 Mitchell's, I'll buy you dinner. Cindy had
21 indicated that she was intoxicated, she probably
22 needed to eat. She also said that when she had
23 left work that day to go for a drink with Tony,
24 that Andy told her to be careful.

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1 While they were at Mitchell's, Marc Dann
2 called Tony on his phone, and Tony handed the
3 phone to her and said, hey, it's Marc, he wants
4 to talk to you. When she was on the phone, she
5 said, hello, Mr. Dann, and that Marc said,
6 please call me Marc. And they talked about, are
7 you having fun, you know, I hope you're enjoying
8 your job, something like that. And that
9 allegedly Marc Dann said, oh, you should come
10 over for pizza. And Cindy said, well, only if
11 you have Hawaiian pizza, because apparently
12 that's the kind of pizza she likes. And Marc
13 said -- allegedly said, Hawaiian it is.

14 Cindy relayed to us about her text
15 messages to Mariellen. She indicated that she
16 had become very intoxicated as the night wore
17 on.

18 And -- oh, I think we asked her, how did

19 you get to the apartment? And she said, I rode
20 with Tony. She said -- we said, why didn't you
21 drive yourself? She said, I was too
22 intoxicated.

23 Q. Did she ever tell you that at some point
24 in the night she asked Tony to take her home?

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1 A. Did she ask Tony to take her home? I

2 don't know. I don't remember. I know she was

3 trying to get Mariellen to come and get her.

4 Q. Okay.

5 A. And I remember Aleatha and I asking her,

6 why didn't you just call a cab --

7 Q. Okay. What did --

8 A. -- or call somebody else.

9 And her response to the cab was, I live

10 in New Albany, I was all the way over in Dublin,

11 I didn't have any money.

12 Q. Okay.

13 A. So she indicated to us that Tony was,

14 like, come on to the house, you'll be fine.

15 So they get there, and Marc's there and

16 has got on shorts and a T-shirt. And there was

17 a Hawaiian pizza there and some margarita mix

18 and tequila. Then she sent the text to

19 Mariellen, I'm with the boss, I'm with Marc

20 Dann, this is weird.

21 Then she relayed to us that Jessica

22 Utovich walked in. And my notes say that she

23 had on sweats, and she was carrying her laptop,

24 and Jessica did not knock or anything, she just

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1 walked in. And Jessica looked at Cindy like,
2 oh, what are you doing here, like she was kind
3 of surprised to see someone there.

4 Q. Okay.

5 A. She said she had gone outside to smoke
6 and to kind of clear her head.

7 And it's my understanding, because
8 Vanessa, when we interviewed her the day before,
9 Vanessa said, when I started my employment on
10 that first day, I saw Cindy Stankoski's face,
11 and I recognized her, she had been at the men's
12 apartment, standing outside, smoking, and I
13 recognized her right away.

14 Q. Okay.

15 A. And I remember, because we asked Vanessa
16 and Cindy, were they friends prior to starting
17 working, and they said, no, they had never met.

18 So she was outside smoking, and she

19 called Mariellen, you know, I gotta get out of
20 here, come and get me, and Mariellen wouldn't
21 come.

22 She conveyed to us that she told
23 Mr. Gutierrez that she needed to lay down, that
24 she felt sick. And he said, come on, lay down

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1 in my bed. She said she woke up in a sweat,
2 about 4:30 in the morning, and three buttons of
3 her jeans were undone. And she looked over --
4 and I think she said she was on top of the
5 covers, I think she said that -- and that Tony
6 was next to her in his underwear.

7 Q. And I remember Aleatha saying, naked
8 chest?

9 A. Cindy said, naked chest. He was under
10 the covers, and she just, like, panicked.

11 I think we asked her if she ate the
12 pizza, and she said, yeah, I remember gobbling
13 it down. We asked her what time she arrived at
14 the apartment. She said it was approximately
15 10:00 or 11:00 at night.

16 She said that after she woke up and saw
17 Tony there, she was in a cold sweat and realized
18 her pants were unbuttoned, that she, you know,

19 went into the living room. She sat on the
20 couch, you know, she didn't know what to do.
21 She was just sick, like, what do I do now? And
22 I think either Tony woke up or she woke him up,
23 it was about 6:00 in the morning, that he took
24 her back to her car. And Tony told her, you

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1 know, take your time, come in late, I'll cover
2 for you.

3 She said that on the next day, she
4 called Mariellen Aranda, because --

5 Again, let's go back to my conversation
6 with Mariellen. Mariellen said, yeah, I kept
7 receiving these messages from Cindy. I didn't
8 know if she was okay. And Cindy called her the
9 next day and said, I'm not coming to work until
10 late, or something like that. She came into
11 work about 11:00 or 11:30.

12 Q. Okay.

13 A. She relayed the comments about she was
14 eating a cookie, and Charlie [sic] said, do you
15 know where that will go, that will go right to
16 your ass. And she said that an employee by the
17 name of Stephen Beno, who is an attorney in
18 opinions, overheard that conversation.

19 Oh, I know. She relayed the incident in
20 October. She said it was around October 2nd or
21 3rd that Tony asked her and some interns to go
22 to Cincinnati. They had to take several
23 different vehicles because they needed to bring
24 some -- according to my notes -- computer

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1 monitors back.

2 And that in the course of that,

3 Charlie -- I'm sorry, Tony told Cindy to hang

4 out, that he had a meeting. She said she went

5 to the mall and waited for him. At some point

6 he told her, I don't have a meeting; let's go

7 get dinner.

8 And I think we asked her, was this on

9 State time? And she said, yeah, it was during

10 work hours.

11 And Lindsay and Dustin, the two interns

12 that had also gone on this trip, had brought the

13 monitors back, and they were already back to

14 work.

15 Okay. She said that she -- that Tony

16 left her a message from the State phone, hey, I

17 want to see if you want to bring something --

18 some nice clothes and have dinner in Cincinnati

19 with me.

20 My handwriting's bad.

21 She did not call him back, according to

22 my notes. And here we go, it says, I really

23 don't have a meeting. We can do whatever you

24 want now. Why didn't you call me? I told you I

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1 wanted to take you to a bar or out to dinner.

2 And Cindy said, no, and they headed back to

3 Columbus.

4 Cindy indicated there was a huge

5 accident, they were stuck in the traffic on

6 I-71. She sent a text message to Mariellen, and

7 Tony asked her, who are you texting, and she

8 said, my sister.

9 Tony said, God, I need a drink. He got

10 on his GPS, and he found a bar off -- they were

11 near the exit at the Grove City, Stringtown

12 Road, he found a bar and said, let's go to

13 Rackums. That's where they went.

14 She said they sat on the patio. This is

15 where she said she ordered a beer because she

16 didn't want to be intoxicated. I remember I

17 said, Cindy, I thought you don't like beer. She

18 said, I don't, but I didn't want to get drunk.

19 I said, why did you order anything? You could
20 have ordered a Coke. She didn't have an answer
21 for that one.

22 Q. Did she say what he was drinking?

23 A. I don't recall, Julie. I know he had
24 ordered a drink. That much, I know, according

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1 to her.

2 And she said while they were sitting on
3 this patio in Grove City that Tony's wife called
4 him, and he was screaming at her, and hung up on
5 her, and told Cindy she's a -- I hate this
6 word -- fucking cunt, she's crazy.

7 They talked about Charlie wanting to --
8 Charlie's been wanting to transfer to Cleveland,
9 because that's where he's from. And so she said
10 that they talked about that, and Tony told her
11 that Charlie would be leaving, he was going to
12 Cleveland.

13 Apparently, Tony said something to Cindy
14 about taking over for Erika, Erika Haske.
15 Erika's got a window office. I'm not sure what
16 Erika does. But I asked Cindy, is Erika higher
17 up the chain than you are? And I think she
18 thought she was. But Tony had talked about her

19 taking over Erika's position.

20 Q. Okay.

21 A. But I wasn't sure. I can't read in my
22 notes where Erika was going. And she said -- I
23 asked her, I said, are you aware of Tony ever
24 doing anything to Erika? She said, oh, Erika

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1 and I do not talk. We are not friends. It's a
2 very strained relationship.

3 She said it was at that point in time
4 that Tony told her, you know it's your ass and
5 tits that got you the job. And she said she
6 cussed him out and said, you know, F you. And
7 she said, you know, it's time to go, it's
8 getting late. She said it was around 6:00 that
9 evening, and he dropped her off at her car.

10 Q. Did she indicate, to your recollection,
11 whether or not prior to going to Rackums she
12 said, I don't want to go, I don't want to go to
13 this bar, anything like that?

14 A. Let me look at my notes. I don't know.
15 I remember she said she didn't want to go to
16 dinner.

17 Q. After Rackums?

18 A. No. Down in Cincinnati. I don't

19 recall.

20 Q. Okay. That's fine.

21 A. Okay. She said he took her back to her

22 car. I can't read my own writing. Something

23 about funny to hear her laugh, lightened up.

24 Oh, I know, Cindy relayed that Tony told her

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1 that she's a joy to be around, that she's funny,
2 it's good to hear laughter, and that she
3 lightens up the office.

4 Oh, okay. That evening, when he was
5 dropping her off, he allegedly told her, you
6 should come to Mitchell's to meet me and Leo,
7 and she said, no thanks.

8 Q. Okay.

9 A. And then relaying about the camera.

10 Okay. And she said about a week after
11 Cincinnati, and after this whole thing where he
12 took the wrap for the broken camera, he said,
13 you owe me big time. He told her that while she
14 was sitting at her desk.

15 She said that Mariellen -- I remember we
16 asked if anybody -- there were any witnesses to
17 the comments, and she said Mariellen always
18 heard things. We asked about other employees.

19 We asked about Kristy August, who sits right
20 outside Tony's office. And her response is,
21 Kristy is a very Christian girl, and she's just
22 in la-la land, you know, oblivious, blinders.
23 Cindy relayed that she works at Michael
24 David salon in Westerville, and that apparently

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1 Tony was trying to call her, that she had a ton
2 of missed calls from a restricted number, and
3 then a 330 number came up, and that must have
4 been Tony's number, and she answered it,
5 thinking it was someone else, and he asked her,
6 why are you ignoring my calls? She thought,
7 oh -- something about, oh, no, it's Tony. He
8 said, hey, we're on our way -- I know, she said
9 she was on her way to Easton to run an errand,
10 and Tony told her -- it was around 7:15 at
11 night, hey, why don't you come out for drinks,
12 we're at the Ocean Club. It's myself, Leo
13 Jennings, and Jen Urban. I guess Jen Urban was
14 on the phone -- I've never met her -- and she
15 said, come on, we're here. And Tony reminded
16 her, you owe me, according to Cindy.

17 Q. Okay.

18 A. She says, okay, since I'm on my way to

19 Easton, I'll stop by and say hi. So she popped
20 in the Ocean Club. She felt this pressure from
21 Jen Urban. And Tony wanted to buy dinner and
22 drinks for everyone. I think we asked her what
23 she was wearing, she said jeans, and they were
24 dressed up. I think that made her feel a little

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1 uncomfortable.

2 And it was at that point that she says

3 Tony said to her --

4 Was that a knock?

5 Q. I didn't hear anything.

6 A. -- I know that you woke up with your

7 pants down. I want to tell you I didn't do

8 anything. Did I want to fuck you? Yeah, I did.

9 But you're my employee, and I knew it wasn't

10 right.

11 And she said when he told her that, they

12 were standing in front of the Bath & Body Works

13 at Easton, so down on the lower level from the

14 Ocean Club, and that she cussed him out,

15 because, she said, you know, when she woke up in

16 that apartment with her pants undone, she didn't

17 know what happened. She had blacked out. So

18 she didn't know if he had done anything to her.

19 And it wasn't until that point in time in
20 October where he said, I know you think
21 something happened, I wanted to fuck you, I
22 didn't, I knew it wasn't right, you're my
23 employee, plus she's passed out.
24 And she said, are you fucking kidding

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1 me? According to my notes. She said, what
2 would you do if your daughter was in that
3 situation? Because Tony has a very cute little
4 girl. And she thought, this guy's a pervert --
5 according to my notes -- pervert and prick. We
6 asked the age disparity. She indicated she was
7 26; I think she said Tony had just turned 50.

8 And we asked her was anybody present
9 when that conversation took place, and she said,
10 no, Leo was inside at the Ocean Club, and that
11 Jen Urban was walking around, so no one was
12 really listening or overheard it.

13 And that Tony -- they were out -- I
14 don't know if this was the same night, I can't
15 tell, according to my notes -- but that at some
16 point, they were outside smoking, and Tony
17 relayed to her, oh, I was so drunk last night.
18 I was in the Suburban, I hit a guardrail. Don't

19 tell anyone.

20 She relayed a conversation -- oh, I

21 think it was the next day, after the, maybe, the

22 Ocean Club incident, that Tony came in, as she

23 describes, looking like hell, that he smelled

24 like vomit, he just reeked of alcohol.

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1 And that he told her at some point, if
2 HR comes to you, you are to tell them you were
3 picked up by a friend. And that would have been
4 the night that they were at the apartment.

5 Q. Okay.

6 A. And she said she agreed to do that.

7 I asked her -- or Aleatha asked her, one
8 of us asked her if she had told her parents.
9 She said no. She said, I told my dad I hate
10 Tony, but I won't tell him why. She later
11 relayed to me that she told her parents the
12 whole story. This was after March 7th that she
13 told her parents.

14 Q. Okay.

15 A. Okay. According to my notes, it says,
16 Charlie puked in office. What's wrong? I think
17 what I meant to say is maybe she puked in the
18 office and Charlie asked her what's wrong and

19 don't you want to go to HR. She relayed to
20 Charlie -- no, I'm sorry, she relayed to me --
21 when I said, why didn't you come to HR, and she
22 said, I was scared. I was afraid that I was
23 going to lose my job.
24 Because I think what happened, according

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1 to Vanessa and Cindy, was that here Vanessa gets
2 transferred, and she doesn't know why -- oh, I
3 remember what Vanessa told us in her interview.
4 She said, I don't know why I got transferred.
5 She said, all I know is that Tony told me --
6 came to me and told me, hey, they were going to
7 fire you, but Ed Simpson said you'd sue us for
8 sexual harassment, so they transferred you. And
9 Vanessa kept telling Cindy she was next, she was
10 going to lose her job, too. And I tried to
11 assure Cindy, I said, Cindy, I'm not aware of
12 you being transferred. You're not going to lose
13 your job. I promise you, you know.

14 I remember we kept asking her, Cindy,
15 you know, why did you agree to have drinks, why
16 did you agree to meet him. And her response
17 was, she did not know if she rejected him, what
18 would happen to her. Because, again, her friend

19 had been transferred and she was fearful of

20 losing her job.

21 People were making comments in the

22 section about favoritism, meaning the men, James

23 Ford and Andy Miller. I remember Andy saying

24 something to me on the elevator about -- I said,

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1 how are things in your section? He's like,
2 yeah, it's different, and something about Tony
3 definitely treats the ladies better.

4 Q. After the Ocean Club trip, were there
5 any other major incidences that she relayed to
6 you?

7 A. I don't think so, Julie.

8 Q. Okay.

9 A. I asked her if she was friends with
10 Jessica Utovich, and she said, no, she wasn't,
11 but she always saw Tony in Jessica's office and
12 Jessica in Tony's office and she wondered why.

13 I think she related a conversation much
14 like the "cookie will go to your ass," and she
15 was eating vegetables, and Tony said, why are
16 you eating those? And she was basically saying
17 she was trying to lose weight, and he made some
18 comment about her rear end. She said Tony would

19 constantly look at her chest and her rear end.
20 His office was here, and she sat, like -- and I
21 remember coming down there and thinking -- I had
22 never met Cindy, and I was walking down there
23 for a meeting, and Kristy August's desk is right
24 here, and I think Cindy had been placed right

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1 outside Tony's office, right where James Ford
2 had sat for years. And I remember thinking,
3 well, that's weird, wonder where James sits now.

4 Q. Okay.

5 A. That's just in the back of my mind.

6 But, yes, Tony had, like, a direct view
7 out of his office. She never knew if he was
8 looking at his computer monitor or her, and that
9 made her uncomfortable.

10 Q. Okay.

11 A. Oh, I know. This is when she told us
12 about Alyssa saying -- she relayed that --
13 somehow she and Vanessa Stout became close, and
14 they started exchanging stories about Tony. And
15 at some point she said they were on the 17th
16 floor for a video conference room -- for a video
17 conference, it was Pete, Andy, and Cindy, and
18 Marc and Alyssa are walking around, it was

19 Christmas Eve, handing out coffee mugs of
20 chocolate. They gave one to Pete, and they gave
21 one to Andy. Cindy thought, that's weird, I
22 thought it was ladies first. And Marc Dann
23 allegedly said, I'll be back with yours. An old
24 lady walks in, and it was Alyssa, and she said,

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1 you didn't get one? Alyssa said, what's your
2 name? She was like, Cindy. And Alyssa was
3 like, what? Stankoski. And, like, Alyssa was
4 shaking Cindy's hand and was like, oh, uh-huh.
5 And that made Cindy very uncomfortable.

6 Q. Okay.

7 A. And she said somehow she was telling
8 Tony about -- I don't know, something about
9 Alyssa Dann being around, and Tony allegedly
10 said, oh, my God, what the hell is she doing
11 here?

12 Oh, okay. I know. Cindy relayed
13 another episode with Alyssa where they were on
14 the elevator, and she said Alyssa was staring
15 her down, and that Ed Simpson was also on the
16 elevator, and that it was so bad that Ed
17 allegedly scolded Marc and Alyssa about, you
18 can't treat our employees like that. And she

- 19 found out that from Tony, that Tony said, oh,
20 yeah, you know, Ed kind of reprimanded Alyssa
21 for staring you down.
22 Q. Okay.
23 A. Oh, I know. Here we go. Tony told
24 Cindy, ah, she's just mad at you because you're

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1 hot and she's not.

2 Q. Are there any other comments that Tony
3 made to her that she felt was harassing?

4 A. Let me think about that. Harassing, no.

5 But she said on March 6th that -- she
6 confirmed that Vanessa had been over to have
7 lunch with her, and it was kind of like a joke
8 in the section, like Tony kept telling everybody
9 that Vanessa's transfer was temporary. And I
10 remember Charlie Rosol even asking me, you know,
11 Tony's saying the transfer's temporary. And I
12 said, I've not been told that. I've not been
13 told it's a temporary transfer. If it is,
14 it's -- I'm not being told. And, you know,
15 Cindy knew that it wasn't temporary, and that
16 she made a smart comment to Tony like, well, her
17 eight weeks are up in IT, right, she's coming
18 back here, and Tony pointed at her and said,

19 don't start that shit, and he was very angry.

20 So harassing, no, but kind of

21 threatening her.

22 Q. Okay.

23 A. And Charlie said, hey, come here, and he

24 told Cindy, boy, that was pretty bold of you to

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1 do.

2 I know, Tony called Cindy in his office
3 and said, Cindy, I don't want to hear that shit
4 again. She's not coming back. You and I both
5 know it. And that's when Tony told her, Vanessa
6 won't give me her phone number, I'm insulted,
7 and you tell her, that's fine, I'm going to
8 replace her, basically.

9 Q. Okay.

10 A. Which sparks my memory, because I
11 remember calling Charlie, saying, hey, are you
12 guys interviewing or something? Because I had
13 no knowledge of it. And Charlie's like, yeah,
14 we are. You are? I'm like, for what job,
15 Charlie? He's like, well, we have this dah,
16 dah, dah. I can't remember, something about
17 some school project and some telecommunications.
18 And it was probably around -- it was around

19 Monday, because I interviewed Cindy on Friday,
20 March 7th, the snowstorm hit, she left, I went
21 home, I had to go get my kids. I think their
22 school was closing that day. And it was that
23 following Monday that I saw an HR request come
24 through.

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1 Q. Okay.

2 A. And it looked like it was -- it didn't
3 say to replace Vanessa Stout, I don't think, but
4 it had her duties on there. And that's when I
5 grabbed it and I ran into Ed's office.

6 Q. You found an HR request form that you
7 believed was to replace Vanessa's old position
8 in general services?

9 A. Right. Along with some additional
10 duties.

11 Q. Okay. And you went to Ed's office, and
12 what did you say to Ed?

13 A. I said, you cannot approve this. He
14 said, okay, and he wrote "no" on it. And I
15 said, we need to talk.

16 Q. Okay. And what did you say to him?

17 A. And that's when I told him -- you know,
18 because I remember Aleatha and I, after Cindy

19 left, we kind of, like, hashed out the
20 situation, and we were like, wow, this is huge,
21 you know. And we were planning our
22 investigation. Because normally, like I said,
23 we were just of the mind-set, okay, we're going
24 to -- we're going to -- we'll interview Tony,

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1 and then we'll interview, you know, witnesses.

2 We even asked Cindy, can you tell us who

3 witnesses might be.

4 Q. Okay.

5 A. And I think Aleatha was out that Monday.

6 And I started thinking about it, boy, I'd better

7 give the 17th floor a head's up before we start

8 this investigation. So that HR request came

9 across my desk, and I -- that's when I went to

10 Ed, and I said, we've got a situation.

11 Q. Did you tell him about what Cindy told

12 you on the 7th?

13 A. Yes.

14 Q. And --

15 A. And Vanessa.

16 Q. And Vanessa.

17 And what did he say?

18 A. Probably something like, oh, shit. I

19 mean, he was concerned.

20 Q. Okay.

21 A. And Joyce wasn't there that day for some

22 reason.

23 Q. And what did -- what was his direction

24 to you?

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1 A. Okay, I can't remember if it was that
2 day or the next day when we talked about it with
3 Joyce, but I remember talking about options, you
4 know, investigation, and I remember him saying,
5 we don't want to do that at this point.

6 Q. What? He didn't want to do what?

7 A. Investigate.

8 Q. Did he explain why?

9 A. He didn't want me to investigate.

10 Q. Okay.

11 A. Because I said, here's our plan, I can
12 start this investigation. I mean, I was just
13 like -- Aleatha and I were in EEO mode, like,
14 we've got a situation on our hands, and we need
15 to take care of it now.

16 Q. And he said, we don't want to
17 investigate right now?

18 A. He said, hold on, you know. He goes, I

19 don't want you to do that just yet. And I said,
20 well, if you're not going to investigate, I
21 said, you have a -- not you, we, the employer --
22 we have an obligation -- I'm thinking Faragher,
23 Ellerth, Hampel -- I said, we have an obligation
24 to take swift remedial action to prevent direct

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1 harassment. I said, Ed, Mariellen Aranda came
2 to us back in whenever, you know, we were on
3 notice that something might be interesting then.

4 You know, here we go again.

5 And I remember -- and this is the
6 strangest thing -- my lawyer -- I'm in lawyer
7 mode now, I'm probably stepping beyond my duties
8 as HR director, and I'm in lawyer mode, you
9 know, and I'm thinking, you know, I could be
10 sued personally under, you know, Gennaro. I'm
11 like, Ed, we've got to do something. You're
12 going to have to fire him, if you're not going
13 to investigate or transfer him to Youngstown,
14 and never let him supervise another individual.
15 He's like, yeah.

16 And I remember at some point in my
17 conversation, either with him, or with Joyce and
18 Ed, saying that either Tony is a liability or

19 this is a potential liability for the office and

20 for Marc Dann's administration.

21 And what is creeping me out about the

22 whole thing is I received a call from one of the

23 TV reporter -- I'm sorry, news reporters, I

24 believe it was Allen Johnson, he let me a voice

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1 mail, he said, I want to talk to you about your
2 attempts to intervene on behalf of the women and
3 your statements that Tony Gutierrez is a
4 liability to the Dann administration.

5 Q. I don't want to -- we can talk about
6 that in a minute. But in that conversation with
7 Ed Simpson, what was the resolution after you
8 told them and you gave them their options?

9 A. I honestly thought they were going to
10 fire Tony or transfer him.

11 Q. Did they instruct you to do anything?

12 A. No.

13 Q. What did they say?

14 A. They told me, don't investigate.

15 Q. Okay.

16 A. That it wasn't necessary. They were
17 going to look into the matter and they would get
18 back with me.

19 Q. Okay.

20 I want to finish up with your

21 conversation with Cindy Stankoski. After she

22 told -- did you give her any direction?

23 A. Oh, yeah. We were like -- she -- it was

24 a Friday, so Tony wasn't there. And she even

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1 expressed to us -- we were like, Cindy, what do
2 you want? Tell us what you want. We were
3 trying to look for remedies here. She said, I
4 love my job on Fridays when he's not there, but
5 Monday through Thursday, I'm miserable. She's
6 like, I enjoy working in general services. I
7 just don't want to work for him. I want to work
8 for Pete, I think is what she said.

9 Q. Pete Mash?

10 A. Mash. And I think she reported to Pete,
11 but she just wanted Tony -- she wanted to be
12 away from Tony.

13 Q. Okay.

14 A. And we were like, you know what, Cindy,
15 look, this is bigger than life. We're going to
16 have to take this to the 17th floor. I remember
17 we asked her why she never went to Angela. Why
18 didn't you go to EEO? That's what she's there

19 for. She's like no, no, no, Angie's one of
20 them. We're like, no, Angie's fair, she's
21 neutral, she's impartial. She's like, I didn't
22 want to go to Angie. I decided to come to you
23 ladies. I said, that's fine, you know, we'll
24 take care of this. I said -- and she talked

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1 about having a diary. And we said, you know --

2 she talked about how private and personal it

3 was, it was very lengthy. I said, you know, at

4 some point, Cindy, we may need to see that.

5 Q. Okay.

6 A. I said, but sit tight. You're safe for

7 now. We'll be back in contact. I said, we're

8 gonna have to take this to the 17th floor. You

9 understand that?

10 Q. Okay. So you told her to -- it's

11 Friday, so go back, finish up.

12 A. Yeah. She was fine. And I did tell

13 her, I said, you're going to need to let Charlie

14 know where you were. She had been in my office

15 for probably a couple hours.

16 Q. Okay.

17 A. So I didn't want him to think she was

18 AWOL. I said, you need to go back and tell

19 Charlie where you are. She said she did that.

20 Q. Now, did you -- was there a point in
21 time after this meeting that you met Cindy in
22 the -- in a bathroom?

23 A. I met her in the library. We had made
24 arrangements to meet in the library the

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1 following Monday. I said, why don't you go

2 ahead and copy your journal.

3 Q. Okay.

4 A. And I said, I can -- because, again,

5 Julie, I thought I would be the one

6 investigating. I said, go ahead and make a copy

7 of your journal. She was very fearful that

8 Tony -- and Tony was in on Mondays. I said,

9 I'll tell you what, I'll come down to the

10 library, and we'll meet. And I said -- so she

11 went -- she saw me in the library. She went to

12 the rest room, and I followed her in there. I

13 told her, I said, I'll tell you what, 17th floor

14 is -- again, I thought at the time they were

15 either going to fire Tony or transfer him. My

16 misunderstanding, probably. I said, hey, I

17 think it's being taken care of for now. you hang

18 on to the diary, because I know it's very

19 personal to you, and I don't want to make it a
20 public record if and until we have to. She
21 said, okay, I understand.

22 I remember Jessica Utovich just walked
23 in, and we just quit talking, and I went back
24 upstairs. And that was on Monday, the 10th.

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1 Q. The 10th?

2 A. Uh-huh.

3 Q. Was this before or after your
4 conversation with Ed Simpson and Joyce Chapple?

5 A. It was after. Because when I came up to
6 talk to Ed, Cindy was sitting in the booth up on
7 17, working, and I looked at her and kind of
8 winked, had my conversation with Ed.

9 I went back down to the library. We
10 were supposed to meet, I think, at 3:00. At
11 least that's what my calendar said. She was
12 late, and I kept wondering, is she stuck up on
13 17, is she really going to meet me.

14 Q. Okay. And then that's when you met her?

15 A. And we went in the -- we did go in the
16 ladies' rest room on the 15th floor.

17 Q. When's the next time you talked to her
18 after that?

19 A. Her? Can I look at my time line?

20 Q. Sure.

21 A. I think -- Julie, I'm not sure if it was

22 March 11th or 12th. I had the conversation with

23 Ed on the 10th, the conversation and Ed and

24 Joyce on the 11th. I was told by Ed and Joyce

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1 to go ahead and meet with the girls and tell
2 them that they are safe in their jobs, that the
3 matter was being looked into. And I remember I
4 met Cindy downstairs in the basement of the
5 building. I remember Joyce telling me, you can
6 go down to the 15th floor and talk to her. She
7 goes, you can use Tony's office, for all I care.
8 I said -- well, I was a little frightened at
9 that point, to be perfectly honest.

10 Q. Why --

11 A. I was a little frightened of Tony.

12 Q. Why were you frightened of Tony?

13 A. Because I thought, oh, boy, this is Marc
14 Dann's best friend; and, you know, I had heard
15 these stories about Mafia; and I was afraid I
16 was going to lose my job, to be perfectly
17 honest.

18 Q. Okay.

19 A. Joyce said, no, you go down there and
20 you talk to that girl. You have nothing to be
21 fearful of. She has nothing to be fearful of.
22 I said, okay. But nevertheless, I think
23 Cindy -- somehow we decided to meet downstairs.
24 I said, if Tony asks where you were, you tell

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1 him you were meeting with me.

2 Q. You met her in the basement?

3 A. Yeah.

4 Q. Why did you meet her in the basement?

5 A. I think that we had arranged that, just

6 to get her out of general services. She was

7 very, again, fearful of Tony, and she didn't

8 want to see -- she didn't want Tony to see her

9 talking to me.

10 Q. Okay. So that was on her request that

11 you guys go to the basement, or that you not go

12 to 15 -- the 15th floor?

13 A. Yeah. And I think Charlie told her,

14 just -- I think I told Charlie, hey, tell her to

15 just meet me in the basement. Because I saw

16 Charlie that day.

17 Q. Okay.

18 A. Anyhow, Julie, I don't know, but we did,

19 we met in the basement very briefly. I tried to
20 assure her, I said, Cindy, the matter's being
21 looked into.

22 Q. Okay.

23 A. I said, if he even looks at you

24 cross-eyed, I want to know. And she relayed

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1 that, you know, at first he was glaring at me,
2 now he's ignoring me. She relayed where he had
3 brought Alyssa Dann down on the floor and
4 paraded her around and kind of went around to
5 everybody and said hello except her. Because I
6 wanted to know what's going on, you know,
7 because I think that somehow she knew that he
8 knew.

9 Q. Okay.

10 A. And Charlie told me -- charlie Rosol
11 told me, Tony knows. I was like, how does he
12 know? Charlie's like, I don't know, but he
13 knows.

14 Q. But on March 11th or 12th, when you
15 talked to her in the basement, you assured her
16 that her job was safe?

17 A. I did.

18 Q. And if anything was to happen, she was

19 to contact you?

20 A. I said, if he looks at you cross-eyed,

21 Cindy, call me.

22 Q. Did she acknowledge and express to you

23 that she understood that?

24 A. She did. She was also very upset. She

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1 was very upset.

2 Q. Did she contact you after that?

3 A. She contacted Aleatha.

4 Q. Okay.

5 A. It must have been the day -- let's see.

6 Q. Would that have been March 18th, she

7 received a phone call from the Dayton Daily

8 News?

9 A. Yes, I remember, because I was driving

10 in, and I found out a public records request had

11 been made by the Dayton Daily News, Laura

12 Bischoff, and it was so specific that they were

13 looking for my notes about the girls' visit to

14 HR. I mean, I was like, stunned. I'm like, oh,

15 my God.

16 And I remember going into Ed Simpson's

17 office, and I was in tears, and I'm like, look,

18 if you think I'm a leak, if you think I leaked

- 19 that those girls came to me to the press, I will
20 take a polygraph. You can look at my cell phone
21 records. I was just -- I was shocked, how did
22 the press know these girls came to me.
- 23 Q. Okay.
- 24 A. In the meantime, I'm driving in, and

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1 Aleatha calls me on my cell phone. She's like,
2 I've got Cindy here, she just got a call from
3 the reporter. I said, I'm coming in, I'll be
4 right there.

5 Q. Did you talk to Cindy at that time?

6 A. Yes.

7 Q. What did you -- her concern was that she
8 was getting phone calls from reporters?

9 A. And she said she had hung up on her.

10 I'm like, Cindy, did you call the press? She
11 said, no, I did not. And I said -- I said, I
12 didn't either. I'm baffled. I'm freaking out,
13 Cindy. I can't -- I don't know what happened
14 here. She was very, very upset.

15 Q. Okay. Did you assure her that her
16 personnel file was clean and that she had
17 nothing to worry about?

18 A. I remember telling her that -- don't

19 give them a reason to discipline you, you know,
20 because I think I had heard that she was coming
21 into work late. I was like, Cindy, if you're
22 coming into work late, don't do it. Show up on
23 time. Do your job. Yes, you're clean, your
24 record's clean, you have no discipline. I

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1 understand you're a good employee. Keep it up.

2 Everything will be okay.

3 Q. Okay. Did you inform anyone of your

4 meeting with her on the 18th?

5 A. Yeah. I called Joyce on my way in. I

6 said, Joyce, Cindy Stankoski is in Aleatha's

7 office. A reporter has called her. Joyce is

8 like, okay, I understand. She's like, just

9 assure the young lady that everything's fine,

10 you know. And I remember there was talk about

11 moving her desk. And I know Aleatha was kind of

12 working on that with Joyce, so I can't really

13 speak about that.

14 Q. Okay. Now, Angie Smedlund interviewed

15 the two complainants on March 31st. From the

16 18th to the 31st, did you have any other contact

17 with Cindy Stankoski or Vanessa Stout?

18 A. I did.

19 Oh, I remember, on the 18th, when Cindy
20 was in Aleatha's office, she was like, yeah, she
21 goes, Vanessa told me that Tony was out at Dub's
22 Pub, which is allegedly some bar up near Dublin,
23 she said Tony was running his mouth -- I'll
24 never forget this name -- to Vanessa's

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1 ex-boyfriend, whose name is Fuzz, and Tony told
2 Fuzz that Cindy and Vanessa are trying to stir
3 up trouble, that they had gone to HR. And
4 called them bitches and whores. And supposedly
5 Fuzz called Vanessa Stout and told her this.

6 Q. Did -- Vanessa didn't complain to you
7 about that, though, did she?

8 A. No.

9 Q. Okay.

10 A. I know Aleatha had some conversations
11 with Cindy and her mom.

12 Q. Okay.

13 A. I believe it was the day I was out for a
14 funeral, March 19th. And I think, according to
15 my notes, it was either March 18th or 19th that
16 Vanessa -- I remember, I talked to Vanessa, too.
17 I said, Vanessa, I want you to know, this comes
18 from the 17th floor, that they are not replacing

19 you in general services. I want you to know
20 that. I want you to know they're looking into
21 the situation, to sit tight, but there is an
22 allegation that has been raised by Tony that
23 you're the one calling him. And that's what
24 Joyce Chapple told me. I remember Joyce saying

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1 something like, yeah, I wonder what that young
2 lady's cell phone records would show. I said,
3 Vanessa, Tony is claiming you're the one calling
4 him, it's not him calling you. She said, well,
5 I'll get my phone records. I said, if you can,
6 great.

7 Vanessa had called me and left me a
8 voice mail and said she had her diary and her
9 cell phone records. I tried to call her back a
10 couple of times, and there was no answer, and
11 her voice mail doesn't identify that it's
12 Vanessa Stout's line, it says somebody else's
13 line, so I did not leave a message, because I --
14 I was concerned, like, did I get the right
15 number.

16 And I believe it was March 27th that
17 both of the young ladies e-mailed me.
18 Vanessa -- very early in the morning -- Vanessa

19 Stout's e-mail was basically like, I want to
20 make sure you got my message, I've got my
21 records. Cindy's e-mail -- and I kind of
22 thought in the back of my mind, these ladies
23 have an attorney now, because Cindy's e-mail
24 was, I want to know if you consider my coming to

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1 human resources was as a formal complaint.

2 That's when I went to Angie. I flew up to the

3 17th floor and said, Angie, you've got to

4 investigate. We've got to do something --

5 Q. Okay.

6 A. -- now. Now. And Angie said, okay,

7 okay. We called Joyce. I said, Joyce, these

8 young ladies are now e-mailing me. We've got to

9 do something now.

10 Q. And this is the 27th of March?

11 A. Correct.

12 Q. Okay.

13 A. Because I had been out, my daughter had

14 surgery on the 25th. It was just kind of a

15 weird time for me. And Joyce is like -- she's

16 like, okay, well, I know Tom Winters was

17 planning on an investigation. I don't know by

18 whom. He's on vacation this week. Angie, go

19 ahead. And Angie said, tell the young ladies
20 that I'm going to be contacting them to set up
21 interviews.

22 Q. Okay.

23 A. I went back to my office, and I e-mailed
24 each of them separately and told them that.

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1 Q. Okay.

2 A. And I told Vanessa that, yes, I received
3 your voice mail. I tried to call you back a
4 couple times. I've been in and out of the
5 office. I realize you have a diary and your
6 cell phone records. Angie Smedlund is going to
7 be investigating. You can turn anything you
8 have over to her.

9 Q. Did you assist Angela Smedlund in
10 investigating?

11 A. I was told I could not investigate.

12 Q. Okay.

13 A. I only gave -- I gave Angie my notes,
14 Aleatha's notes, and I got access to these text
15 messages and gave those to Angie upon her
16 request.

17 MR. ESPY: Can we take a 10-minute
18 break?

19 THE WITNESS: Absolutely.

20 MR. ESPY: You've been going a couple

21 hours here. We'll take about 10 minutes and

22 come back and resume.

23 THE WITNESS: Okay.

24 (Recess taken.)

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1 MS. PFEIFFER: Can you read back a

2 little bit?

3 (Record read as requested.)

4 BY MS. PFEIFFER:

5 Q. After you gave those things to Angela

6 Smedlund, have you ever had any other

7 involvement, other than doing your time line and

8 being interviewed here today?

9 A. Responding to public records requests.

10 No.

11 MS. PFEIFFER: I don't have anything

12 else.

13 MR. ESPY: Okay.

14 EXAMINATION

15 BY MR. ESPY:

16 Q. Ms. Demers, you are an attorney; is that

17 correct?

18 A. Correct.

19 Q. And when were you admitted to the bar?

20 A. 1993.

21 Q. And prior to your assuming the duties of

22 HR director, where was your employment?

23 A. 10 years with the Attorney General's

24 office as section chief of civil rights.

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1 Actually, I started out as assistant chief for a
2 year. Prior to that, I was an associate with
3 Crabbe, Brown -- well, it was Crabbe, Brown,
4 Jones, Potts & Schmidt then. And prior to that,
5 I was a claims attorney for Ohio Hospital
6 Insurance Company.

7 Q. Did you ever have any prior experience
8 as human resources director?

9 A. Prior to this job?

10 Q. Yes.

11 A. No. Just my -- you know, my employment
12 at civil rights.

13 Q. And when you became the director of
14 human resources, did you have a chance to review
15 the Attorney General's policies and procedures?

16 A. Which ones? The new ones, or the ones
17 that were in effect in August?

18 Q. In effect in August but updated in

19 January of 2008.

20 A. Yes.

21 Q. You're familiar with those?

22 A. Yes.

23 Q. And when was the -- when did you first

24 understand that the complaints -- well, the

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1 allegations by these two complainants became an
2 EEO situation?

3 A. I believe they did the day they came to
4 me.

5 Q. And what day was that, again?

6 A. March 6th and March 7th.

7 Q. Okay. And what's your responsibilities
8 once you receive allegations of an EEO
9 complaint?

10 A. I understand my responsibility's, sir,
11 to advise the EEO director. I don't have true
12 decision-making authority in the sense that most
13 HR directors would. That's why I report my
14 information to Joyce.

15 Q. Well, on the day of March 6th and 7th
16 when they came to you, did you recognize that as
17 an EEO type of complaint, did you make any
18 effort to contact Angela Smedlund at that point?

19 A. I told Angie. I don't recall what date,

20 sir.

21 Q. Do you know if it was soon thereafter or

22 the same day?

23 A. I don't know if it was the 10th or if it

24 was -- I remember the 6th, I had to leave to get

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1 my daughter. The 7th was the snowstorm.

2 Probably was maybe the 10th.

3 Q. Did you report to Ed Simpson and Joyce

4 Chapple before the 10th about your conversations

5 with the two complainants on the 6th and the

6 7th?

7 A. No, I don't think I did. I think -- I

8 don't think Joyce was in the office on Friday.

9 I don't know if Ed was or not.

10 Q. How did you contact Angela Smedlund, by

11 phone, e-mail, or what?

12 A. I think I was up on the 17th floor.

13 Q. Oral conversation?

14 A. I believe so.

15 Q. And what was your purpose of contacting

16 her at that time?

17 A. To let her know young ladies had come to

18 me, and to advise her that they had indicated

19 they did not want to go to her because they felt
20 that she was part of the conspiracy of the 17th
21 floor.

22 Q. Okay. Did you ever tell these two
23 complainants that it was your responsibility to
24 report to the EEO director once you received

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1 allegations?

2 A. Aleatha may have said that.

3 Q. To whom, the complainants?

4 A. Maybe.

5 Q. But you did not?

6 A. Can you repeat your question?

7 MR. ESPY: Read it back.

8 (Record read as requested.)

9 A. I don't know. I don't know. I don't

10 recall that. I do recall that I informed both

11 of them that I would have to relay this matter

12 to the 17th floor.

13 Q. Okay. When you spoke to Angela on the

14 10th, what did she do?

15 A. I don't believe she did anything,

16 because the ladies had come to me.

17 Q. Okay. On the 10th, she did not launch

18 an investigation into the matter?

19 A. No, sir.

20 Q. And were you told by anyone not to

21 investigate this after the 10th of March?

22 A. Yes.

23 Q. And who were you told by?

24 A. I was told that I -- I offered to

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1 investigate. I explained that based on my
2 experience -- I had been asked by the Petro
3 administration to conduct a high-profile
4 investigation of the Hamilton County prosecutor,
5 who had been sued for sexual harassment, and I
6 had conducted that, and I knew how to do an
7 investigation thoroughly, efficiently, and
8 fairly. And I was told on several occasions not
9 to investigate. And I was specifically told by
10 Joyce Chapple that I could not personally
11 investigate because I was perceived as out to
12 get Tony.

13 Q. Is it your responsibility to investigate
14 EEO complaints?

15 A. I don't think so necessarily, no.

16 Q. Under what authority did you think you
17 had the authority to investigate these
18 complaints?

19 A. I felt I had -- someone had an
20 obligation under our policy and under law.

21 Q. You said someone. But who was that
22 person?

23 A. Someone what, sir?

24 Q. You said someone had the authority to

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1 investigate under the policy.

2 A. The policy says that a person could come
3 to the EEO officer, to the HR director, I
4 believe to a supervisor.

5 Q. But what is your understanding as to who
6 was supposed to investigate it?

7 A. Angela.

8 Q. Okay. So HR did not have any
9 responsibility to investigate. Is that your
10 conclusion? Is that a logical conclusion?

11 A. HR did not have responsibility? I'm not
12 sure I understand the question.

13 Q. Well, you said before that you're ready
14 to investigate, you and Aleatha were going to
15 investigate.

16 A. Right.

17 Q. I'm trying to figure out what's your
18 authority to investigate any allegation under

19 EEO. Where do you find that authority?

20 A. Well, again, the policy says that

21 someone can come to HR to complain.

22 Q. Yes. But who has the responsibility to

23 investigate?

24 A. I don't know, other than the EEO

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1 officer.

2 Q. When was the first time that the EEO

3 officer, to your knowledge, began an

4 investigation on this case?

5 A. March 27th.

6 Q. And that's some almost 30 days after

7 they first contacted you; is that correct?

8 A. It was 20 days.

9 Q. I'm sorry, 20 days. 20 days. I stand

10 corrected.

11 And how did you become aware that an

12 investigation had begun by Angela Smedlund?

13 A. Because we called Joyce together. I

14 came to Angie, and I said, Angie, you've got to

15 do something. And she agreed. And she -- you

16 know, I think there had been plans to launch an

17 investigation, they just didn't know by whom.

18 Q. Who didn't know by whom? You're saying

19 "they."

20 A. Well, I had a conversation with

21 Mr. Winters. I don't think you asked me about

22 that.

23 Q. You're saying "they." You're referring

24 to Tom Winters?

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1 A. Tom Winters, Joyce Chapple.

2 Q. And Ed Simpson?

3 A. I don't know if I ever had a

4 conversation with Ed about an investigation,

5 other than my initial ones with him.

6 Q. Okay.

7 A. But in any event, I offered Mr. Winters,

8 I said -- you know, he asked me about it.

9 Apparently, they thought that there was no,

10 quote, formal complaint. I believe the old

11 policy may have said that all complaints have to

12 be in writing. The current policy says they're

13 encouraged to be in writing.

14 Q. Okay.

15 A. And there was a dispute about that. And

16 I was told, you know, tell the girls if they

17 want to file a formal complaint that it will be

18 investigated.

19 Q. But the new policy was in effect as of

20 January, 2008; is that correct?

21 A. Correct.

22 Q. So that was under the fact that the

23 complaint did not have to be in writing?

24 A. I agree.

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1 Q. So when they approached you on the 6th
2 or 7th, did you construe that as a complaint?

3 A. Yes, sir.

4 Q. Did you make any formal request in
5 writing that you obtained these statements from
6 these two complainants?

7 A. In writing?

8 Q. Yes.

9 A. I don't know if I put that I obtained
10 statements; but I do a weekly report to Ed
11 Simpson, and I had made mention about this
12 matter in two of my weekly reports.

13 MR. ESPY: Is this an exhibit?

14 MS. PFEIFFER: Yes. It is Exhibit 16.

15 BY MR. ESPY:

16 Q. Exhibit Number 16, does this reflect
17 your notes on the date of March the 7th with
18 Cindy Stankoski?

19 A. Yes, sir.

20 Q. And did you have notes with Vanessa

21 Stout on or about the same date?

22 A. No. We did not take notes, for some

23 reason, of our conversation with Vanessa. And

24 I -- I don't know why.

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1 Q. Did you ever reduce your notes to
2 writing to anyone, or is it just for your own
3 purpose?

4 A. These notes?

5 Q. Yes.

6 A. These are the only writing I have.

7 Q. Did you transmit these notes to anyone
8 else?

9 A. I gave them to Angela, and I gave them
10 to Joyce.

11 Q. At what point in time did you do that?

12 A. Oh, Angela, I believe I gave them to her
13 on maybe the 27th. Joyce, I believe I gave
14 these to her sometime during the week of March
15 17th.

16 Q. In your notes, in Exhibit 16 -- these
17 pages aren't numbered -- but it's the
18 second-to-the-last page --

19 A. Where it says 1-18-08?

20 Q. The page is not identifiable -- yes, I'm

21 sorry, 1-18-08.

22 A. Okay.

23 Q. The bottom of that page you talk about

24 Tony and Leo ripped up copies of -- what's that

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1 word?

2 A. Oh, okay.

3 Q. What's that, copies of what? What's

4 that word?

5 A. Text.

6 Q. Text. Explain what happened there.

7 A. Okay. Cindy -- we were talking about

8 the e-mails that -- I'm sorry, the text messages

9 that Cindy had sent to Mariellen Aranda, and --

10 Let me go back in time. The end of

11 October, I was called by Joyce and Ed that --

12 something about the reporters were inquiring

13 into a story about these text messages, and then

14 they got the players wrong, and they were saying

15 it was Leo. And I had been summoned to Leo's

16 office, to bring the text messages, and I did

17 that.

18 Q. Who summoned you?

19 A. I think Joyce and Ed told me he needed
20 to see me. And I believe Joyce accompanied me
21 to his office.

22 Q. Okay. You took the text messages with
23 you?

24 A. Yes.

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1 Q. Okay.

2 A. And I gave them to him. And I explained
3 that, you know, at that point in time that the
4 person who gave these to me was Mariellen
5 Aranda, that she was very fearful of Tony, that
6 Tony could not know it was her, and he said he
7 understood. And that was the end -- that was
8 the last I ever heard about these text messages
9 up until March, and that's -- Cindy told us that
10 Tony and Leo ripped those up, is what she told
11 us.

12 Q. Were you personally aware that they had
13 been ripped up?

14 A. No, sir, I'm not.

15 Q. And what did Joyce Chapple and Ed tell
16 you the reason why he needed to see the text
17 messages?

18 A. Something about the press was inquiring

19 about a story, they had the players wrong, and
20 they were alleging it was Leo that was involved
21 somehow in this evening with Cindy, something
22 like that. Something about a press inquiry.
23 Q. Could you read that next sentence for
24 me. I can't read that. It says "diary."

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1 A. Oh, okay. Cindy relayed that -- it
2 says -- my notes say, diary, knew shit would hit
3 fan. Knows dates really well. Looked at
4 e-mails. This is what Cindy had relayed to me,
5 she had been keeping a diary because she knew,
6 quote, shit was gonna hit the fan.

7 Q. And what's the next sentence there at
8 the top of the page -- next page?

9 A. Oh, next page? Started keeping a diary
10 when Alyssa gave stare. Kept after that. It
11 was around Christmastime.

12 I think we asked her when she started
13 keeping the diary.

14 Q. This is kind of off the wall, but do you
15 know when Boss's Day is?

16 A. Sometime in October.

17 Q. October?

18 A. (Witness nods head.)

19 Don't know the exact date. Maybe

20 mid-October. It's always around Sweetest Day, I

21 think.

22 Q. And when's Sweetest Day? I should know

23 that.

24 A. You should know that.

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1 Q. When's that?

2 A. It's usually a Saturday in October.

3 Maybe the second Saturday in October.

4 Q. All I know is there's a football game on
5 that day.

6 A. There you go.

7 Q. How many times had you warned Tony about
8 his -- about inappropriate conduct?

9 A. I think twice.

10 Q. And when did that occur?

11 A. I definitely know at the chief's
12 retreat, because he approached me. And that was
13 December 12th. And it was sometime -- the first
14 time was sometime between October 15th and
15 December 12th. I don't know. It was after
16 Joyce had spoken with Tony, because he kind of
17 came into my office like, yeah, you know, are we
18 okay, are you all right, you know, is everything

19 cool. I'm like, you know, Tony, this isn't

20 funny.

21 Q. Do you know whether or not the

22 allegation that Cindy Stankoski made that her

23 pants were unbuttoned, do you know whether or

24 not that allegation was made any time to anyone

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1 in your office prior to March 6th or 7th?

2 A. I've never heard that, sir, ever.

3 Because I remember, like, oh, my God, this could

4 be criminal, you know. I remember that was

5 going through the back of my mind. No, I had

6 never heard that.

7 Q. And was it your testimony that you did

8 not know of any legitimate reason why Vanessa

9 was transferred?

10 THE WITNESS: Can you read that back?

11 (Record read as requested.)

12 A. Correct. I did not know of any

13 legitimate reason, other than I was told they

14 needed to get her away from Tony.

15 Q. And who said that?

16 A. Ed Simpson.

17 Q. At the time that she was transferred,

18 did you have the request in HR that they needed

19 another person over there?

20 A. No.

21 Q. What's the procedure when an employee's

22 transferred, from the HR standpoint?

23 A. What's supposed to happen?

24 Q. Yes.

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1 A. It doesn't always. What's supposed to
2 happen is the section in need of a person,
3 whether it's a new position or a vacant
4 position, is supposed to make the HR request,
5 and that gets routed. And at the time -- we're
6 doing it a little differently now. But at the
7 time, it was routed electronically. It would go
8 through like a purchase order, where HR would
9 sign off, it would go, you know, to the division
10 chief, finance, ultimately to Tom and/or Ed.
11 Tom Winters and/or Ed Simpson.

12 Q. Do you have to have a job description
13 that they're going to -- what they're going to
14 be doing?

15 A. You're supposed to, yeah.

16 Q. Are you supposed to match the job
17 description with the person that's being
18 transferred to see if they're qualified?

19 A. Sometimes -- like, this administration,
20 probably more so than any other administration,
21 has done a lot of transferring and new
22 positions, which is a good thing, so we have to
23 kind of scramble to keep up in HR to create the
24 position description.

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1 Q. Did Vanessa ever inquire to you as to

2 what she would be doing in IT?

3 A. No, she didn't.

4 Q. Did you ever have the opportunity to

5 inquire as to what her job duties would be over

6 there in IT?

7 A. From her?

8 Q. Yeah.

9 A. No, I did not.

10 Q. Did you inquire as to -- from Ed or

11 Joyce Chapple what she would be doing?

12 A. Yeah.

13 Q. And what was their response?

14 A. And it was basically, you know, we're

15 going to send her over there. She can do

16 similar duties, administrative in nature. And

17 that's when I had the conversation with Marc

18 Polster.

19 Q. So when you saw the requests come in to
20 job -- employee request for the general services
21 with the same duties, why did that raise a red
22 flag with you?

23 A. Because I knew that you cannot transfer
24 someone and then replace them for no good

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1 reason. I mean, there was discussion at the
2 time, like I said, of letting her go, you know,
3 we don't really need that job.

4 Q. And this was your -- your conversations
5 were confined, in discussing this matter, was
6 confined to Ed Thompson?

7 A. Ed Simpson.

8 Q. Ed Simpson and Joyce Chapple?

9 A. Yeah. Like I said, I had talked to Tom
10 Winters about -- after the girls came to me.

11 Q. But that was before she was transferred.

12 A. Before she was transferred, the only
13 conversation I had was with Mr. Simpson --

14 Q. Okay.

15 A. -- and Marc Polster.

16 Q. Okay. But the transfer was complete
17 before you talked to Mr. Winters; is that
18 correct?

19 A. Correct. That is correct.

20 Q. You don't know whether or not he had

21 knowledge of this or not?

22 A. I do not.

23 Q. Was Vanessa upset because of this being

24 transferred?

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1 A. I don't know. I only knew when she came
2 to me on March 6th and said that she didn't
3 understand why she had been transferred.

4 Q. Did you ever get a request to transfer
5 Cindy Stankoski?

6 A. No.

7 Q. There was a situation, too, where -- I
8 think it was Vanessa Stout -- how did you
9 determine her pay grade when she was hired in
10 general services?

11 A. I didn't. I was basically told --
12 apparently, we had made an error in HR. We were
13 told that she would be brought in, and that it
14 would be X amount, \$13-and-some-odd cents. And
15 then Tony sent an e-mail or something and said,
16 no, she was supposed to be making \$13 and
17 70-some cents.

18 Q. Is that out of the ordinary?

19 A. For the section to set the --

20 Q. Yes.

21 A. With exempt staff, it's not out of the
22 ordinary. And the only time I would raise issue
23 is if I see a salary that is completely out of
24 line with similar responsibilities.

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1 Q. Now, you said you reviewed her
2 background check, and you would not sign off on
3 her getting hired.

4 A. Correct.

5 Q. How many times -- how long have you been
6 HR director?

7 A. Since July of '07.

8 Q. Since July?

9 How many times, since July, have you had
10 a situation where you've been overruled in your
11 determination not to hire an individual based on
12 background checks?

13 A. There have been some occasions where, if
14 I felt that the background was questionable, I
15 took it to them -- "them" meaning Ed or Joyce.
16 Like, for example, recently, I -- it was an
17 extern, and he had a little bit of a -- oh, I
18 don't know how to say this -- there were some

19 issues with his driving, I think a suspended
20 license. And she agreed with me and wrote "no"
21 on the background form.

22 I know there have been a couple
23 occasions where someone with a criminal
24 background was approved. But, generally, it has

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1 been where it was maybe a misdemeanor, and it
2 happened a long time ago.

3 Q. Well, her conviction was misdemeanors
4 also; is that correct?

5 A. I don't know, without looking. I don't
6 know. I can certainly look.

7 Q. Look, sure.

8 A. I know what concerned me was the theft,
9 because I knew she was going to be working with
10 money.

11 Q. In what way would she be working with
12 money?

13 A. She was going to be working with phone
14 bills and telecommunications and receiving.
15 Sometimes people make payments, you know, if
16 you've made a couple personal calls, petty cash.

17 I think I was also concerned about the
18 assault that she had disclosed. Not so much the

19 DUI, although we have disqualified people for
20 those reasons.

21 For example, on the first page of her --
22 this would be the Web check -- there was a
23 warrant, failure to appear for a DUI. And I
24 know we had terminated someone for failure to

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1 appear as a result of -- and there was a warrant
2 issued.

3 Q. So have you ever been overruled on
4 anyone in the past who's had a criminal charge
5 and they -- the person had been hired?

6 A. I don't -- I can't think -- I can't
7 think of any situation where someone went over
8 my head and went right to my bosses. Usually it
9 was me, the one saying, hey, there's something
10 weird about this background, I want you to see
11 it.

12 Q. Okay.

13 A. This was the first and only time that
14 someone took it out of my hands and went to my
15 bosses on their own.

16 Q. Did Ed say that he actually approved
17 that? Do you recall that you said that before?

18 A. I recall when he called me into his

- 19 office, and we talked about Vanessa's transfer,
- 20 I brought the whole personnel file with me, and
- 21 I showed him the background. And I remember he
- 22 was like, wow, did I really approve that? I'm
- 23 like, yes, you really did.
- 24 Q. Did you show him the form where his name

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1 or his initials appeared?

2 A. Yes.

3 Q. And he acknowledged that was his

4 signature and his name?

5 A. Yes.

6 Q. That's when he made the comment that

7 Tony must have twisted my arm?

8 A. Yeah.

9 Q. Is it your department who would perform

10 job audits?

11 A. Job audits? Maybe. Sometimes we do.

12 Sometimes DAS does.

13 Q. Do you know whether or not -- what about

14 financial audits?

15 A. No, that would not be me. That would

16 probably be internal audit.

17 Q. Okay. Have you ever heard that general

18 services asked for an audit of Vanessa Stout

19 handling money when she was there?

20 A. No, I don't think so.

21 Q. Did you ever hear any allegation that

22 money was missing under her watch?

23 A. Yes, I did. I believe I heard that from

24 Charlie Rosol.

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1 Q. What do you remember hearing?

2 A. I just heard that somehow they thought
3 money was missing. Gosh. I remember Charlie
4 relaying to me that Tony was very upset with him
5 because I think Charlie had reported that
6 information to Pat McLean, the finance director,
7 hey, we've got money missing. And Charlie was
8 just upset because Tony was very angry with him,
9 like you should have come to me with that.

10 Q. At the time they said money's missing,
11 was Vanessa Stout in charge of that
12 particular --

13 A. I think so.

14 Q. -- fund?

15 A. I believe so. And I think it later
16 turned out that money really wasn't missing, it
17 was a mistake or something.

18 Q. Do you know who made the allegation that

19 money was missing?

20 A. I don't.

21 Q. Do you think it came from Charlie?

22 A. I don't know. I just know that Charlie

23 relayed that he was -- Tony was upset with him.

24 I wanted to go back to her FBI check.

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1 There was, on May 28th of 2000, charges of
2 disorderly conduct, harassment, stalking,
3 assault, conviction, plea of guilty. That
4 concerned me, along with the warrant for the
5 failure to appear on May 15th, 2002. And, like
6 I said -- here it is, there was a charge of
7 retail theft in Harrisburg, Pennsylvania, where
8 she -- the plea was guilty. So combined...

9 Q. What about hiring a person who has a
10 number of traffic violations, like speeding,
11 what's the policy on that?

12 A. If it's minor -- well, if it's a major
13 list of just traffic offenses, sometimes we'll
14 approve the hire but instruct that they're not
15 to drive for official State business.

16 Q. Do you recall seeing the background
17 check for Cindy Stankoski?

18 A. I don't know. I mean, I'd have to see

19 if I signed off on it. I may have. It just

20 depends on the situation, I guess to answer your

21 question.

22 (Pause in proceedings.)

23 A. I don't know if I saw this. Is there

24 the form -- the background form attached, that

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1 checklist used by HR?

2 MR. ESPY: Maybe you should give her the

3 whole thing. Maybe she can find it better that

4 way.

5 MS. PFEIFFER: Okay.

6 (Pause in proceedings.)

7 A. Okay. I approved her hire 8-14.

8 (Pause in proceedings.)

9 A. I honestly don't know. And this is the

10 reason why --

11 BY MR. ESPY:

12 Q. Is there a document there showing her

13 traffic violations?

14 A. Yes, there is. Absolutely.

15 Q. What does it show?

16 A. It shows a speeding offense in November

17 of '06; a speeding offense on October of '06; a

18 violation for turn signal on May -- I'm sorry,

19 March of '06; apparently, an improper passing on
20 that same date; a speed on 10-24-02; a speed on
21 1-28-02; something that I can't make heads or
22 tails of in 2001, it says S15, SPXS; and a speed
23 in 1999; it looks like a traffic accident in
24 January of '07.

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1 Q. Okay. Based upon that record, and based
2 upon the policies you said that you maintain in
3 effect, would you have recommended her for
4 employment with any type of restrictions?

5 A. I certainly would not have recommended
6 her for hire based on her driving record.

7 Warrant block tends to raise an issue
8 with me.

9 Q. You just testified that sometimes they
10 cannot be -- use a car or whatever. Is this one
11 of those circumstances where you had recommended
12 that?

13 A. I honestly do not recall.

14 Q. I said, is this circumstances where you
15 would have?

16 A. Would have? Possibly.

17 Q. But you didn't, because you don't see
18 any notation; is that correct?

19 A. I don't see any notation. I only see an
20 e-mail from my administrative secretary saying
21 that her driving record was clear.

22 Q. After you did the interview with Cindy
23 Stankoski on March the 7th of '08, was she
24 believable to you?

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1 A. I believed her.

2 Q. You believed her?

3 A. (Witness nods head affirmatively.)

4 Q. And --

5 A. You said Cindy, right?

6 Q. Yes.

7 A. Yes.

8 Q. And did you see numerous circumstances

9 in your notes where she alleges that Tony had

10 been drinking --

11 A. Yes.

12 Q. -- while he was in a State vehicle?

13 A. Yes.

14 Q. Are there policies in place about

15 drinking while in a State vehicle?

16 A. Absolutely.

17 Q. Did you bring that to anyone's

18 attention?

19 A. I did. This fact, I brought that to

20 their attention --

21 Q. Who are they?

22 A. I'm sorry. Ed and Joyce.

23 -- back in October, because Mariellen

24 had raised a similar -- you know, I said, hey,

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1 there's talk that this man's driving a State

2 vehicle while intoxicated.

3 Q. And what was the response of Ed and

4 Joyce?

5 A. I don't recall about that specifically.

6 I just remember they said, okay, we understand.

7 We're going to take care of this.

8 Q. Did you receive any information that it

9 had been taken care of? Is he refused the right

10 to drive a State vehicle anymore?

11 A. Not to my knowledge.

12 Q. Did they ever get back to you to tell

13 you how they took care of it?

14 A. No. Joyce only indicated to me that she

15 reprimanded Tony.

16 Q. Oral reprimand?

17 A. Right, oral.

18 Q. Vanessa Stout was hired in November of

19 2007?

20 A. Correct.

21 Q. And she actually began work in November,

22 2007?

23 A. I assume so. I don't know.

24 Q. Would you be able to tell by her

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1 personnel records?

2 A. Obviously, according to her personnel
3 action form, she was to start work on the 26th
4 of November. Now, whether she actually appeared
5 for work and began on that day, I don't know.
6 Like I said, I had never met her prior to March
7 of '07.

8 Q. Is it normal procedure that an employee
9 would receive a letter of formal offer after
10 they began work? Is that normal? I'm showing
11 you a letter that we have dated December the
12 3rd.

13 A. Normal, no. But that's not to say it
14 never happened, especially back then. Our offer
15 letters were not getting signed. In other
16 words, Marc Dann wants to sign all offer
17 letters, so we were sending them up, and
18 sometimes they would sit and not get signed

19 until after the employee had started.

20 Q. So they would receive a letter after the

21 fact saying you're offered employment?

22 A. Yeah. Obviously, they should receive a

23 letter -- because what happens is this -- what

24 is the normal course of action is that a request

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1 is made that's approved, interviews are
2 conducted -- this is the typical -- interviews
3 are conducted, and then the section is supposed
4 to say, this is the candidate we would like for
5 the position. And then an offer letter -- we
6 prepare the offer letter for Mr. Dann's
7 signature, run the background.

8 You know, the offer says it is
9 contingent upon successful completion of the
10 backgrounds. And, you know, if the backgrounds
11 are clear, you know, we set the start date for
12 the pay period -- Monday of the pay period.

13 Q. At the time Cindy was hired, had
14 Mariellen already transferred at that time,
15 about, of she was hired?

16 A. No, Mariellen was still in general
17 services.

18 Q. What was the urgency in trying to get

19 Cindy hired by the 20th of the month?

20 A. I have no idea.

21 Q. Do you realize -- do you recall there

22 was an inquiry about getting her hired right

23 away?

24 A. Well, I know that they were sending me

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1 e-mails, you know, and they kept asking me about
2 it. But I don't know why.

3 Q. Again, who are they?

4 A. Probably Charlie and Tony. Maybe
5 Charlie.

6 Q. Okay.

7 A. But I don't know why.

8 May I add something?

9 Q. Sure.

10 A. It was not uncommon for general services
11 to bug us about their hires. Tony was
12 constantly in HR. Constantly. You know,
13 where's my this, where's my that.

14 Q. There's a series of e-mails to you
15 regarding her hiring status. And you indicate
16 in the e-mails that you're waiting for a
17 background check. And there's an e-mail from
18 Tony saying at the bottom, I need some help on

19 this. Do you see that?

20 A. On the first page?

21 Q. Bottom of the first page.

22 A. Okay.

23 Q. You wrote back saying, what kind of help

24 do you need?

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1 A. And he said, so she can start on the
2 20th. I said, I can't make promises, but please
3 know we are working on it.

4 Q. But at the time, it sounds so urgent.
5 The position she was being hired for, Mariellen
6 was still there; is that correct?

7 A. That is correct.

8 Q. Mariellen was transferred to BCI; is
9 that correct?

10 A. She was transferred to OCIC; but she was
11 technically, I guess, going to be a BCI
12 employee.

13 Q. Okay. Is she still there today?

14 A. She is not.

15 Q. Is she at the criminal justice
16 initiative now?

17 A. Yes, sir.

18 Q. When did she transfer there?

19 A. When?

20 Q. Yes.

21 A. I believe it was March 4th of '08.

22 Q. Why was she transferred there?

23 A. She, unfortunately, could not pass --

24 BCI requires more stringent background checks

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1 than the typical employee, and she did not pass,

2 I believe it was, the polygraph examination.

3 Q. And that's in your notes. You've

4 indicated on August 23rd that she was

5 unsuccessful in the background examination?

6 A. Yes, sir.

7 Q. So she must be transferred out again; is

8 that right?

9 A. Right. We could not keep her in BCI.

10 Q. Did she understand that?

11 A. I know she was upset. I think she

12 understands. But she had, obviously, an

13 unfortunate issue, and that put her on some

14 leave. I think she understood.

15 Q. Do you feel that Vanessa was treated

16 differently than other employees in her

17 employment area in any kind of way?

18 A. I don't know, because, like I said, I

19 never observed her in her work environment.

20 Q. Did you hear rumors about Vanessa?

21 A. I did.

22 Q. An improper relationship?

23 A. Yes, I did.

24 Q. And did you hear any rumors regarding

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1 who had knowledge of that improper relationship?

2 A. No.

3 Q. Could it have impacted on her transfer?

4 A. Like I said, the only thing I think I

5 was told was the issue about Tony's wife being

6 good friends with Alyssa, and that maybe Alyssa

7 was putting pressure on Marc. That's all I

8 know. That's -- I have no direct knowledge.

9 Q. Did you hear that Vanessa had texted a

10 message to Tony on his cell phone, risque-type

11 message?

12 A. I know I talked to Vanessa about text

13 messages, and I think she said that she had sent

14 out some text messages, and it would go out to

15 everyone in her contact list, that maybe weren't

16 quite appropriate.

17 Q. Do you recall telling someone that Tony

18 is a liability to Marc Dann?

19 A. Yes.

20 Q. Who did you tell that --

21 A. No, sir, not to Marc Dann, but to the

22 office and the administration.

23 Q. Who did you tell that to?

24 A. I know I said that to Mr. Simpson, and I

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1 said that to Mr. Winters.

2 Q. And what did you base that upon?

3 A. Faragher, Ellerth, Hampel cases.

4 Q. Well, for the lawyer, what's the holding

5 in those cases?

6 A. Faragher and Ellerth are two U.S.

7 Supreme Court cases that say when the alleged

8 harasser is a supervisor, that the employer has

9 what they call strict liability. And I knew

10 Tony was a supervisor, and I knew we were also

11 on notice of alleged misconduct, and if we

12 didn't take action, that that would be a problem

13 for us. And Hampel basically is the state case.

14 Q. Based on your knowledge of the law

15 regarding civil rights and sexual harassment,

16 based on your knowledge of the facts from March

17 6th to the present day, when were the

18 complainants separated from the accuser -- from

19 the accused?

20 A. Well, Vanessa was separated from Tony

21 back in January. Cindy, I know they -- that

22 there was talk about moving her desk away or

23 putting her in an office or something of that

24 nature, but she was never removed from general

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1 services. Having said that, there were a couple
2 days that she was very upset, and we let her
3 take, at her request, paid administrative leave
4 just to -- so she didn't have to be at work.

5 Q. Did you ever recommend to anyone that
6 Cindy and Tony be separated after March the 6th?

7 A. Yes.

8 Q. And when did you make that
9 recommendation, and to whom did you make the
10 recommendation?

11 A. I know they talked about transferring
12 Cindy Stankoski, Ed -- I talked to Ed.

13 Q. First question goes to when did you make
14 the recommendation they be separated?

15 A. Oh. March 10th.

16 Q. And you made the recommendation to whom?

17 A. Ed Simpson.

18 Q. And when were they finally separated?

19 A. I don't know.

20 Q. Would you say they were separated when

21 Tony was put on administrative leave?

22 A. Yes, probably so.

23 Q. What was the response when you suggested

24 they be separated?

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1 A. What was my response, or what was --

2 Q. What was their response to you when you
3 recommended they be separated?

4 A. They talked about -- Ed and I talked
5 about maybe transferring Cindy. And my point to
6 them was, no, you can't transfer the alleged
7 victim of the harassment. That -- and I said
8 there are probably 50 Ohio cases that say that's
9 not an appropriate measure. I said, if anyone
10 has to be transferred or put on leave, it's
11 Mr. Gutierrez.

12 Q. You said that when?

13 A. March 10th, March 11th. And I -- I
14 believe maybe Tom Winters and I talked about
15 that a little bit. And I -- I think I talked to
16 Tom -- I don't know. It's in my time line.

17 Q. Okay. Is there anything else you think
18 is relevant to this investigation that you

19 should tell us?

20 A. I want to tell the investigative team

21 that I don't know why there was no investigation

22 starting March 10th. I was told that I was

23 perceived as not neutral, that I was out to get

24 Tony. And I understood why I could not be the

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1 one to investigate. I totally understood that.

2 I just wanted to clarify that.

3 Q. Who made that determination?

4 A. That I was biased?

5 Q. Yes.

6 A. I don't know. Joyce Chapple's the one

7 that relayed that to me. We had a conversation

8 on March 20th, because I remember asking her,

9 what's going on, you know, what are we doing.

10 And I know Aleatha had a conversation -- a

11 similar conversation with Joyce, like what's

12 going on, you know, what are we doing.

13 Q. When did that conversation take place?

14 A. My conversation with Joyce was on March

15 20th. I believe Aleatha's conversation with

16 Joyce was on March 19th.

17 Q. Okay.

18 A. And it was during that conversation that

19 Joyce relayed to me -- and I remember I was very
20 upset, because she was like, basically, well,
21 17th floor thinks you're out to get Tony, you're
22 not neutral. And I remember saying, I'm really
23 sorry if I've given anyone that impression. I'm
24 not biased. I'm not out to get Tony. I

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1 understand that you can't get to the facts
2 unless there's an investigation. And I did say,
3 wow, I'm really sorry that -- if I appeared to
4 be emotional or prejudiced, that was not my
5 intent. I was only concerned about the office.

6 Q. In your scenario -- your time scenario,
7 you have on the last page a date of 4-8-08 --

8 A. Okay.

9 Q. -- Ms. Demers and Ms. Botts meet with
10 Ms. Pfeiffer to be interviewed.

11 A. Yes.

12 Q. When did that occur?

13 A. When? What date?

14 Q. You were not interviewed on that date,
15 were you, on April the 8th?

16 A. I thought it was April the 8th. Perhaps
17 not. We met with Julie in a conference room on
18 the 16th floor.

19 MR. ESPY: Off the record.

20 (Discussion held off the record.)

21 MR. ESPY: I have nothing further.

22 Do you have anything else?

23 MS. PFEIFFER: I don't have anything

24 else.

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1 --0--

2 Thereupon, the sworn interview of

3 Stephanie Bostos-Demers, April 16, 2008, was

4 concluded at 12:05 p.m.

5 --O--

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1 CERTIFICATE

2 STATE OF OHIO :

SS:

3 COUNTY OF FRANKLIN :

4 I, Sara S. Clark, RPR/CRR/CCP/CBC, a
Notary Public in and for the State of Ohio, duly
5 commissioned and qualified, do hereby certify
that the within-named STEPHANIE BOSTOS-DEMERS
6 was first duly sworn to testify to the truth,
the whole truth, and nothing but the truth in
7 the cause aforesaid; that the testimony then
given was reduced to stenotypy in the presence
8 of said witness, afterwards transcribed; that
the foregoing is a true and correct transcript
9 of the testimony; that this interview was taken
at the time and place in the foregoing caption
10 specified.

11 I do further certify that I am not a
relative, employee or attorney of any of the
12 parties hereto; that I am not a relative or
employee of any attorney or counsel employed by
13 the parties hereto; that I am not financially
interested in the action; and further, I am not,
14 nor is the court reporting firm with which I am
affiliated, under contract as defined in Civil
15 Rule 28(D).

16 In witness whereof, I have hereunto
set my hand and affixed my seal of office at
17 Columbus, Ohio, on this day
of , 2008.

18

19

Sara S. Clark, RPR/CRR/CCP/CBC

20

Notary Public, State of Ohio.

21 My commission expires: March 10, 2013

22

23

24

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