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IN THE COURT OF COMMON PLEAS.  
OF CENTRE COUNTY, PENNSYLVANIA  
CIVIL ACTION - LAW



ORIGINAL

MICHAEL J. MCQUEARY

: NO. 2012-1804

.....

VS

THE PENNSYLVANIA STATE UNIVERSITY

TRANSCRIPT OF PROCEEDINGS  
(JURY TRIAL A.M. DAY 5)

BEFORE: THOMAS G. GAVIN, SENIOR JUDGE  
SPECIALLY PRESIDING  
15TH JUDICIAL DISTRICT

DATE: OCTOBER 21, 2016

PLACE: CENTRE COUNTY COURTHOUSE ANNEX  
ANNEX COURTROOM  
108 SOUTH ALLEGHENY STREET  
BELLEFONTE, PA 16823

APPEARANCES:

FOR THE PLAINTIFF:  
ELLIOTT STROKOFF, ESQUIRE  
WILLIAM T. FLEMING, ESQUIRE

FOR THE DEFENDANT:  
NANCY CONRAD, ESQUIRE  
GEORGE MORRISON, ESQUIRE  
KIMBERLY HAVEAR, ESQUIRE

2016 OCT 21 PM 12:57  
PROthonotary  
CENTRE COUNTY, PA



ORIGINAL

NOTES BY: JENNIFER AMENTLER  
OFFICIAL COURT REPORTER  
ROOM 101, CENTRE COUNTY COURTHOUSE  
BELLEFONTE, PA 16823  
814 355-6734 OF FAX 814 548-1158

## Index to Witnesses

	Direct	Cross	Redirect	Recross
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## For Plaintiff:

Joan Coble	8	16		
Steve Garban	18	27	35	36
Michael McQueary	37			

## For Defendant:

(None)

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## Admitted:

## Plaintiff:

Exhibit 88	5
Exhibit 42	92
Exhibit 48	103

## Defendant:

(None)

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

1  
2 THE COURT: At least none of you got washed  
3 away from the storm last night. I hope you didn't  
4 get any damage. Go ahead, Mr. McQueary. Sorry, Mr.  
5 Strokoff.

6 MR. STROKOFF: Your Honor, if I may, before  
7 we call our first witness, I have some responses to  
8 requests for admissions, which I would like to move  
9 into evidence at this time.

10 THE COURT: Okay.

11 MR. STROKOFF: The request for admissions,  
12 Your Honor --

13 THE COURT: Just a second. Members of the  
14 jury, in a civil case, by the time it winds up in a  
15 courtroom, both sides pretty much know exactly what  
16 the other side's case is all about because in a  
17 civil case, we have very liberal discovery. So you  
18 can ask all sorts of questions, you can interview  
19 witnesses beforehand, you can take statements, et  
20 cetera.

21 And one of the things that you can do is  
22 submit a request for admissions, so you send them a  
23 question and you say admit this statement or deny  
24 this statement. So if the party admits it, then  
25 that becomes a piece of evidence that you are able

1 to consider in your evaluation of the case and use  
2 in any manner you see appropriate.

3 So this is simply an accepted procedure of  
4 doing business in a civil case. Go ahead.

5 MR. STROKOFF: Thank you, Your Honor. The  
6 plaintiff's second request for admissions is tab 85.  
7 And the defendant's second supplemental response to  
8 Plaintiff's second request for admissions is tab 88.  
9 And specifically, I want to move in responses 5, 10,  
10 11, 12, and 13.

11 MS. CONRAD: Which tab were they at?

12 MR. STROKOFF: 88.

13 MS. CONRAD: Thank you.

14 THE COURT: You said 88?

15 MR. STROKOFF: That's correct.

16 THE COURT: So 88. And which ones are you  
17 moving?

18 MR. STROKOFF: 5, 10, 11, 12, and 13.

19 THE COURT: Okay.

20 MR. STROKOFF: I think the best way to do  
21 that, in terms of presenting it to the jury, is to  
22 read the request, to show the specific exhibit that  
23 it refers to, and then to read the response.

24 THE COURT: Okay.

25 MR. STROKOFF: Unless the defendant doesn't

1 me to read the whole response.

2 MS. CONRAD: I don't see reason to read the  
3 whole response.

4 MR. STROKOFF: Okay.

5 THE COURT: So, 88 is admitted without  
6 objection?

7 MS. CONRAD: Yes, sir.

8 THE COURT: Thank you.

9 MR. STROKOFF: Attached as Exhibit C hereto  
10 is a true and correct copy of an email sent by  
11 Thomas R. Harmon on Monday, February 12th, 2001 to  
12 Gary Schultz. It is admitted only that the document  
13 attached as Exhibit C is a true and correct copy as  
14 preserved by the University of an email sent from  
15 Thomas R. Harmon's University email address on  
16 February 12, 2001 at 4:57 p.m. EST to Gary Schultz's  
17 University email address.

18 10. Attached as Exhibit F hereto is a true  
19 and correct copy of an email sent from Gary Schultz  
20 to Tim Curley on February 26th, 2001. It is  
21 admitted only that the document attached as Exhibit  
22 F is a true and correct copy as preserved by the  
23 University of an email sent from Gary Schultz's  
24 University email address on February 26th, 2001 at  
25 1:57 EST to Tim Curley's University email address.

1           11. Attached as Exhibit G hereto is a true  
2 and correct copy of an email chain consistent of an  
3 email from Tim Curley to Graham Spanier and Gary  
4 Schultz sent from February 27th, 2001, a reply from  
5 Graham Spanier sent February 27th, 2001, and a reply  
6 from Gary Schultz sent February 28th, 2001. It is  
7 admitted only that the document attached as Exhibit  
8 G is a true and correct copy as preserved by the  
9 University of an email chain sent to/from Gary  
10 Schultz's, Tim Curley's, and Graham Spanier's  
11 University email addresses on or about February  
12 27th, 2001, and/or February 28th, 2001.

13           12. Attached as Exhibit H hereto is a true  
14 and correct copy on an email chain consisting of an  
15 email sent from Tim Curley to Graham Spanier on  
16 February 28th, 2001, Graham Spanier's reply to Tim  
17 Curley's email also sent on February 28th, 2001, Tim  
18 Curley's reply of March 1, 2001 to Graham Spanier's  
19 email, and Gary Schultz's reply email of March 1,  
20 2001 to Tim Curley. It is admitted only that the  
21 document attached as Exhibit H is a true and correct  
22 copy as preserved by the University of an email  
23 chain sent to/from Gary Schultz's, Tim Curley's,  
24 and/or Graham Spanier's University email addresses  
25 on or about February 28, 2001 and/or March 1, 2001.

1           The last one, 13. Attached as Exhibit I  
2       hereto is a true and correct copy of an email chain  
3       consisting of an email from Gary Schultz to Tim  
4       Curley sent on February 26th, 2001, and an email  
5       dated March 7th, 2001, from Joan Coble,  
6       administrative assistant to Gary Schultz, to Tim  
7       Curley. Response: It is admitted only that the  
8       document attached as Exhibit I is a true and correct  
9       copy as preserved by the University of an email sent  
10      from Gary Schultz's University email address on  
11      February 26th, 2001 and at 1:57 p.m. EST to Tim  
12      Curley's University email address, and a reply email  
13      sent from Joan Coble's University email address to  
14      Tim Curley's University email address on March 7th,  
15      2001 at 8:54 a.m. EST.

16           That's it for the request for admissions, Your  
17      Honor

18           THE COURT: Okay.

19           MR. STROKOFF: I would also like to move into  
20      evidence Defendant's 7 supplemental response to  
21      Plaintiff's first request for production of  
22      documents, which is at tab 84.

23           THE COURT: You have me confused. D7, which  
24      is at tab 81?

25           MR. STROKOFF: I'm sorry, I said 84 I

1 thought.

2 THE COURT: 84, okay.

3 MR. STROKOFF: It's Defendant's 7  
4 supplemental response to Plaintiff's first request  
5 for production of documents.

6 THE COURT: Would that have been admitted  
7 previously, P84?

8 MR. STROKOFF: I'm sorry, I didn't realize it  
9 had. My apologies.

10 THE COURT: Okay.

11 MR. STROKOFF: We're ready for Joan Coble  
12 now, Your Honor.

13 THE COURT: Okay.

14 JOAN COBLE

15 Was called as a witness and having been duly sworn  
16 was examined and testified as follows:

17 THE COURT: It will help if you stay on the  
18 microphone for us, please.

19 DIRECT EXAMINATION

20 BY MR. STROKOFF:

21 Q. Good morning.

22 A. Good morning.

23 Q. Please state for the record your full name.

24 A. Joan Lucille Coble.

25 Q. And your current occupation, Ms. Coble?



1           A. I'm retired from Penn State with a part-time  
2       job in Bellefonte.

3           THE COURT: Excuse me. Would you spell your  
4       name for the record?

5           THE WITNESS: Oh. C-O-B-L-E. Joan, J-O-A-N.  
6       BY MR. STROKOFF:

7           Q. And during what period of time were you  
8       employed by The Pennsylvania State University?

9           A. I was there for 35 years beginning in 1972 I  
10      believe.

11          Q. And when did you --

12          A. And retiring in 2007.

13          Q. 2007?

14          A. Yes.

15          Q. And what was your position in 2007?

16          A. I was administrative assistant to Gary  
17      Schultz.

18          Q. And how long had you been his administrative  
19      assistant?

20          A. 14 years.

21          Q. Okay. As his administrative assistant, were  
22      you aware of the existence of a file which Mr.  
23      Schultz maintained with respect to Jerry Sandusky?

24          A. Yes.

25          Q. And what was your knowledge of that file?

1           A. It was kept in the bottom drawer of a  
2           bookcase which was filed that only he and I had  
3           access to. It was handwritten on the tab in his  
4           signature, and I was told not to look in it. And I  
5           never looked in it.

6           Q. Had you received any other instructions from  
7           Mr. Schultz over those 14 years never to look into a  
8           file?

9           A. No.

10          Q. During those 14 years, did you become  
11          familiar with Mr. Schultz's handwriting?

12          A. Yes.

13          Q. Okay. I'm going to show you some -- or ask  
14          you to look at some documents. The first question  
15          with respect to each document is whether or not you  
16          recognize the handwriting.

17          A. All right.

18          Q. And then to the extent you're able to, we're  
19          going to ask you if you can read any of them.

20          A. All right.

21          Q. Because some of the copies aren't so hot.

22          A. Okay.

23          Q. The first thing I'm going to ask you to do is  
24          take a look at Plaintiff's Exhibit 1. Now, there's  
25          a big looseleaf binder there that says Witness

1 Exhibits on it.

2 A. Okay.

3 Q. Plaintiff's Exhibit Number 1 is two pages.  
4 So I would ask you to look at those two pages.

5 A. (The witness complied.) Okay.

6 Q. And it is a two-page document, have you  
7 looked at the second page?

8 A. Correct.

9 Q. Are you able to identify that handwriting?

10 A. In my opinion in the 14 years I worked for  
11 him, this is Gary Schultz's handwriting.

12 Q. Now, are you able to read any of what's on  
13 the first page of that document?

14 A. Yes.

15 Q. Okay. Now, can you read to us what you can  
16 read? That is the parts that come through clearly.

17 A. All right. Five four ninety-eight, five  
18 o'clock p.m. woman 11 and a half-year-old son  
19 Nittany Gardens. The next line I cannot read. Nor  
20 the following line. Behavior at best inappropriate  
21 and worst sexual maybe --

22 Q. Well, we don't want you to guess.

23 A. Okay. More sexual police interviewed type  
24 maybe leaving other ones gave him other clothes.

25 Q. Okay. Is it easier to read --

1       A. He was in shorts worked out on treadmill et  
2 cetera Jerry to take a shower understand question  
3 mark no other shower question mark four in here  
4 shampoo Jerry came up behind and gave him a bear  
5 hug. Said he would squeeze guts out all keep  
6 clothes socks JVP's took home mother concerned  
7 something more kid took another shower last night at  
8 this area.

9       Q. How about turning the page to page three?

10      A. At the top is the numeral three. Mother ask  
11 how did he give hug had to be genital contact  
12 because of but ask a boy be good said no friend  
13 Brendan age 10 also at Nittany Gardens claims same  
14 thing went on with him. Mother also Children and  
15 Youth has been notified to hold to Brandon tonight  
16 mother overreacting -- and then there's a numeral  
17 four. Mother overreacting dash no. Genital  
18 concerns underlined at min poor judgment underlined  
19 critical issue contact with genitals question mark  
20 underlined assuming same experience with Brandon  
21 question mark not -- I don't know what that last  
22 word is.

23      Q. Okay. And the parts you can't read are  
24 because they're illegible?

25      A. They're illegible and they're faded.

1 Q. Okay. Can you turn please to tab 2?

2 A. (The witness complied.)

3 Q. Are you able to identify tab 2?

4 A. Yes. Shall I read that?

5 Q. Well, first tell us whose handwriting it is.

6 A. In my opinion, in 14 years that I worked for  
7 Gary Schultz, it is Gary Schultz's handwriting.

8 Q. Okay. All right. Again, take your time and  
9 please don't guess at words. If there's a word you  
10 can't read, just tell us.

11 A. Right. I haven't been doing that.

12 Q. Okay. Go ahead.

13 A. Five five Tom Harmon last evening  
14 re-interview 11 and a half-year-old only charge  
15 added what happened in shower demonstrated on chair  
16 how Jerry hugged from back. Hands around abdomen  
17 and down to thighs. Picked him up and held him at  
18 shower head. Rinsed soap out of ears. Obsessed  
19 with PSU FB and concerned about getting Jerry in  
20 trouble getting FB tickets.

21 At the top is numeral number two. Kid has  
22 been seeing psychologist probably emotional problems  
23 but articulate and believable. Mother to  
24 psychologist and said she would call child abuse  
25 hotline and will generate indecent with Department

1 of Public Welfare. Other day underlined interviewed  
2 last night. Similar account. Locker room.  
3 Wrestling. Kissed on head.

4 Then on the next page at the top is numeral  
5 number three. Hanging from behind in shower. No  
6 allegation beyond that underline. Kids drew  
7 diagrams of shower rooms. He initially went down to  
8 shower three X sticks away with Jerry hold him to  
9 come down to shower next to his. Local child abuse  
10 people meeting at nine o'clock today to decide what  
11 to do.

12 Roman numeral number 4 at the top. Either way  
13 caseworker felt they would interview Jerry  
14 underlined. This opening of Pandora's box, question  
15 mark. Other children, question mark.

16 Q. Could you please turn to tab 7?

17 A. (The witness complied.)

18 Q. Can you identify the handwriting on that  
19 document?

20 A. In my opinion, in working for Gary Schultz  
21 for 14 years, it's the handwriting of Gary Schultz.

22 Q. And please tell us what the handwriting  
23 portion says.

24 A. At the top it says confidential. Two twelve  
25 oh seven. Talked with TMC. Reviewed 1998 history.

1 Agreed TMC will discuss with JVP and advise. We  
2 think TMC should meet with JS on Friday. Unless he  
3 confesses to having a problem, TMC will indicate we  
4 need to have DPW review the matter as an independent  
5 agency concerned with child welfare. TMC will keep  
6 me posted.

7 Q. Ma'am, I would like you to look back at the  
8 date. You had said it was two twelve oh seven.

9 A. Right.

10 Q. And I want to ask you if you're still  
11 satisfied that that's the number.

12 A. That --

13 Q. That that's the date, you said oh seven.

14 A. Well, that's what it looks like to me.

15 Q. Okay. Could you go to tab 9, please?

16 A. (The witness complied.)

17 Q. Are you able to identify that handwriting?

18 A. In my opinion, in working for Gary Schultz  
19 for 14 years, it is the handwriting of Gary Schultz.

20 Q. And please tell us what the handwriting says.

21 A. Two twenty-five oh one. Then there's a  
22 numeral three with a circle. Tell chair underline  
23 twice with an asterisk of Board of Second Mile.  
24 Number two with a circle around it. Report to  
25 D-E-P-T of Welfare. Number one with a circle around

1 it. Tell J period S period to avoid bringing  
2 children into Lasch Building. Asterisk. Who's the  
3 chair question mark question mark.

4 MR. STROKOFF: Pass the witness, Your Honor.

5 MS. CONRAD: Thank you.

6 CROSS EXAMINATION

7 BY MS. CONRAD:

8 Q. Ms. Coble, I'm going to step to the podium so  
9 I can see you better.

10 A. Fine.

11 Q. Good morning.

12 A. Good morning.

13 Q. My name is Nancy Conrad. We haven't met  
14 before. I represent The Pennsylvania State  
15 University and I just have a few follow up questions  
16 for you.

17 A. Okay.

18 Q. You testified, I believe, that you worked  
19 with Gary Schultz for 14 years?

20 A. Yes.

21 Q. And during that 14 years, what was the  
22 position that he held?

23 A. He was senior vice president for finance and  
24 business/treasurer.

25 Q. And in that position, was it your working



1 experience with him that he dealt with a number of  
2 confidential matters?

3 A. Yes.

4 Q. And in your 14 years of working with Mr.  
5 Schultz, did you have occasion to see him work with  
6 Dr. Spanier?

7 A. Yes.

8 Q. And was that on a regular basis?

9 A. Yes.

10 Q. And who was Dr. Spanier at the time?

11 A. The president of Penn State University.

12 Q. And in the course of that working  
13 relationship, did Dr. Spanier have the opportunity  
14 to work daily with Mr. Schultz on matters that arose  
15 within the department of business and finance?

16 A. Yes.

17 Q. And based on your observations of Dr. Spanier  
18 working with Mr. Schultz during that 14 years, did  
19 you observe that Dr. Spanier had confidence in the  
20 way Mr. Schultz carried out his job duties and  
21 responsibilities?

22 A. Yes.

23 Q. And you observed, didn't you, that Dr.  
24 Spanier believed that Mr. Schultz operated at the  
25 highest level of honesty, integrity, and compassion,

1 didn't you?

2 A. It appeared so.

3 MS. CONRAD: Thank you. I have no further  
4 questions.

5 MR. STROKOFF: No questions, Your Honor.

6 THE COURT: Thank you, ma'am. You're free to  
7 go about your business.

8 THE WITNESS: Thank you.

9 MR. STROKOFF: Mr. Steve Garban, Your Honor.

10 STEVE GARBAN

11 Was called as a witness and having been duly sworn,  
12 was examined and testified as follows:

13 THE COURT: Have a seat. Try and stay on the  
14 microphone. And state and spell your name for the  
15 record.

16 THE WITNESS: Steve A. Garban, G-A-R-B-A-N.

17 THE COURT: Thank you, sir.

18 DIRECT EXAMINATION

19 BY MR. STROKOFF:

20 Q. And sir, could you tell us what your current  
21 occupation is?

22 A. I'm retired.

23 Q. And before you were retired, what was your  
24 occupation?

25 A. Well, I had a few. I worked at the

1 University for 33 years. Retired from the  
2 University in 1993. And then I worked on a number  
3 of boards from '93 until four years ago.

4 Q. When you left the University in 1993, what  
5 was your position?

6 A. My position was senior vice president for  
7 finance and operations and treasurer.

8 Q. And about how long had you been senior vice  
9 president for finance?

10 A. 12 years.

11 Q. And during that period of time, did you know  
12 Gary Schultz?

13 A. I did.

14 Q. And how did you know Gary Schultz?

15 A. He was my top assistant.

16 Q. And for how long was he your top assistant?

17 A. Oh, probably ten of those years.

18 Q. Okay. And then after you left your position,  
19 who succeeded you?

20 A. Gary -- well -- I'm sorry. It was broken  
21 into two for a short period of time. About six  
22 months, nine months and then Gary took it over after  
23 that.

24 Q. Okay. After you left the University in 1993  
25 as an employee, did you develop any other

1 relationships with the University?

2 A. I did. I became a trustee in 1998 and was a  
3 trustee up through 2012.

4 Q. And while you were a trustee in the late  
5 2000s, did you occupy any positions of leadership on  
6 the Board?

7 A. I did. I was a chair of a number of  
8 committees. I ended up being vice chair in '07,  
9 '08, 09, and then chair in '10 and '11.

10 Q. So the end of October, beginning of November  
11 2011, you were chairman of the Board of Trustees of  
12 The Pennsylvania State University?

13 A. That is correct.

14 Q. Sir, would you please turn in the exhibit  
15 book, it's called Witness Exhibit Book, which should  
16 be in front of you, to tab 30.

17 A. Yes. (The witness complied.)

18 Q. Do you have Plaintiff's Exhibit 30 in front  
19 of you?

20 A. I think I do.

21 Q. Are you familiar with that document?

22 A. Precisely that document I'm not sure. But  
23 the contents, yes, of a document of that sort.

24 Q. And how did you become familiar with the  
25 content of this document?

1           A. I believe we re viewed it at a meeting on a  
2 Friday, I think it was the 28th of October.

3           Q. 2011?

4           A. Yes.

5           Q. And what was the occasion of you said we  
6 reviewed it?

7           A. I had a meeting with President Spanier and  
8 Cynthia Baldwin, and I do believe a Lisa and Bill  
9 were there, too. Lisa Powers and Bill Mahon were  
10 there, too.

11          Q. And what was said at the meeting?

12          A. Well, the meeting indicated that -- the  
13 meeting was called to review further developments  
14 that were occurring in the Sandusky case. And it  
15 appeared that charges were going to be brought  
16 against Tim Curley and Gary Schultz.

17          Q. And who said that?

18          A. I believe Cynthia Baldwin.

19          Q. And did she identify the nature of the  
20 charges that were going to be brought?

21          A. She did not, no.

22          Q. Did you -- or did anybody specify what the  
23 charges were that were going to be brought against  
24 them?

25          A. No.

1 Q. Okay. Well, after she provided that bit of  
2 news, what next happened at the meeting?

3 A. I don't remember the particulars. I do think  
4 this was reviewed as a statement.

5 Q. It was -- was it reviewed by you?

6 A. President Spanier gave it to me to look at,  
7 yes.

8 Q. And did President Spanier give it to anybody  
9 else to look at?

10 A. Well, I think it was jointly written with  
11 Lisa and Bill at the time and President Spanier.

12 Q. And what do you believe the purpose was of  
13 President Spanier giving you the copy to look at?

14 A. It was in support of Gary Schultz and Tim  
15 Curley.

16 Q. But why did he ask you to look at it, as  
17 opposed to somebody who was walking down the hall,  
18 for example?

19 A. Well, I was chairman of the Board. It wasn't  
20 unusual for him to to give me something to look at.  
21 I don't think it was something I approved. It was  
22 administrative. I concurred it and I supported it.

23 Q. Okay. So you concurred and supported it as  
24 chairman of the Board of Trustees?

25 A. I did.

1 Q. Okay. Sir, had you read the indictment at  
2 the time you approved this draft?

3 A. No.

4 Q. Had you read the presentment --

5 A. No.

6 Q. -- at the time the statement was put on Penn  
7 State Live?

8 A. No.

9 Q. Did you know specifically what the charges  
10 were filed against Mr. Schultz and Mr. Curley?

11 A. No.

12 Q. Now, you knew somehow that this was related  
13 to the Sandusky matter?

14 A. Yes, I did know that.

15 Q. And how did you find that out?

16 A. That was -- it was -- you know, it was  
17 revealed at the meeting that there appeared -- there  
18 were going to be charges out of the Sandusky matter.  
19 It wasn't a mystery or --

20 Q. So Cynthia Baldwin advised that there were  
21 going to be charges against Sandusky as well as Mr.  
22 Curley and Mr. Schultz?

23 A. She didn't advise there would be charges.  
24 She said she thought there would be and she had  
25 heard there might be.

1           Q. But against Mr. Sandusky as well as Mr.'s  
2 Curley and Schultz?

3           A. This was principally about Curley and  
4 Schultz.

5           Q. But she somehow conveyed the message it was  
6 related to the Sandusky matter?

7           A. Yes.

8           Q. Did you ask how was it related to the  
9 Sandusky matter?

10          A. Not really. I don't recall.

11          Q. Did you ask any questions at all?

12          A. Only that, you know, how sure she was or  
13 what, you know, information was based on. And she  
14 just said she had heard, that's all.

15          Q. At any time did you conduct, yourself, any  
16 investigation as to what the charges were that were  
17 brought against Mr. Schultz and Mr. Curley before  
18 this statement was released?

19          A. No.

20          Q. Did you conduct any investigation into the  
21 charges after the statement was released on Penn  
22 State Live a week later?

23          A. No. We were waiting for the grand jury  
24 presentment.

25          Q. Did you read the grand jury presentment when



1 it came out?

2 A. I did a couple days later.

3 Q. Couple days after the statement was posted?

4 A. Correct.

5 Q. After you read the grand jury presentment,  
6 did you think that President Spanier's statement  
7 should be withdrawn from the website?

8 A. Should be what?

9 Q. Withdrawn from the website.

10 A. No.

11 Q. At any time, did you talk to Mike McQueary to  
12 see what he says he told Mr. Curley and Mr. Schultz  
13 back in 2001?

14 A. No.

15 Q. Sir, you were aware that the statement  
16 concluded with the comment, "I am confident that the  
17 record will show that these charges are groundless  
18 and that they conducted themselves professionally  
19 and appropriately," end quote. What did you think  
20 the meaning was of that these charges are  
21 groundless? What did you think that meaning was?

22 MS. CONRAD: I'm going to object to taking a  
23 statement out of context. The complete statement  
24 is, "I am confident the record will show that these  
25 charges are groundless," not that the charges are

1       groundless. I don't want the witness to be misled  
2       by the question.

3               THE COURT: You can ask him the entire  
4       context when you get a chance. The objection's  
5       overruled. What did you understand that to mean,  
6       sir?

7               THE WITNESS: Well, I understood it to mean,  
8       you know, that they were without foundation. I  
9       personally had a lot of confidence. Gary Schultz,  
10      Tim Curley both worked with me for over 12 years. I  
11      had a lot of confidence in them. I was very  
12      supportive of them. I felt them to be individuals  
13      of high integrity and conscientious and outstanding  
14      people. That was my feeling when I read that, and  
15      that was my concurrence, and that was my support.

16      BY MR. STROKOFF:

17              Q. But my question was, what did you think the  
18      term groundless meant?

19              A. Without --

20              Q. Pardon?

21              A. Without merit.

22              Q. And again, you didn't know what the charges  
23      were?

24              A. I did not. I knew the two people.

25              MR. STROKOFF: No further questions, Your

1 Honor.

2 CROSS EXAMINATION

3 BY MS. CONRAD:

4 Q. Good morning, Mr. Garban.

5 A. Morning.

6 Q. My name is Nancy Conrad and I represent The  
7 Pennsylvania State University. Thank you for taking  
8 the time to appear here today. You stated that you  
9 had worked for Penn State for 33 years, I believe?

10 A. Yes.

11 Q. And out of that, those 33 years,  
12 approximately how many years did you work with Gary  
13 Schultz?

14 A. 12.

15 Q. How about Mr. Curley?

16 A. Well, Tim never reported directly to me, but  
17 I knew Tim his whole career at Penn State.

18 Q. Approximately how many years did you know Mr.  
19 Curley?

20 A. Oh, 20 I guess. 20 is a guess. It's not  
21 a --

22 Q. About 20 years?

23 A. About that.

24 Q. And in those 12 years that you worked with  
25 Mr. Schultz, was it your experience, based on

1 working with him, that you had complete confidence  
2 in the way they carried out the their job duties?

3 A. It was my complete -- I had complete  
4 confidence in him.

5 Q. And in those 12 years that you worked with  
6 Mr. Schultz, did you assess that Mr. Schultz  
7 operated at the highest level of honesty, integrity,  
8 and compassion?

9 A. I did.

10 Q. And then with respect to Mr. Curley. With  
11 respect to the 20 years that you worked with Mr.  
12 Curley, was it your working experience that Mr.  
13 Curley -- that Mr. Curley had your complete  
14 confidence in the way he carried out his job duties?

15 A. He had my complete confidence.

16 Q. And was it your experience of working with  
17 Mr. Curley for over 20 years that you determined he  
18 operated at the highest level of honesty, integrity,  
19 and compassion?

20 A. That was my belief.

21 Q. Now you referenced that after you retired in  
22 1993, you worked for a number of boards; is that  
23 correct?

24 A. That is correct.

25 Q. Could you just briefly summarize for us the

1 nature of that work?

2 A. I was on a mutual fund board in Boston, State  
3 Street Research. And I was on an annuity fund board  
4 in New York, Met Life.

5 Q. And did you obtain your position on the board  
6 as a result of your work in finance and business?

7 A. I did.

8 Q. Now I want to direct you to that meeting that  
9 took place that Friday night in late October. I  
10 believe you testified, in that meeting that you  
11 reviewed a draft statement that had been presented  
12 by Dr. Spanier; is that correct?

13 A. That is correct.

14 Q. D12, please. Mr. Garban, there's a large  
15 exhibit binder in front of you.

16 A. Yes.

17 Q. We're going to move to a difference one, sir.  
18 The one to your right?

19 A. Oh, this one?

20 Q. Yes, sir, thank you. And if you'll turn to  
21 tab 12, please.

22 A. Okay. (The witness complied.)

23 Q. And I believe that counsel reviewed a copy of  
24 this version during his direct examination. Are you  
25 familiar with this document?

1           A. As I said before, I don't remember the  
2 precise documents. The content is similar.

3           Q. You recall during the course of that  
4 meeting --

5           A. Yes.

6           Q. -- either reviewing or discussing the content  
7 of the document that's been marked D12; is that  
8 correct, sir?

9           A. Yes.

10          Q. When you reviewed that document, did you  
11 agree with Dr. Spanier's opinion that Mr. Curley and  
12 Mr. Schultz had his unconditional support?

13          A. I agreed with it and concurred. I concurred  
14 and I supported it.

15          Q. And did you agree with Dr. Spanier's opinion  
16 that based on the 16 years he had worked with them,  
17 he had complete confidence in how they handled the  
18 allegations about a former University employee?

19          A. I agreed with him.

20          Q. And did you agree with Dr. Spanier's opinion  
21 that Mr. Curley and Mr. Schultz operated at the  
22 highest level of honesty, integrity, and compassion?

23          A. I did agree with that opinion.

24          Q. And did you understand that Dr. Spanier's  
25 position was based on his 16 years of having worked

1 with Mr. Curley and Mr. Schultz?

2 A. Yes.

3 Q. And then did you agree with Dr. Spanier's  
4 opinion that he was confident that the record will  
5 show that the charges -- that these charges are  
6 groundless and they conducted themselves  
7 professionally and appropriately?

8 A. Yes.

9 Q. Now at any time during that meeting, was the  
10 name Michael McQueary raised?

11 A. No.

12 Q. At any time during that meeting, did anyone  
13 in that meeting suggest that this draft statement  
14 you were reviewing in any way applied to Mr.  
15 McQueary?

16 A. No.

17 Q. When you were sitting in that meeting, did  
18 you have any knowledge that Mr. McQueary was the  
19 graduate assistant that would later be referenced in  
20 the presentment?

21 A. No.

22 Q. Did you know Mr. McQueary?

23 A. I do.

24 Q. Did you know Mr. McQueary at the time you  
25 were sitting in that meeting in October 2011?

1           A. I know Mike. I don't know him personally and  
2 well. But yes, I know him.

3           Q. How did you know him?

4           A. Well, he's a local boy. He went to State  
5 College High School. He went to Penn State, played  
6 football, then came on to work. And I knew of his  
7 record.

8           Q. You knew of Mr. McQueary as a player and an  
9 assistant coach for Penn State; is that correct?

10          A. Correct.

11          Q. But sitting in that meeting of October 28th,  
12 2011, did you have any knowledge of Mr. McQueary's  
13 role with respect to the investigation of Jerry  
14 Sandusky?

15          A. No.

16          Q. I'm going to direct your attention now to  
17 D20. Are you familiar with this document that's  
18 been marked D20?

19          A. Again, precisely the document -- I am  
20 familiar with the content. It's similar content to  
21 the other documents.

22          Q. And this document contains similar text as in  
23 the draft statement that you had reviewed in that  
24 October meeting; is that correct?

25          A. That is correct.



1           Q. Now, this document is dated November 5th,  
2           2011. Do you see that?

3           A. I do.

4           Q. And I want to direct your attention to that  
5           week in November of 2011. Based on your 33 years  
6           with the University and the time then that followed  
7           that you served as a trustee, did you ever  
8           experience a week like that week?

9           A. Well, that week -- you're going to have to  
10          identify the week, because I think it was the next  
11          week that the -- the presentment was made that  
12          Saturday I think.

13          Q. The presentment was released that Saturday,  
14          November 5th?

15          A. 5th. Then --

16          Q. Do you remember that?

17          A. Then the week after that --

18          Q. Yes, sir.

19          A. -- was the very tumultuous time at the  
20          University.

21          Q. A chaotic time?

22          A. Yeah, I guess you could use the word chaotic.  
23          Press coverage, a lot of attention, a lot of  
24          comments, a lot of statements, a lot of confusion.

25          Q. A lot of decisions had to be made?

1           A.   Yes.

2           Q.   Now directing your attention to D20.  And  
3 without taking you through each line of it again,  
4 did you agree with the opinions that Dr. Spanier  
5 asserted in this statement from the president?

6           A.   I did.

7           Q.   And did you understand that Dr. Spanier made  
8 these statements based on his experience of working  
9 with Tim and Gary for 16 years?

10          A.   I did.

11          Q.   And with respect to this statement that was  
12 published on or about November 5th, 2011, do you see  
13 any reference to Michael McQueary in it?

14          A.   No.

15          Q.   When you read this statement that was  
16 published on Penn State Live, did you draw any  
17 connection to Michael McQueary?

18          A.   No.

19          Q.   At the time this statement was released, did  
20 you know that Michael McQueary was the graduate  
21 assistant referenced in the presentment?

22          A.   No.

23          Q.   Did you in any way draw a conclusion that  
24 this statement of opinion negatively impacted or  
25 affected or referred to Michael McQueary?

1           A.   No.

2           Q.   And did you hear anyone in the Penn State  
3 community, whether on the trustees or among the  
4 employees, ever state to you that they drew a  
5 connection between the president's statement and  
6 Michael McQueary?

7           A.   No.

8           MS. CONRAD: Thank you, sir. I have no  
9 further questions.

10          MR. STROKOFF: Very few, Your Honor.

11                       REDIRECT EXAMINATION

12 BY MR. STROKOFF:

13          Q.   Mr. Garban, at the time you gave this  
14 statement in full support of President Spanier --  
15 let me rephrase that. At the time you gave your  
16 full support to President Spanier's statement, did  
17 you have any idea as to any evidence there was that  
18 Gary Schultz or Tim Curley had committed crimes?

19          A.   No.

20          Q.   You didn't know what the crimes were that  
21 they were being charged with, right?

22          A.   No.

23          Q.   And you didn't know what evidence there was?

24          A.   No.

25          Q.   And you didn't know it, even if there was a

1 grad assistant who was testifying relative to that  
2 evidence?

3 A. No.

4 Q. And you didn't know, for example, that they  
5 were charged with failure to report suspected child  
6 abuse?

7 A. No.

8 Q. And you didn't know that the day after they  
9 were told about the suspected child abuse, Wendell  
10 Courtney told Mr. Schultz to report the matter to  
11 DPW?

12 A. No.

13 Q. And you didn't know that they didn't report  
14 the matter to DPW?

15 A. No.

16 MR. STROKOFF: Nothing further, Your Honor.

17 RECROSS EXAMINATION

18 BY MS. CONRAD:

19 Q. Mr. Garban, you'll agree with me, won't you,  
20 that the statement says, "I am confident the record  
21 will show these charges are groundless," doesn't it?

22 A. Yes.

23 Q. And that's a statement of Dr. Spanier's  
24 opinion, isn't it?

25 A. Yes.

1           Q. It doesn't say these charges are groundless,  
2 does it?

3           A. No.

4           MS. CONRAD: Thank you. I have no further  
5 questions.

6           THE COURT: Thank you, sir. You're free to  
7 go about your business.

8           THE WITNESS: Thank you.

9                       MICHAEL J. MCQUEARY

10          Was called as a witness and having been duly sworn,  
11 was examined and testified as follows:

12                       DIRECT EXAMINATION

13          BY MR. STROKOFF:

14           Q. Please state, for the record, your name and  
15 spell your last name, please.

16           A. Michael J. McQueary. M-C-Q-U-E-A-R-Y.

17           Q. And you are the plaintiff in this matter?

18           A. Yes, sir.

19           Q. And I want to begin with some background  
20 information. Could you give us your date of birth?

21           A. October 10th, 1974.

22           Q. And your place of birth?

23           A. Durham, North Carolina.

24           Q. And did there come a period of time when you  
25 moved to central Pennsylvania?

1 A. Yes.

2 Q. And when did you move to this area?

3 A. October of 1981.

4 Q. So you were at that time how old?

5 A. I had just turned 7.

6 Q. And had you been living in this area ever  
7 since?

8 A. Yes. With the exception of a brief, brief  
9 stint in California.

10 Q. And when was that California stint?

11 A. Spring and summer of 1998.

12 Q. Okay. And other than that summer of 1998,  
13 though, you've lived in this area since you were 7?

14 A. Yes, sir.

15 Q. Okay. And where did you go to high school,  
16 sir?

17 A. State College Area High School.

18 Q. And where did you go to college?

19 A. Penn State University.

20 Q. And when you went to Penn State University,  
21 did you play football?

22 A. I tried.

23 Q. And what position did you try to play?

24 A. Quarterback.

25 Q. And you graduated, sir, in what year?

1           A. 1997.

2           Q. And after you graduated, what did you do?

3           A. Tried to further my playing career. I signed  
4 as a free agent with the Oakland Raiders. Was not  
5 good enough, got cut. And eventually in the spring  
6 of 1999, came back from a brief stint in NFL Europe  
7 and began working at Penn State University.

8           Q. How did that come about?

9           A. I had gotten cut from NFL Europe. And I  
10 showed up to see some of the coaches just to say  
11 hello, I believe it was during spring practice, or  
12 shortly thereafter spring practice in the spring of  
13 '99. And a couple of the guys said why don't you  
14 try to join us. And it was pretty clear that I  
15 wasn't going to make it as an NFL player, I was not  
16 good enough. And I really did not have any other  
17 thoughts or options on the table at that time. And  
18 I said sure. And a couple of days later, Coach Joe  
19 called and said, well, you know, we'll get you  
20 started and see what happens.

21          Q. Coach Joe being who?

22          A. Coach Paterno.

23          Q. And you as well as other players called him  
24 Coach Joe?

25          A. Yeah, we were first name basis within our

1 program, which is a little bit odd. But it was not  
2 uncommon for players to refer to Coach Paterno as  
3 Joe or Coach.

4 Q. Okay. So what did you start out as an  
5 employee of the University?

6 A. I'm not sure I had a title, it was a wage  
7 payroll position. And really, anything I was asked  
8 to do I did.

9 Q. Who did you report to at that time?

10 A. Anyone. For example, just to be clear, the  
11 first two days on the job, I took inventory of the  
12 trophy room that they were about to tear down. And  
13 that assignment was given to me by Tom Venturino.

14 Q. And who was Mr. Venturino at that time?

15 A. I think he was assistant director of football  
16 operations at that time.

17 Q. Okay. And how long did you remain in this  
18 position?

19 A. For roughly one year.

20 Q. And what changed after that?

21 A. We had a turnover on the offensive G staff,  
22 if you will. That GA had left and Coach --

23 Q. Now, you better tell us what a GA is?

24 A. It's a graduate assistant football coach.  
25 You enroll and start working on your Master's



1 Degree. You're an -- you're on the on field coach.  
2 And in return, the University pays for your  
3 schooling, and you get a stipend.

4 Q. And what did you do as an offensive GA?

5 A. Really, again, everything. The bulk and  
6 majority of all of the scouting, advanced scouting.  
7 You're involved in the nuts and bolts of recruiting.  
8 Your primary job, on the field coaching, is to  
9 prepare the scout teams for that week. And that is  
10 the look team, if you will, or the team that  
11 stimulates the defense of the opposing team that  
12 week.

13 Coach Kenny had a little bit of a tough -- one  
14 of the full-time assistants, Coach Kenney, had a  
15 little bit of a tough assignment, and he coached  
16 tackles and tight ends. And there were times during  
17 practice and during the week where he had to devote  
18 more time to tackles, so I would take tight ends in  
19 the passing game and try to help and aid in Coach  
20 Kenney coaching them.

21 Q. I just want to go back over a few things to  
22 make sure that we understand. When you say the bulk  
23 and majority of all scouting, what do you mean when  
24 you say scouting?

25 A. When you prepare for a football game, for

1       example, let's use this week, Penn State plays Ohio  
2       State tomorrow night. Ten days beforehand, last  
3       week, the GAs in the office would get the films on  
4       that Tuesday.

5       Q. Get the films of what?

6       A. Of Ohio State's previous four games. They  
7       would look at all of that defensive clips. And in  
8       the computer system and on film you break down  
9       exactly what they are doing on defense so when the  
10      staff comes in on Sunday, they have a pretty look,  
11      if you will, of what defense they run, what blitzes,  
12      what coverages, downing distance situations, field  
13      positions, hash marks, it's all broken down.

14     Q. And this breakdown is done by who?

15     A. By me, by the GAs. Or at least back -- I  
16     don't want to speak for the current setup in the  
17     football program, but back then it was done by the  
18     GAs.

19     Q. During the period of time when were back  
20     actively employed by the University?

21     A. Yeah. Let me just clarify, I don't think in  
22     that position I was an active employee. You know  
23     what I'm saying? I was a GA. So I'm not sure what  
24     the actual --

25     Q. Well, what I mean is during the time you were

1 associated with the Penn State football program,  
2 that's the way it was done?

3 A. Yes. That is correct.

4 Q. So the scouting isn't going out and actually  
5 looking at teams, it's looking at film and analyzing  
6 the film?

7 A. Yeah. At a time, you were allowed to  
8 actually go to football games and scout. But at  
9 some point, maybe earlier, mid 90s, NCAA passed a  
10 rule that you were no longer allowed to do that.

11 Q. Okay. Now, you've referred to nuts and bolts  
12 of recruiting. What did you mean by that, that the  
13 GA did?

14 A. Yes. I think probably to say nuts and bolts  
15 is not accurate. Any recruitment support that a  
16 coach needed or the recruiting coordinator needed or  
17 if we had a big weekend coming up and we had more  
18 recruits than we could handle with the full-time  
19 assistants, you would be assigned a recruit and his  
20 family or a number of recruits and his family to  
21 host.

22 Q. Okay. And then you referred to preparing the  
23 scout teams?

24 A. Yes.

25 Q. Okay. The scout team being what?

1       A. So you have a quote unquote varsity team, if  
2       you will, and that's the first two strings on both  
3       sides of the ball. And at Penn State, we were  
4       fortunate and lucky, we had maybe 120 kids, give or  
5       take, on the team at one time. So you have 60 or 70  
6       kids that may be walk-ons or red shirts or just not  
7       quite able up to play at the varsity. And what you  
8       did is you took 20 or 24 players that fell into that  
9       category, mostly young kids, and you broke them down  
10      into making the Ohio State defense. You gave them  
11      those numbers, you tried to fit similar athletes  
12      into what you thought would best match their kids.  
13      And you, your job during the week during practice  
14      was to simulate their defenses, their lineups, their  
15      numbers. So when the offense was preparing, they  
16      got used to the quote unquote Ohio State defense.

17      Q. Okay. Anything else, other than the nuts and  
18      bolts of recruiting and the scouting and the  
19      preparing the scout team, the GAs did?

20      A. No. But again, you're low on the totem pole.  
21      So if they ask you to get coffee during a staff  
22      meeting, you get coffee. I mean, whatever it takes,  
23      you do it.

24      Q. Well, were you ever asked to get coffee as a  
25      GA?

1           A. Yeah. Coach Ganter, almost every morning at  
2 a staff meeting, he'd say, you know, grab me a half  
3 a cup.

4           Q. At the time you were a GA, he was a coach?

5           A. Yes, sir.

6           Q. And then when he moved into his associate  
7 athletic director position, he testified the other  
8 day that's when you moved up to assistant coach?

9           A. Yes. The same year.

10          Q. Okay. Sir, let's go to the night of February  
11 9, 2001. Can you walk us through about when you  
12 arrived at the Lasch football building?

13          A. Roughly 9:00 p.m.

14          Q. And when you arrived at the building, where  
15 did you go?

16          A. To the staff locker room.

17          Q. Now, the staff locker room is different from  
18 other locker rooms?

19          A. Yes, sir. There are multiple locker rooms  
20 within the facility.

21          Q. Okay. Just so that we understand what the  
22 staff locker room -- or who the staff locker room  
23 serves, what are the other locker rooms?

24          A. There's the main players locker room, which  
25 is the biggest locker room, probably bigger than

1       this courtroom. There is, in the same area as that  
2       locker room, is a managers/periferie staff locker  
3       room. Down a hallway is the full-time coaches  
4       locker room with Coach Paterno and nine full-time  
5       assistants and I believe our two full-time strength  
6       coaches. And then there's another staff locker room  
7       that had GAs, it had the director of football  
8       operations, trainers, academic support lockers,  
9       pretty small locker room, but had staff, if you  
10      will.

11       Q. And were you assigned a locker in the staff  
12      locker room?

13       A. Yes.

14       Q. Okay. All right. So you arrived at the  
15      Lasch -- and that's a football building, right?

16       A. Yes.

17       Q. It's called the Lasch --

18       A. Strictly football.

19       Q. Okay. And around nine o'clock and you went  
20      to the staff locker room for what purpose?

21       A. I had came in to actually do some work, to  
22      start a new round of watching recruiting tapes. And  
23      I had bought sneakers earlier that day, they were  
24      sitting in my car. And I grabbed them and wanted to  
25      put them in my locker.

1 Q. All right. And you proceeded to do so?

2 A. Yes.

3 Q. And what happened as you proceeded to do so?

4 A. I opened the first door of the locker room  
5 and heard some slapping noises, and the shower was  
6 running. The next door was propped open by a wedge  
7 down in the carpet. And my locker, as you entered  
8 that door, is the first door almost directly on your  
9 right. Already knew someone else was in there. And  
10 turned to my locker and opened it up and glanced  
11 over my right shoulder into the mirror. And in that  
12 mirror, saw a reflection of Jerry and a boy under  
13 the faucet with Jerry directly behind him, his arms  
14 wrapped around him in a severely inappropriate  
15 position.

16 Q. All right.

17 A. Continue?

18 Q. Yep.

19 A. Not really believing what I thought maybe I  
20 had seen, stepped slightly to my right so I could  
21 look into the locker directly -- not into the  
22 locker, but into the shower directly, and saw the  
23 same exact thing. And put the sneakers in my  
24 locker, terrified, slammed the locker shut, and  
25 began to walk to the door, saw Jerry and the boy

1 looking right at me, separated, shoulder to  
2 shoulder, and walked out of the locker room.

3 Q. Now, you knew who Jerry Sandusky was?

4 A. Yes. Jerry Sandusky was almost iconic. I  
5 grew up in State College, he was the foundation of  
6 Penn State defense and Linebacker U in the 1986  
7 national championship team. I played ball and grew  
8 up with his sons, John and Jeff, at State College  
9 High, they were on my football team. Jeff was a  
10 junior and John was a sophomore when I was a senior.  
11 Knew Mrs. Sandusky. He was -- I mean, no one  
12 matched Joe's -- no one matched Joe in terms of  
13 reputation or reverence but certainly Jerry Sandusky  
14 was this, and I'll use a word that we heard  
15 yesterday, this boy scout Second Mile founder who  
16 was a saint and was an unbelievable iconic football  
17 coach.

18 Q. So after you left the locker area, where did  
19 you go?

20 A. I walked directly upstairs, very flustered  
21 and devastated, and into my office.

22 Q. So the staff locker room was on what floor of  
23 the Lasch Building?

24 A. Ground floor.

25 Q. And your office was on what floor?



1           A.   Second floor.

2           Q.   Okay.  So you went to your office?

3           A.   Yes.

4           Q.   And?

5           A.   Picked up the phone and called my father.

6           Q.   Okay.  Do you remember what you told your  
7 father?

8           A.   Word for word, no, obviously not.  But tried  
9 to relay the message of what I had seen.

10          Q.   And what did your father say?

11          A.   He asked a couple questions, wanted to know  
12 where I was, wanted to know who was in the building.  
13 And again, I know he tried we make things -- in  
14 human nature we try to make it black and white but  
15 it's often gray.  And I tried to relay what I could,  
16 but it was -- it was an extreme situation.  And he  
17 said okay, leave and get over here.

18          Q.   Get over here meaning?

19          A.   To the house.  To where I grew up.

20          Q.   Okay.  You weren't living there at the time?

21          A.   No, sir.

22          Q.   So, you did that?

23          A.   I did.

24          Q.   Okay.  Then what happened?

25          A.   I cried to him.

1 Q. All right.

2 A. And I tried to tell him what I saw.

3 Q. All right. And did there come a period of  
4 time when Dr. Dranov arrived?

5 A. Yes.

6 Q. Okay. Do you remember anything about talking  
7 to to Dr. Dranov?

8 A. I know Dr. Dranov was there, we talked to  
9 him.

10 Q. Okay. Do you remember what was said when Dr.  
11 Dranov was there?

12 A. It was basically us trying to decide what to  
13 do about this.

14 Q. All right.

15 A. I tried to relay, again, what I saw, what I  
16 witnessed. And again, I'll come back, it is -- I  
17 realize it is tough for -- or maybe it is easy for  
18 people to try to understand that situation. But I  
19 can promise you it is not an easy situation to  
20 express. So I tried to do the best I could in  
21 telling them what I witnessed. And we tried to come  
22 up with what we would do.

23 Q. And what were you advised to do?

24 A. Report it to my superior and to Coach  
25 Paterno.

1 Q. Now about what time at night are we talking  
2 about now?

3 A. This is well after nine. I'm guessing 9:45  
4 or ten o'clock maybe.

5 Q. All right. Did you report it to Coach  
6 Paterno?

7 A. Yes.

8 Q. And when did you report it to Coach Paterno?

9 A. The next morning, Saturday, early in the  
10 morning.

11 Q. Is there a reason why you didn't report it to  
12 him at 9:45 or so that Friday night?

13 A. Again, with unclear thinking, we just thought  
14 he would be asleep and in bed.

15 Q. Okay. So, you reached Coach Paterno the next  
16 morning?

17 A. Yes.

18 Q. About what time?

19 A. Roughly 7:30 or eight o'clock I called him.

20 Q. And what did you say over the phone?

21 A. I said, "Coach, I need to come over and speak  
22 to you right away." Told him who I was calling,  
23 obviously. And not to make light of it but he said  
24 I'm not giving you a job. We had a full-time  
25 assistant coaching position open and in a previous

1 week, I put a letter on his desk explaining that I  
2 would like to be considered for the job. And I  
3 said, "No, no, Coach, it is about something much  
4 more serious." And he said oh, you better come  
5 over.

6 Q. All right. And you did so?

7 A. I did.

8 Q. Okay. And where did you meet him?

9 A. At his house on McKee Street.

10 Q. Okay. And did you have a talk with him that  
11 morning?

12 A. I did.

13 Q. And where in his house?

14 A. At his kitchen table. Around a round table  
15 in his kitchen.

16 Q. Okay. And what did you tell him?

17 A. Again, I told him what I witnessed.

18 Q. Do you remember your words?

19 A. Exact words? No. Certainly know the  
20 message.

21 Q. And what happened then?

22 A. Coach was certainly sad and maybe devastated.  
23 And he said I need to think about this and tell some  
24 people. And I said okay.

25 Q. Sir, did you have any concerns about

1 reporting this to Coach Paterno?

2 A. Absolutely. I think one of the concerns,  
3 perhaps, from the very first minute is who's going  
4 to believe me? Who is going to believe when I tell  
5 them that Jerry Sandusky was doing this? I didn't  
6 know if my dad would believe me. I didn't know if  
7 anyone would believe me. And to his credit, Coach  
8 Paterno did believe me.

9 And it was tough to have that talk or to  
10 explain that to a coach, a granddad. You know, Joe  
11 wasn't flawless, but he was pretty pure. For  
12 instance, we were not allowed to swear on the  
13 football field. You didn't cuss in our football  
14 program. So to put these types of words or to  
15 express this type of situation to Coach Joe was  
16 nauseating. It was tough.

17 Q. Is there anything else you remember about  
18 this meeting with Coach Joe?

19 A. No.

20 Q. All right. And how did he leave it? What  
21 did he say?

22 A. He said thanks, you've done the right thing,  
23 and I will tell some people. And I think he said  
24 I'll get back to you, or follow up.

25 Q. Was there any follow up after that?

1           A.   Yes.

2           Q.   And what was the next follow up?

3           A.   That Monday or Tuesday in the office back at  
4 work, Coach Joe said I've told some people, they're  
5 going to get a hold of you eventually. And he asked  
6 me if I was okay. He asked if I needed some help.  
7 And I said, "No, Coach, I'm okay." That was the  
8 first follow up of any kind.

9           Q.   Okay. What was the next follow up?

10          A.   I think one or two other days Coach Joe asked  
11 if I needed anything, if I was emotionally all  
12 right, he knew I was upset. And then roughly ten  
13 days later, Mr. Curley called me on the telephone  
14 and said Coach gave us a report and we need to speak  
15 with you.

16          Q.   What happened next then?

17          A.   We arranged a time and location to meet over  
18 in the Bryce Jordan Center. And we met, and what  
19 day and time, I have no idea. But I met with Mr.  
20 Curley and Mr. Schultz in a small conference room in  
21 the Bryce Jordan Center.

22          Q.   And what do you remember about that meeting?

23          A.   They asked me what I had seen, said that they  
24 had heard a report, asked me what I had seen, and I  
25 told them.

1 Q. Okay.

2 A. They said okay and thank you and, again,  
3 you've done the right thing and we will look into  
4 it, it's serious and we will follow up.

5 Q. All right. How long did that meeting last?  
6 Do you remember?

7 A. Not very long. Ten minutes, 15 minutes.

8 Q. Do you recall them asking you any questions?

9 A. I don't. I don't remember them asking me  
10 questions.

11 Q. What was the next follow up?

12 A. I wanted to say, again, a week, possibly ten  
13 days, roughly a week about. I know we like to be as  
14 precise as we can. Tim called me on the phone and  
15 said this is what we've decided to do. He said we  
16 told The Second Mile and we've told Jerry he's no  
17 longer allowed to bring kids into the facility. And  
18 the third thing, I don't want to be unfair so I  
19 can't quite remember it, but it's sticking in my  
20 head that he said we've decided to take Jerry's keys  
21 away. But that one is unclear, I can't quite  
22 remember if that happened or not. And I said okay.  
23 And that was the extent of it.

24 Q. Okay. What was the next development with  
25 respect to this? That you recall.

1           A. Not much. I think a couple times during the  
2 next couple months, Coach Paterno checked on me,  
3 said do I need help. And that's really it.

4           Q. There was some testimony yesterday with  
5 respect to your father.

6           A. Yes.

7           Q. And did he have any discussion with you after  
8 Curley had told you what they had decided to do?

9           A. He -- I'm at -- going back to that Saturday,  
10 he said he followed up and made sure I reported it.  
11 He knew -- I don't know if conflict is the right  
12 word for it, but he knew how tough that was going to  
13 be to tell Coach Paterno. And I said yes, I went to  
14 his house, I told him. He said he -- I think it was  
15 a solid month to two months later, said he had had a  
16 discussion with Mr. Schultz along with Dr. Dranov  
17 but really did not get into particulars about it.  
18 So I can't say that I know what that was about.

19          Q. But he told you he followed up concerning  
20 your report with Mr. Curley?

21          A. Yes. He said he had a discussion with Mr.  
22 Schultz.

23          Q. Subsequent to your report to Coach Paterno  
24 and then to Curley and Schultz, did you have any  
25 interactions with Jerry Sandusky?



1           A. No. I had no personal interactions with  
2 Jerry. Now, we can try to define what interactions  
3 are, but I had no direct, face to face, word to word  
4 interactions with Jerry.

5           Q. Did you see him in and about the football  
6 facilities every now and then?

7           A. Yes.

8           Q. And when he would be there, what did you do?

9           A. Distanced myself right away. I could  
10 remember specifically eating lunch in the equipment  
11 room and him coming in a couple times, and I would  
12 literally get up and run out of the equipment room.  
13 If he was in a different -- in a hallway, I would go  
14 into a different hallway. I tried to avoid him.

15          Q. Sir, I'm going to go ahead to the year 2010.  
16 November --

17          A. Okay.

18          Q. -- December. Did you have any contact with  
19 any investigators from the Attorney General's office  
20 at that time period?

21          A. Yes.

22          Q. And about when was that? And where was that  
23 first contact?

24          A. I was in the office working on a Tuesday or  
25 Wednesday night, I can't quite remember, and got a

1 phone call from my house saying there's two  
2 investigators here that want to talk to you. And I  
3 had put them on the phone --

4 Q. You got a phone call from your house?

5 A. Yeah. From my wife.

6 Q. Okay.

7 A. And I said okay, put them on the phone, knew  
8 exactly what they were calling me about.

9 Q. Why? How did you know?

10 A. Because there were rumors going around about  
11 Jerry being investigated for a good solid year by  
12 now. And they didn't even tell me why they wanted  
13 to talk to me, but I knew.

14 Q. And so you spoke to somebody on the phone?

15 A. Yes. I said -- I had two labs at a small  
16 townhouse, my wife was there, and our little baby  
17 girl, six months old, was there, and I really didn't  
18 want to talk to two investigators in the middle of  
19 our house. And so I said meet me down at the high  
20 school, which was not far away from the house. And  
21 so, that's what we did.

22 Q. Okay. And who did you meet that night?

23 A. Tony Sassano and Mr. Rossman.

24 Q. Okay. And tell us what happened that night.

25 A. There were a ton of people around the high

1 school, so I said there's a park a little bit down  
2 the street, we'll go down there and meet.

3 Q. And what happened during the meeting?

4 A. Well, before the meeting, I called my father  
5 and said, "Listen, you got to get a lawyer. They're  
6 going to want to talk to me about Sandusky." I  
7 never had dealings with a lawyer and I didn't feel  
8 comfortable, and I had always been taught to never  
9 talk to investigators, police of any sort without a  
10 lawyer present. We had even -- when issues came up  
11 with our players, we even talked about that in staff  
12 meetings, that they should never talk to someone  
13 without a lawyer. So I called my father and said,  
14 you know, get on the phone fast, I got to meet these  
15 guys in ten minutes. And I called Guido Daley and I  
16 said listen, they're going -- these guys are going  
17 to want to talk to me about Jerry, I'm not going to  
18 hide or anything, you need to tell Coach and you  
19 need to tell people they found me.

20 Q. Now, Guido Daley is who?

21 A. He was -- he was kind of -- he was an  
22 important guy. He was director of marketing and  
23 branding but kind of one of Joe's right hand man,  
24 trusted confidant, kind of handled I think a  
25 multitude of things, but basically on the marketing

1 and branding front.

2 Q. Okay. Was there a reason why you called him  
3 instead of Coach Paterno directly?

4 A. Yeah. I just -- I wanted to get the word to  
5 Coach, and that's who I thought of to call.

6 Q. Okay.

7 A. So I met the people in the park, the two  
8 investigators. And I said, "Listen, I know what you  
9 want, you want to talk to me about Jerry. I'll do  
10 the right thing, I want to help, but I'm not  
11 prepared at this time to the speak with you or tell  
12 you anything tonight." And they said that's  
13 completely understandable. And I said as soon as I  
14 get a lawyer, I will have him contact you and we'll  
15 talk at the soonest, earliest time we can.

16 Q. All right. I want to go back just a little  
17 bit.

18 A. Okay.

19 Q. They contacted you, right?

20 A. Yes. Yes, they did.

21 Q. Now, after you witnessed what unfortunately  
22 you had to witness and you made your reports, did  
23 you tell anybody else about what you had seen, other  
24 than your father and Dr. Dranov?

25 A. Let's be sure I know when you're talking.

1 Are you talking about ever in the whole --

2 Q. I'm talking about beginning with February  
3 9th, 2001 until the 10th?

4 A. Yes. How in depth I went, I don't know. But  
5 certainly told people that I had witnessed a severe  
6 incident with Jerry.

7 Q. And who did you tell? Chronologically, as  
8 best you can remember.

9 A. Geeze. That's tough to do. For sure my  
10 girlfriend at the time of the incident. Tom Bradley  
11 and I talked about it at some point in time down the  
12 road. People would see a reaction out of me and I  
13 would hint at the fact that I had seen something  
14 bad. For instance, right around the time or shortly  
15 before the time that The Patriot news article came  
16 out about Jerry, some of the equipment room guys  
17 asked me and I said I saw a devastating incident  
18 that has changed my life, concerning that. So  
19 certainly people knew that I had seen something or  
20 witnessed something.

21 Q. All right.

22 A. And there may be more that aren't coming to  
23 mind right now.

24 Q. Okay. You don't know how the state police or  
25 Office of Attorney General's people knew to call

1       you?

2           A.   Then I did not.   Now they got some random tip  
3   I have heard.

4           Q.   Okay.   Did you subsequently meet with the  
5   folks from the Attorney General's office/state  
6   police?

7           A.   Yes.

8           Q.   And about when was that?

9           A.   Roughly a week later, the week of the Ohio  
10   State game.   Again, I think Coach Bradley said it  
11   best yesterday, we don't -- coaches kind of think of  
12   days of weeks or game --weeks by weeks by the game  
13   we play.   So I know I met with him on a Tuesday or  
14   Wednesday before we traveled to Ohio State in 2010.

15          Q.   And where did you meet?

16          A.   At Attorney Fleming's office.

17          Q.   Okay.   And at that time, what happened?

18          A.   They questioned me for about an hour about  
19   the incident.

20          Q.   Okay.

21          A.   At the end of the meeting they gave a piece  
22   of paper and said just shortly and briefly write  
23   down what you just told us.   And that's what I did,  
24   gave it to Attorney Fleming, and I left.

25          Q.   Okay.   Did you have any further contact with

1 the Attorney General's folks?

2 A. Yes. Shortly after that, I think Tim had  
3 received -- or they gave Tim a subpoena to go to the  
4 grand jury. And that was my next contact.

5 Q. Go to the grand jury where?

6 A. It was in Harrisburg.

7 Q. Okay. In your statement, verbal statement  
8 which you gave the investigators --

9 A. Yes.

10 Q. -- did you also discuss with them the reports  
11 you had made to Mr. Curley and Mr. Schultz?

12 A. Gosh, I'd have to look at the statement. To  
13 be frank, I'm not even sure. It was very short. I  
14 had just been questioned and told them everything as  
15 specific as I could.

16 Q. And that's what I was asking, first what you  
17 told them verbally.

18 A. Yeah. What I told them verbally -- I'm sorry  
19 for misunderstanding. I tried to tell them  
20 everything that I could about the incident and about  
21 the follow up to it.

22 Q. And then you gave him a written statement?

23 A. Yes. Yeah. Right after they said okay,  
24 briefly write down what you just said. And I did  
25 and Tim kept it.

1 Q. Okay. And then you went down to testify  
2 before the grand jury in Harrisburg?

3 A. Yes.

4 Q. Okay. And do you remember when that was  
5 about?

6 A. Maybe a month later in December, roughly.

7 Q. And during your testimony, did you testify  
8 about what you had reported to Mr. Schultz and Mr.  
9 Curley?

10 A. Yes. Yes. The questions I was asked  
11 encompassed everything.

12 Q. Okay. And did you have any further contact  
13 with the folks from the Office of Attorney General?

14 A. Not -- I did eventually, but not for a while.

15 Q. Okay. So that was in December 2010 that you  
16 testified, thereabouts?

17 A. Yes.

18 Q. What was your next contact with the folks  
19 from the Attorney General's office?

20 A. Some time much further down the road. I want  
21 to say almost a year later. Maybe October,  
22 beginning of October. They called me one day.

23 Q. Who's they?

24 A. You asked me about the Attorney General's;  
25 correct?



1 Q. Yeah. Who's the they?

2 A. The Attorney General's office. I think Ms.  
3 Eshbach or Mr. Sassano, I'm not sure who.

4 Q. Okay.

5 A. And they said things were wrapping up and  
6 they said things were going to happen soon. And I  
7 really didn't know what that meant, hung up the  
8 phone. And a couple weeks after that during the  
9 workday, they sent two investigators to the football  
10 office and they said we just have one or two  
11 questions to ask you. I said okay, that's fine, we  
12 went -- right across from my office was the staff  
13 room meeting room, so we sat in there and they asked  
14 me a couple questions.

15 Q. Okay.

16 A. About a week after that, well, you know, I'm  
17 not sure I heard from them until the Friday when  
18 everything started to happen.

19 Q. Did you hear from anybody else prior to that  
20 Friday about charges were soon going to be filed?

21 A. Kind of. At the time, I couldn't make sense  
22 of it because it was odd. But I was sitting -- on  
23 Thursday before the Illinois game in 2011, my  
24 driver's license had expired, by birthday is 10/10,  
25 and it was the end of October and I was sitting

1       literally in the photo section of the DMV out by  
2       Rockview waiting to get my driver's license done. I  
3       was actually sitting next to a man who worked for  
4       the University, I don't know his name, and Coach Joe  
5       called. And he said --

6       Q. On your cell phone?

7       A. Yes.

8       Q. Okay.

9       A. And he said are you okay? And I said yeah,  
10      I'm fine. And that was odd, you know. Anyone who  
11      has watched games on Saturdays, conduct between me  
12      and Coach Joe, he wasn't too worried about how I was  
13      doing. And I said, "Coach, I'm fine. Yeah, I'm  
14      good." He's like well, I'm hearing things and I  
15      just want to make sure you're okay. And I did not  
16      know -- he never eluded to charges, he never eluded  
17      to anything, he just was calling to see if I was all  
18      right. I said, "Coach, I'm fine, no problem. Let's  
19      go." Didn't make sense to me. But now looking back  
20      on it, I figured maybe he had heard something and he  
21      was -- he thought maybe I knew something and he was  
22      just checking on me.

23      Q. Okay.

24      A. So then Friday on a recruiting trip, I get a  
25      phone call.

1 Q. Okay. Now, you better explain a recruiting  
2 trip.

3 A. Okay. After Illinois that year, we had  
4 what's called a bye week, or an off week, in our  
5 schedule, we did not play that weekend. And I think  
6 Coach Bradley said it best yesterday, when you had a  
7 bye weekend or you had a weekend when you weren't  
8 playing, you sent your players home, you gave them a  
9 break, you didn't practice for one or two days.  
10 Friday after their classes, they got out of there  
11 and we would hit the road, or most of us would hit  
12 the road and recruit.

13 Q. Recruit high school players?

14 A. Yes. See games, check up on your current  
15 commitments, make sure you're doing PR, make sure  
16 they know you're not forgetting about them. If  
17 you're still trying to evaluate a senior for this  
18 recruiting class, you want to go see them in a game,  
19 see if you like them. So that's what I was doing.

20 Q. And where were you going on a recruiting  
21 trip?

22 A. I was going to Boston.

23 Q. Okay. So the Friday of, I guess it's  
24 November 4th, right?

25 A. Yeah. It was Friday after Illinois, I know

1       that.

2           Q.   Okay.  And you said you heard from them, the  
3   Attorney General, that week -- or that day?

4           A.   Yes.  I was traveling.  I was on the tram  
5   between the F terminal at Philadelphia airport going  
6   to the big major terminals, and I got a phone call.

7           Q.   From?

8           A.   Jonelle Eshbach.

9           Q.   Okay.

10          A.   And she said a screw up had occurred or some  
11   kind of leak or a computer system malfunction, and  
12   she said all of these charges are going to be  
13   released.  And let me go back, that just made me  
14   realize.  When I said earlier about a week later,  
15   they did contact me and said this is going to happen  
16   really soon.  And I said well, you know, are you  
17   going to charge Jerry?  And they said yeah, and a  
18   couple others.  And I was like what do you mean?  
19   And they said we're going to charge some Penn State  
20   people.  And I think she told me who.  And I could  
21   not believe it.  I went down to Fran Ganter's office  
22   and I said you need to call Tim right away, he's in  
23   trouble, they're going to charge him, so you got to  
24   call Tim.  And outside more, and I don't care really  
25   if I shouldn't say it, I'm going to say it because

1       it's fair, Tim Curley is a good person, he's a good  
2       man. And I wanted to get the word to him that he  
3       was in trouble.

4               So anyway, going back to the tram. They  
5       called me and they said there's been some computer  
6       function, there's been some computer leak, the  
7       charges are out and everything's going to be public.  
8       And I didn't realize the gravity of that. I said  
9       okay, I'm traveling. And that was it.

10       Q.   What time of day is that Friday?

11       A.   Midday. Twelve, oneish. I know we like to  
12       catch people on exact days and times, so midday.

13       Q.   Okay. So you got up to Boston?

14       A.   Yes, eventually got to Boston, got into the  
15       hotel room, stayed at the Marriott right there I  
16       think on the harbor or whatever they call it, yes.

17       Q.   And what happened next relative to this  
18       matter?

19       A.   In what way do you mean? In any single way?

20       Q.   Did you get any communications concerning  
21       this matter --

22       A.   From?

23       Q.   -- when you were on your recruiting trip?  
24       From anybody.

25       A.   Yes. Shortly after I got to the hotel room,

1 Scott Paterno had called me on my cell phone. And  
2 he lived in harrisburg and had a lot of legal  
3 context, I think -- he is a lawyer I believe. And  
4 he said hey listen, this stuff's leaking, it's out.

5 Q. And Scott is related to Joe Paterno how?

6 A. It's his son.

7 Q. Okay.

8 A. And he said just hang in there, keep your  
9 head down, it might get pretty rough. And that was  
10 it. He was -- as a courtesy, I think he was being  
11 nice. He may have not known that I had already been  
12 told. I said I appreciated it to Scott. It was  
13 literally a one-minute phone call.

14 Q. And that was Friday also?

15 A. Yes. Friday afternoon.

16 Q. Okay. Anything else happen Friday?

17 A. Not that I can remember. Went to a football  
18 game that night.

19 Q. High school football game?

20 A. Yes, high school football game.

21 Q. All right. Let's go to Saturday morning.  
22 Did anything happen --

23 THE COURT: Mr. Strokoff, maybe before we  
24 begin Saturday, it would be a good place to take a  
25 break for the morning.

1 MR. STROKOFF: Certainly, Your Honor.

2 THE COURT: Okay. Members of the jury, why  
3 don't we take our break here and we'll come back at  
4 eleven o'clock. I'll remind you of my admonition  
5 not to discuss that matter. Go ahead, step down.

6 (Whereupon, a recess was taken.)

7 THE COURT: Go ahead.

8 BY MR. STROKOFF:

9 Q. Mike, I think we 're now at Saturday morning,  
10 November 5. You were in Boston still?

11 A. Yes.

12 Q. Okay. Are you receiving any communications  
13 relative to the presentments on Saturday?

14 A. Yes. I am.

15 Q. About when did that start?

16 A. I would say mid to late morning on Saturday  
17 morning.

18 Q. And what kind of communications are you  
19 receiving?

20 A. I can't remember if they were phone calls or  
21 emails, but Good Morning America and maybe one  
22 other, Oprah maybe, I can't quite remember had  
23 started to put together or were asking questions if  
24 I was the GA. They were reaching out to me.

25 Q. Now, let's go back to 2001 for a moment. You

1       were a GA in 2001, right?

2       A.   Yes.

3       Q.   How many other GAs were on the football team  
4       at that time?

5       A.   At that time, I believe we only had one other  
6       GA on the defensive side of the ball.  At that time.

7       Q.   Okay.  So there weren't a lot of GAs for the  
8       media to figure out who was the GA?

9       A.   No.  It's not like you had 20 GAs or  
10      something like that, no.

11      Q.   What else happened Saturday, if anything,  
12      relative to this matter?

13      A.   I can't remember anything distinguishable  
14      about Saturday relative to this, really.

15      Q.   Did you go about your recruiting duties on  
16      that day?

17      A.   Yes.  Absolutely yes.

18      Q.   So, let's go to Sunday.

19      A.   Okay.

20      Q.   You're due back in State College when?

21      A.   By early afternoon, 12 or 1, maybe 2, I  
22      forget what time we set the staff meeting for on  
23      that Sunday.  But Sundays are big work days for us  
24      because that's when we really start to work for the  
25      next game on the following Saturday.



1 Q. For us, meaning the coaching staff?

2 A. Yes. You know, everyone in the football  
3 program.

4 Q. So, how did you get from Boston to State  
5 College?

6 A. Flew back through Philadelphia up to State  
7 College.

8 Q. Okay. And when you're in the Philadelphia  
9 airport, did anything unusual happen?

10 A. Yes. Walking through the airport, at one of  
11 the bar/restaurant places, saw my picture on the TV.

12 Q. That's Sunday morning?

13 A. Yes. Sunday, I don't want to say it was  
14 early morning because it wasn't, I think it was  
15 mid-morning, 10, 11ish maybe.

16 Q. Okay. At this point, had you gotten any  
17 calls from anybody else relative to this matter,  
18 other than you said ABC and perhaps Oprah?

19 A. I really cannot remember if I started to get  
20 more calls or emails. I think Coach, if it was at  
21 the staff meeting later that day or if he called  
22 Sunday morning, Coach, and when I say Coach I'm  
23 sorry, Coach Paterno, he called and just said hey,  
24 you did the right thing, hang in there, you know,  
25 don't worry about it. But again, I can't remember

1 if that was a phone call or if he said that later  
2 that day when I saw him in person.

3 Q. Now, you've seen other witnesses struggle  
4 with the witness exhibit book. I'm going to now  
5 start putting you through some of that.

6 A. That's super.

7 Q. I'm going to ask you to go all the way to the  
8 end, tab 91.

9 A. (The witness complied.) All right. I am at  
10 91.

11 Q. Now, about a dozen pages in, I want to turn  
12 to a Black Shoes Diary page. It's got a big logo on  
13 it.

14 A. Yes, sir.

15 MR. STROKOFF: That's Exhibit 81.

16 THE COURT: We have 81 or 91?

17 MR. STROKOFF: I'm sorry, it's 91.

18 BY MR. STROKOFF:

19 Q. Sir, are you able to identify this part of  
20 91?

21 THE COURT: Do you want to approach?

22 MS. CONRAD: Yes, sir.

23 (Whereupon, the following discussion was held  
24 at sidebar:)

25 MS. CONRAD: This is a media article that I

1 believe Your Honor had ruled was inadmissible.

2 THE COURT: And then I believe I reversed my  
3 ruling and I said that I was going to permit the  
4 media articles in and we were going to instruct the  
5 jury this is for the purpose of showing what was out  
6 there and not for the truth of the matter. So I  
7 accepted your petition that it's showing what the  
8 reaction of the media and other people were to the  
9 Spanier statement and whatever else was put out  
10 there, the presentment, and everything.

11 MS. CONRAD: Your Honor, I was not permitted,  
12 while my witnesses were on the stand, to introduce  
13 the articles I wanted to introduce. Those witnesses  
14 are now off the stand.

15 THE COURT: Counsel, I'm sure you're going to  
16 be able to go through any of these exhibits and get  
17 in what you get into through the witness. I think  
18 it was 22 exhibits at most, but I indicated at the  
19 time we had the discussion that I was reserving and  
20 we were going to revisit the issue. I've revisited  
21 the issue. If you're prejudiced, you could put on  
22 the record exactly what witness could have said what  
23 and how you're prejudiced and we'll deal with that  
24 later, not right now. Okay?

25 MS. CONRAD: Yes, sir.

1 (End of sidebar.)

2 BY MR. STROKOFF:

3 Q. Sir, what is that document that is within  
4 Plaintiff's Exhibit 91?

5 A. It appears to be an article from a Penn State  
6 football interest blog off the internet.

7 Q. And what's the name of the interest group?

8 A. Black Shoe Diaries.

9 Q. And does that refer to Penn State's football  
10 shoes?

11 A. That would be my interpretation, yes.

12 Q. What's the date of that article?

13 A. November 6th, 2011.

14 Q. And what's the timestamp on that article?

15 A. 6:00 a.m.

16 Q. And please turn to page five of that article.  
17 Look at the paragraph that begins Victim Number 2.

18 A. Yes.

19 Q. Do you see the second sentence, March 1st,  
20 2002?

21 A. Yes.

22 Q. It's a reference to a PSU football grad  
23 assistant. What is the bold print in parentheses  
24 follow the grad assistant? Read that out loud.

25 A. Identified by The Harrisburg Patriot News as

1 Current PSU wide receivers coach, Mike McQueary.

2 Q. So that's 6:00 a.m. Sunday morning, Black  
3 Shoes Diary identifies you?

4 A. Yes.

5 Q. Sir, could you go another about eight or nine  
6 pages to a page that at the top says Integrity?

7 MS. CONRAD: I'm sorry, I didn't hear that.

8 MR. STROKOFF: Integrity.

9 THE WITNESS: Yes, I see that.

10 MR. STROKOFF: Let's wait until counsel gets  
11 to it.

12 BY MR. STROKOFF:

13 Q. Sir, this is a blog?

14 A. It appears so.

15 Q. Okay. I want you to go down to the bottom  
16 comment, the very first one with the time stamp.  
17 What's the time stamp of that very first comment?

18 MS. CONRAD: Objection, Your Honor. This now  
19 is getting into hearsay within hearsay within this  
20 document.

21 THE COURT: I'm still trying to find the  
22 document. Let me see it. What do you want to do  
23 with this?

24 MR. STROKOFF: I just want to get the time  
25 stamp of the identification of the grad assistant,

1 Your Honor, which is on that very first comment.

2 MS. CONRAD: Again, I object to the admission  
3 of hearsay upon hearsay or any reference.

4 THE COURT: Counsel, I've already indicated  
5 to you twice that these documents are coming in not  
6 for the truth of the matter asserted but simply to  
7 show what was out there and what was being said.  
8 You've preserved your objection, don't make it  
9 again.

10 MS. CONRAD: Yes, sir.

11 THE COURT: Overruled.

12 BY MR. STROKOFF:

13 Q. Sir, what is the time stamp of that first  
14 comment?

15 A. You want the full date and time?

16 Q. Yes.

17 A. November 6th, 2011 at 11:50 a.m.

18 Q. And within that comment, there is a sentence  
19 that begins incidentally; is that correct?

20 A. Yes, sir.

21 Q. And that comment identifies you as the grad  
22 assistant referenced in the presentment; isn't that  
23 correct?

24 A. It -- yes.

25 THE COURT: Members of the jury, again, with

1 all of these articles where the people aren't coming  
2 in, what's in the newspaper, et cetera. All of this  
3 is being permitted for you to see simply to show  
4 what was out there and what the general information  
5 being put out to the public was. No one is saying  
6 it's true, no one is saying it's not true. It is  
7 arguably hearsay, however, it's not being offered  
8 for the truth of the matter. It it is simply being  
9 offered so that you could understand the context and  
10 what was out there. Go ahead.

11 BY MR. STROKOFF:

12 Q. Sir, if you go to the next page. SB Nation?

13 A. Yes.

14 Q. What's SB Nation Pittsburgh?

15 A. Again, it looks like some kind of sports or  
16 football blog.

17 Q. Okay. And there's an article there about the  
18 Sandusky investigation?

19 A. Yes.

20 Q. And the headline says what?

21 A. Jerry Sandusky Investigation: Mike McQueary  
22 was Graduate Assistant Witness, According to Report.

23 Q. And what's the date and time stamp on that?

24 A. That is November 6th, 2011 at 3:19 p.m.

25 Q. So mid-morning you see your picture on a TV

1 screen in Philadelphia airport?

2 A. Yes.

3 Q. And was that in an article relative to  
4 reporting on the Sandusky scandal?

5 A. I believe so.

6 Q. So you made it back to State College?

7 A. I did.

8 Q. And did you make it to your staff meeting?

9 A. Absolutely yes.

10 Q. Okay. Did you miss any work or anything that  
11 day because of this matter?

12 A. No.

13 Q. After the staff meeting, did you have any  
14 other professional responsibilities to fulfill that  
15 Sunday?

16 A. Yes. We worked. We had to watch the tape of  
17 the game that we were getting ready for, Nebraska  
18 had just played a game on Saturday, so we needed to  
19 watch that tape, start to formulate our game plan  
20 for that week. So we worked usually on Sunday night  
21 until nine or ten.

22 Q. So you worked from two or three to nine or  
23 ten?

24 A. Roughly. Yes. Again, lawyers like to get  
25 you on times and stuff, but roughly, yes.



1 Q. And was that business as usual?

2 A. Yes. Business as usual.

3 Q. Okay. And Coach Paterno was at that meeting?

4 A. Yes, the staff meeting. He would have left  
5 after the staff meeting and gone home and we would  
6 have worked throughout the day.

7 Q. November 7th, Monday. Anything unusual  
8 happen at work that day?

9 A. No. For me to sit here and say it wasn't an  
10 unusual week is not accurate or fair. But certainly  
11 there was a tension drawn to our football program.  
12 I believe media started to come around. But in  
13 terms of our daily work and practice and getting  
14 ready for the game, there was nothing that disrupted  
15 that or unusual about it.

16 Q. Okay. Sir, did you happen to read at any  
17 time the statement from President Spanier when you  
18 returned to State College?

19 A. Yes.

20 Q. Okay. When do you recall reading that?

21 A. It was either later on Sunday night or Monday  
22 morning some time.

23 Q. Okay. And what was your reaction to reading  
24 it?

25 A. I was mad.

1 Q. Okay.

2 A. Angry.

3 Q. Okay. And why were you mad and angry?

4 A. Because I knew what it was saying. I mean, I  
5 knew what it was portraying, that if they did  
6 nothing wrong or if the charges brought against them  
7 were going to be proven groundless and they weren't  
8 perjuring themselves, they had said opposite of what  
9 I had said, and that's why they were charged. That  
10 calls me a liar.

11 Q. Do you recall anything else unusual happening  
12 Monday?

13 A. Not unusual, no.

14 Q. Practices and everything is normal?

15 A. Normal.

16 Q. What about the players?

17 A. Oh, I think they were -- it would be unfair  
18 to say they were completely normal, that's not  
19 accurate. They were obviously shaken a little bit  
20 and were wondering, was wondering, not sure I'm  
21 using correct English, but they were -- they had  
22 questions and certainly scratching their heads a  
23 little bit.

24 Q. Did that have any impact on the practices the  
25 coaching staff was able to discern?

1       A. No. They were a bunch of great kids and they  
2 did their job. They worked.

3       Q. Okay. How about Tuesday? Anything interfere  
4 with the normal work routine Tuesday?

5       A. No, not that I can remember. Not on Tuesday,  
6 no.

7       Q. Is there any additional security at the  
8 football practice field during your practice?

9       A. I think outside the fence on each side of the  
10 building they posted a student auxiliary cop.

11      Q. What's a student auxiliary cop?

12      A. I don't know if I have this right. But in my  
13 understanding as a student and an employee at Penn  
14 State, it is a student who wore a uniform, didn't  
15 have a weapon, didn't -- I don't think they had  
16 authority or a badge or anything, but had -- they  
17 used them to control traffic, hand out parking  
18 tickets on campus, those types of things. And I  
19 don't want to make it look like I'm an expert at  
20 what that is, but that's my understanding.

21      Q. So they had two additional student  
22 auxiliaries?

23      A. That's what I understood, yes.

24      Q. Okay. Wednesday?

25      A. Wednesday was a little bit of a different day

1 for sure.

2 Q. On Tuesday, I want to ask you a question.  
3 Coach Paterno usually held press conferences on  
4 Tuesdays; is that correct?

5 A. Yes. Tuesday at 12:30.

6 Q. Okay. And did he told one on Tuesday,  
7 November 8th?

8 A. No, he didn't. I think the University would  
9 not allow him to --

10 MS. CONRAD: Objection. I don't know --

11 MR. STROKOFF: We don't want to get into  
12 that.

13 THE COURT: Disregard that answer, members of  
14 the jury.

15 BY MR. STROKOFF:

16 Q. So wasn't that unusual that he wouldn't hold  
17 the press conference?

18 A. Yes.

19 Q. And did that cause any questions in your  
20 mind?

21 A. It was very unusual, yes.

22 Q. But was that the only thing you could recall  
23 impacting the football program that day?

24 A. Yes. Other than -- again, I want to be  
25 accurate, more media around, obviously something was

1       going on. The Sandusky situation escalated, and  
2       media attention, things of that nature.

3       Q. What about media attention to you?

4       A. Yes. I obviously was getting emails, people  
5       wanted to talk to me. But, you know, I went down to  
6       lunch to Brother's on College Avenue with my same  
7       guys I went to lunch with all the time. And I mean,  
8       there was nothing -- there were not cameras in my  
9       face or anything like that.

10      Q. You went down to Brother's, that's a  
11      restaurant in State College?

12      A. Yes.

13      Q. And you say with the guys you usually go  
14      with. What do you mean by that?

15      A. I ate lunch with the same group of guys  
16      pretty much every day for a number of years. They  
17      were probably my closest friends in the program.

18      Q. And who are they?

19      A. Couple of equipment guys, Tom Venturino, the  
20      director of football operations, Bill Cavanaugh  
21      sometimes, Travis Rundle who was another GA, who I  
22      -- actually I think Travis had moved on by then, but  
23      he was in our lunch group for awhile. Our video  
24      operations guy, just kind of the same group, if you  
25      will.

1 Q. Okay. Let's go to Wednesday.

2 A. Okay.

3 Q. During the day Wednesday, anything unusual?

4 A. Yes. Wednesday was a different day.

5 Q. Okay. And how was that different?

6 A. Right away starting in the morning, Coach  
7 Paterno came in. And do you want me to go step by  
8 step through this, the Wednesday, why it was  
9 different?

10 Q. I want to know why it was different for Mike  
11 McQueary?

12 A. Well, it's different for sure.

13 Q. Okay.

14 A. So Coach held a staff meeting and he said I  
15 want everyone gone except for the assistant coaches.  
16 And within that staff meeting, he said I have sent a  
17 letter to -- sent a letter to the Board saying that  
18 I'll retire at the end of the year and I don't want  
19 anyone to be distracted by me. And he was letting  
20 us know that's was his course of action at this time  
21 was going to be.

22 Q. So he said I don't want anyone distracted by  
23 me, meaning distracted by Joe Paterno?

24 A. Yes. Because obviously Coach at this point  
25 was getting a lot of attention.

1 Q. Okay. What about practices that day?

2 A. It was tough. I can remember a discussion  
3 with Coach Joe, there's actually photographs of it.  
4 And he said you didn't do anything wrong.

5 Q. What do you mean there were photographs of  
6 it?

7 A. You know, media outside the periferie of the  
8 fenced-in area were taking photographs of us. And  
9 they have photographs, I've seen photographs of that  
10 day, Coach Paterno and I standing side by side  
11 talking.

12 Q. And that's what he was talking about?

13 A. Yes. That's when he was talking to me. I  
14 can remember it like it just happened. So, he said  
15 you didn't do anything wrong, they're going to come  
16 down on you. He said don't trust Old Main. He  
17 specifically said make sure you have a lawyer and  
18 you're all right, you didn't do anything wrong. And  
19 he was very, the word I want to use is unselfish,  
20 about all of it and was good to me.

21 Q. How did the practices go Wednesday?

22 A. It was fine. Again, the kids, to their  
23 credit, worked hard. We got a good practice in and  
24 it was fine.

25 Q. When you say the kids worked hard, you were a

1 wide receivers coach?

2 A. Yes.

3 Q. So, run us through, you know, what the  
4 practice Wednesday was like with respect to your  
5 wide receivers?

6 A. It was a good practice. I had some good  
7 kids. I coached them and were getting ready for  
8 Nebraska. I could still remember their defense and  
9 what they did and what we were working on. We  
10 prepared for the game.

11 Q. Okay. Wednesday night.

12 A. Yes.

13 Q. What happened Wednesday night?

14 A. It was a tough night. At some point there  
15 was a Board of Trustees meeting, I believe -- well,  
16 I know, it's not belief. And they dismissed  
17 publicly in a press conference after the meeting, I  
18 believe at the same time, Dr. Spanier and Coach  
19 Paterno.

20 Q. So did this generate any discussion among the  
21 assistant coaches that night?

22 A. No, I was at home when I found out. I was  
23 actually laying in bed.

24 Q. All right.

25 A. I don't know what time it was, but it was



1 later. I was in bed and I actually got up and went  
2 back into the office on Wednesday night.

3 Q. And why was that?

4 A. Well, I wasn't going to sleep. And I just  
5 wanted to be in the office.

6 Q. Okay. Thursday.

7 A. Yes.

8 Q. What happened Thursday?

9 A. Thursday, the morning started out fine.  
10 Everyone was very emotional because of Coach, but we  
11 were working. We actually -- Thursday morning is  
12 the morning we put our script together for offense  
13 where we open up the game. The script to open up  
14 the game is you map out your first 10, 12 plays,  
15 first, second down calls, try a formation of  
16 defense, try to get a personnel group in there, kind  
17 of run the gamut of what you're thinking baout what  
18 your game plan would be and see how they react  
19 defensively in the first 10 or 12 plays.

20 We put that script together. And our  
21 tradition -- we did it as an offensive staff. Our  
22 tradition after that was to send it to Coach Joe.  
23 And we were emotional and mad about what had  
24 happened to Coach and the guys decided, in a little  
25 bit of symbolism, to take the script over to Coach

1 Joe's house. So we were getting ready to go and  
2 someone said to me maybe you shouldn't go because  
3 there's a ton of media outside his door. And -- I  
4 remember it. And five minutes later Coach Joe  
5 called me in my office, they put a phone call in,  
6 and I could hear him, and he said the H with them,  
7 you come over here, you haven't done anything. And  
8 I didn't go over, I didn't want to be a distraction,  
9 you know, I just didn't think it was right so I  
10 stayed in my office.

11 Q. The other assistant coaches went over?

12 A. Yeah. They took the script over to him to  
13 let him see it.

14 Q. And he called you to ask you to come over?

15 A. Yeah. He didn't say come over here now, he  
16 said the hell with them, you didn't do anything  
17 wrong, come over.

18 Q. What about practices that day?

19 A. That was the practice kind of the writing on  
20 the wall had already begun. Before practice, Tommy  
21 had said hey listen --

22 Q. Tommy who?

23 A. Tommy Bradley. And I think Venturino, we  
24 have two Tommy's.

25 Q. Yeah. That's why I asked you which one.

1           A. They had mentioned to me that hey listen,  
2 they're thinking about putting you in the box.

3           Q. Who's they?

4           A. I wasn't sure. Administration. Board of  
5 Trustees. It wasn't those two.

6           Q. So Tommy Venturino and Tommy Bradley  
7 mentioned to you?

8           A. Yes. That's what my memory says. They said  
9 they're thinking about putting you in the box,  
10 they're not sure about you coaching.

11          Q. What does the box mean?

12          A. The press box. We always had a group of  
13 coaches in the press box. You could get a better  
14 view, better angle, look down on the defense. Down  
15 the field, it's tough to see X's and O's.

16          Q. So Tommy Bradley and Tommy Venturino said  
17 they're thinking about putting you up in the box?

18          A. Yes. No decisions had been made yet and they  
19 said they were going to come over after practice.

20          Q. Okay.

21          A. So practice was normal. I had a tough  
22 meeting with the kids. Like I said, I began to see  
23 the writing on the wall. And I said listen, my gut  
24 is telling me I may not be here Saturday, had a  
25 tough meeting with them, but we went out and

1 practiced.

2 Q. Why did you think you may not be there  
3 Saturday?

4 A. Just gut feeling. I could just kind of tell  
5 where the direction it was going.

6 Q. Sir, I'd like you to turn to tab 42.

7 A. 42.

8 Q. And ask if you could identify that. Is there  
9 two pages?

10 A. Yes.

11 Q. Can you identify what tab 42 is, please?

12 A. Yes. Those are handwritten notes that I made  
13 during the day on Thursday, and night, not just day.  
14 But on Thursday I made these handwritten notes.

15 MR. STROKOFF: Move for admission of  
16 Plaintiff's 42, Your Honor.

17 MS. CONRAD: I would object to the hearsay  
18 elements contained in the document.

19 THE COURT: Okay. The exhibit is admitted  
20 over objection, with the understanding, as with  
21 other exhibits that are being offered, the fact that  
22 something is admitted does not mean it's going out  
23 to the jury. And you can work around the issue that  
24 Ms. Conrad is raising with regard to the document  
25 when you ask the witness about the document.

1           MR. STROKOFF: Okay. Then we won't publish  
2       it, Your Honor, to minimize that.

3       BY MR. STROKOFF:

4           Q. But you were taking notes during that day as  
5       to what was happening?

6           A. Yes.

7           Q. And you're recording what people are telling  
8       you during the day?

9           A. Yes.

10          Q. And what they're telling you is leading you  
11       to conclude that the writing is on the wall?

12          A. Yes.

13          Q. And without telling us what they said, you  
14       mentioned Tom Bradley and Tom Venturino, is there  
15       anybody else who talked to you during that day?

16          A. Just the daytime? Or at night also?

17          Q. First, we'll stay with the daytime.

18          A. I can't remember if Mark Sherburne dropped by  
19       before practice or not. So he may have talked to me  
20       during the day.

21          Q. Okay. And Mark Sherburne at that point is  
22       the acting athletic director?

23          A. Yes.

24          Q. And what did he tell you the first time you  
25       saw him that day?

1       A. He said listen, we can't have you in the  
2 stadium, the University doesn't want you to coach in  
3 the stadium. You know, I think it's best if you  
4 leave town. And it was a short conversation. I was  
5 probably -- I was compliant.

6       Q. When was this, about?

7       A. Like I said, I can't remember if he stopped  
8 by my office before practice, he was definitely  
9 there after practice for sure. So certainly after  
10 practice he may have came by and I just can't  
11 remember. I had a reason to believe before practice  
12 either because Mark had stopped by or Tommy and  
13 Tommy had told me that there's going to be a  
14 situation with me coaching involving the game,  
15 whether it be up in the box or not coaching.

16       Q. Okay. So did your notes record what Mark  
17 Sherburne told you about the game and leaving town?

18       A. Yes.

19       Q. Okay. So did you comply with the directive  
20 to leave town?

21       A. Yes.

22       Q. Sir, could you turn to Plaintiff's Exhibit  
23 43?

24       A. Yes.

25       Q. It's already in evidence, but why don't you

1 tell us about this email.

2 A. I was emotional. Tell you about it you said?

3 Q. Yeah.

4 A. I was emotional. It had been a tough week  
5 and I had some things to get off my chest. And I  
6 reached out to the Attorney General contacts that I  
7 had that I knew of at that time.

8 Q. Okay. Now, what was your concern about  
9 writing to them?

10 A. What was my concern?

11 Q. What did you want them to do?

12 A. I wanted some kind of support and some  
13 guidance. I -- at this time, and it's Thursday I  
14 think, 11/10 is Thursday; correct?

15 Q. Yep.

16 A. It's 3:10 in the afternoon, no one -- the  
17 University -- let me take that back. The only one  
18 who had given me any kind of reassurance or any kind  
19 of support was Joe. And obviously, he didn't do  
20 that in a public way. The University hadn't said  
21 hey listen, don't jump to conclusions, don't judge,  
22 don't let the facts play out. If anything, their  
23 process of throwing me under the bus had already  
24 started. They had no support. The Attorney General  
25 that week gave me no support. They had a press

1 conference, and I was mad. You know, here's a guy  
2 who tried to do the right thing, stepped up, and at  
3 no time did someone say hey listen, this guy  
4 reported a pedophile.

5 Q. So you communicated to Jonelle Eshbach?

6 A. Yes. And copied Tony Sassano.

7 Q. And you wanted to make a public statement?

8 A. I was wondering what the repercussions, or if  
9 I would get in trouble for a public statement. I  
10 knew I had testified at the grand jury, I didn't  
11 know those rules really, I didn't take a lawyer down  
12 with me when I did. So I had a lot of things on my  
13 mind, and I wanted to go.

14 Q. And you went down to the grand jury without  
15 any attorney?

16 A. Absolutely. I've never had an attorney -- I  
17 testified across the street without an attorney for  
18 Sandusky. There's no reason for me to have an  
19 attorney at my testimonies.

20 Q. Okay. And Jonelle Eshbach testified that she  
21 asked you that you not issue a statement?

22 A. Yes. I said what am I -- somewhere in here,  
23 and I don't know if it's word for word, I'm  
24 paraphrasing, I said what are my options for  
25 releasing a statement? And she got back to me and



1       said you can't, cannot do it. So that was that.

2           Q. All right. Did you send this to her before  
3 or after Sherburne told you you weren't going to be  
4 coaching?

5           A. I can't remember. Again, at this point in  
6 time, I definitely know and get a sense -- let me  
7 strike that because I want to be fair. I'm getting  
8 a sense for sure that my minutes and hours are  
9 numbered as a coach and with Penn State. And  
10 they're certainly not, you know, walking me through  
11 the process or supporting me or releasing a  
12 statement on my behalf or anything like that. So  
13 yeah, I can't remember if Mark was there before  
14 practice or not, but certainly after practice.

15          Q. All right. So nobody within the athletic  
16 department administration is coming to you Monday,  
17 Tuesday, Wednesday, or Thursday to give you support?

18          A. No. The only people to support me, Coach  
19 Paterno, my friends in the office, but certainly no  
20 one of a higher level, no one of a higher level in  
21 the athletic department, no one from the Board of  
22 Trustees, no one from Old Main. Cynthia Baldwin was  
23 involved with almost everyone except for me. No one  
24 said, hey Mike, let's make sure you have a lawyer;  
25 Mike we'll pay for your lawyer. They had already

1       paid for --

2               MS. CONRAD:  Objection.  Move to strike.

3               THE COURT:  Disregard that last statement,  
4       members of the jury.

5               THE WITNESS:  Sorry.

6       BY MR. STROKOFF:

7               Q.  Could you turn to Exhibit 44?

8               A.  44?

9               Q.  44.  Plaintiff's Exhibit 44.

10              A.  Okay.

11              Q.  Did you get this email from Mark Sherburne in  
12       the evening of November 10th?

13              A.  Yes.

14              Q.  And what did you think about it?

15              A.  I thought it was not accurate and not true.

16              Q.  Okay.  Because you never decided that you  
17       shouldn't be on the field --

18              A.  No.

19              Q.  -- on Saturday, right?

20              A.  No.  That was not my decision.

21              Q.  And Coach Bradley's already testified he  
22       didn't feel that you shouldn't be on the field,  
23       right?

24              A.  I think that's correct.

25              Q.  So ultimately, the athletic department issued

1 a statement saying that the University decided that  
2 you wouldn't be coaching in the Nebraska game?

3 A. Yes. That's what the ultimate --

4 Q. To be fair, Mark Sherburne did ask you if you  
5 approved of 44; is that correct?

6 A. Yes. That's right.

7 Q. You told him you didn't?

8 A. Yes. I said I don't like this and I need to  
9 run it by my lawyers.

10 Q. Okay. Then you suggested a draft based upon  
11 what Sherburne told you was the rationale for your  
12 not coaching?

13 A. Yes, at some point, because that draft was  
14 more accurate.

15 Q. So you were told to get out of town?

16 A. Yes. Mark said you probably should leave  
17 town.

18 Q. So Friday, did you leave town?

19 A. Yes. In the morning.

20 Q. Okay. And did anything happen while you were  
21 on your way where you were going to wherever you  
22 were going?

23 A. Yes.

24 Q. And what's that?

25 A. We were going down, Barbara had her

1 grandparents in Avalon, New Jersey.

2 Q. Barbara's your wife?

3 A. Yes.

4 Q. Okay. And that's where we were going to go,  
5 stay at the grandparents' house?

6 Q. You had your daughter with you?

7 A. Oh, yes, daughter and my mother-in-law.

8 Q. Okay.

9 A. And on the Schuylkill Expressway right  
10 outside of Philadelphia, I received a phone call.

11 Q. And who was it from?

12 A. It was from Mark Sherburne.

13 Q. Okay.

14 A. And he said hey listen, we're placing you on  
15 administrative leave. There's going to be an  
16 announcement later today but I wanted to let you  
17 know. And I said -- I was right in the middle of  
18 Friday, like, twelve o'clock on the Schuylkill. And  
19 I said Mark, let me call you back when I get down to  
20 where I'm going. And so we talked, like, an hour  
21 and a half, two hours later.

22 Q. Okay. And what did he tell you?

23 A. On that second phone call?

24 Q. Yep.

25 A. He said, again, we're placing you on

1 administrative leave. He asked if I was already  
2 gone, he knew I was already gone. He said all  
3 right, come in Sunday night, you know, and gave me a  
4 time and place to meet. I asked if I could bring my  
5 lawyer. He said no, you're not going to need a  
6 lawyer, and that Dr. Erickson would be making a  
7 press conference or press release, one of the two,  
8 about placing you on administrative leave. And he  
9 said we'll give you the details on Sunday night when  
10 we see you.

11 Q. Okay. Did anything else happen that Friday  
12 relative to your employment with Penn State?

13 A. On that Friday? Not that I can think of, no.

14 Q. Okay. Saturday?

15 A. No. I watched the football game. A couple  
16 of guys had texted me before the game, you know, my  
17 friends within the program and coaches. But nothing  
18 officially in terms of my employment, no. It was a  
19 tough game, I think we lost. It was tough.

20 Q. All right. This was the first Penn State  
21 football game you hadn't been to since what year?

22 A. '92. Played them, I was with the team '93  
23 through '97, was cut by the Raiders before the '98  
24 season, lived in town, went to -- yeah, I think it's  
25 '92.

1 Q. Could you turn to tab 47, please?

2 Plaintiff's Exhibit 47.

3 A. 47. Okay.

4 Q. Do you have that?

5 A. I do, yes.

6 Q. Let's go to Sunday night. When did the  
7 meeting start and where was it?

8 A. It was in the Bryce Jordan Center. It was in  
9 Mark's office, but it was really Tim's office. At  
10 -- Tim had a nice, you know, as an athletic  
11 director, a nice officer and there was a conference  
12 table there. But obviously, Mark was using that  
13 office at this time.

14 Q. Okay. So -- and what time did the meeting  
15 start?

16 A. Slightly after seven.

17 Q. Okay. And who was at the meeting?

18 A. Mr. Sherburne, Mark, Erika Runkle, and  
19 Cynthia Baldwin.

20 Q. Okay. And what was Plaintiff's Exhibit 47?

21 A. This is the script that they read to me at  
22 the meeting.

23 Q. They? Who did the reading?

24 A. Mark Sherburne read it.

25 Q. And when he read it, were you handed a copy?

1           A.   Either during it -- I think the copy I got  
2   was the copy re he read off, so I didn't have one  
3   actually as he was reading it. But I did end up  
4   with a copy, yes.

5           Q.   Okay. And did you take notes of that  
6   meeting?

7           A.   Yes. I tried to take extreme notes.

8           Q.   Could you go to Plaintiff's Exhibit 48. Can  
9   you identify that for us?

10          A.   Yes.

11          Q.   What is it?

12          A.   My notes from the meeting.

13               MR. STROKOFF: Move for admission of  
14   Plaintiff's Exhibit 48, Your Honor.

15               MS. CONRAD: No objection.

16               THE COURT: It's admitted.

17   BY MR. STROKOFF:

18          Q.   So your notes reflect that the meeting  
19   started when?

20          A.   7:03 p.m.

21          Q.   Okay. And Mark read the, you call it the  
22   script is, that what they called it?

23          A.   I think they did, but I'm not sure.

24          Q.   Okay. And after Mark read it, did you say  
25   anything?

1           A.   Yes.

2           Q.   And what did you say?

3           A.   I said I want the University to know that I'm  
4 ready and willing and able and I want to coach  
5 football. And I kind of got emotional a little bit  
6 and I said I don't think I've done any wrong --  
7 anything wrong in this situation. That's what I  
8 said.

9           Q.   All right. Did anybody respond to that?

10          A.   Cynthia Baldwin said something to the effect,  
11 no one's accusing you of doing anything wrong.

12          Q.   Okay. Was anything else said at this  
13 meeting?

14          A.   I asked a couple questions. There was some  
15 things they wanted me to do as a part of the terms.  
16 And I said, you know, I wanted to set that up and  
17 get it done. And so I asked if I could go to the  
18 office now, Erika said no, and I think we arranged a  
19 time to meet the next day to get things out of my  
20 office and to turn in my phone, my keys, that sort  
21 of thing.

22          Q.   What about your car?

23          A.   I turned it in. She said to turn it into  
24 Fleet Services. And I turned it in the next morning  
25 to Fleet Services.



1       Q. I want to go back to the statement or the  
2 script. So go back.

3       A. The script.

4       Q. To 47.

5       A. Okay.

6       Q. There's a condition at the end of the first  
7 paragraph, "The following facilities are off limits:  
8 All athletics facilities associated with the Penn  
9 State football program." How did you feel when that  
10 restriction was placed on your administrative leave?

11      A. Out of -- out of almost anything in this, and  
12 this has been going on five, six years, and I've  
13 been angry a lot. But right up there on the list of  
14 things that have made me angry and mad is that  
15 statement because they tell me a guy who turned in a  
16 pedophile, a guy who's convicted on 45 counts of  
17 child abuse, to not come in to the facility, and  
18 they let him go around there for years after they  
19 knew about it, not once but twice. And that gets  
20 me. That does not make sense to me, and it's wrong.  
21 Now I understand protocol and University red tape,  
22 but that's wrong. You tell a guy who turns a bad  
23 guy in not to come around, and you cite this because  
24 of threats. So in other words, as long as you get  
25 shot down on College Avenue and not on our

1 facilities, it's okay. But if you get hurt in the  
2 facilities or at the stadium, oh, man, that's bad  
3 for us. So that makes no sense to me in that --  
4 that winds me up. I'm sorry, but it does. It's not  
5 right.

6 Q. The second paragraph of the administrative  
7 leave statement states quote, "Your fixed-term  
8 contract is scheduled to end on June 30th, 2012, and  
9 has not been term determined whether there will be a  
10 new contract at this time." My first question is,  
11 were you aware you had a fixed-term contract that  
12 was scheduled to end June 30th, 2012?

13 A. No. Maybe I should have been, but no.

14 Q. Okay. When -- now let's go back to  
15 Plaintiff's Exhibit 14. Could you flip back to  
16 that?

17 A. 14? (The witness complied.)

18 MS. CONRAD: I'm sorry, what was the number?

19 MR. FLEMING: 14.

20 MS. CONRAD: Thank you.

21 THE WITNESS: Okay.

22 BY MR. STROKOFF:

23 Q. That's your original appointment letter?

24 A. Yes.

25 Q. And that has a statement, the end of the

1 second, "This is a fixed-term one appointment  
2 through December 31st, 2004 with all University  
3 benefits. The appointment is renewable at that  
4 time." See that?

5 A. Yes.

6 Q. Other than this letter, did you ever receive  
7 any notification from the University that you had a  
8 fixed-term one appointment?

9 A. Not that I remember.

10 Q. Did anybody at the University verbally or in  
11 writing ever tell you that your fixed-term one  
12 appointment was being renewed?

13 A. No.

14 Q. Now, this fixed-term one appointment was  
15 through December 31st, 2004, right?

16 A. Yes.

17 Q. Nobody ever told you that your fixed-term  
18 appointment was going to be ending on a June 30th  
19 date of any year?

20 A. No.

21 Q. And the statement, the administrative leave  
22 statement, when it refers to your fixed-term one  
23 appointment expiring June 30th, 2012, had you ever  
24 received any notice that you would have anything  
25 that would be expiring on June 30th, 2012?

1           A. No. I think we actually asked. And no one  
2           ever told me anything. They didn't send a note,  
3           they didn't send a phone call.

4           Q. I'm not getting there yet. I'm talking about  
5           before all this happened. For example, the July  
6           1st, 2011.

7           A. Okay.

8           Q. Did anybody tell you you got a fixed-term one  
9           appointment that's for one year that renews June  
10          30th, 2012?

11          A. No.

12          Q. Coach Joe never said anything like that?

13          A. No.

14          Q. Why are you laughing?

15          A. That's the last thing Joe would tell you or  
16          be concerned of. If you're a football coach at Penn  
17          State, you work for Coach Joe, I don't think you  
18          really cared. If he wanted you to work for him,  
19          you're going to work for him.

20          Q. All right. It also says here that if you're  
21          contacted about any work-related matters, refer them  
22          to Tom Bradley. Do you see that?

23          A. You're going back to an exhibit?

24          Q. Yeah, I'm going back to the statement, 47.

25          THE COURT: Members of the jury, you'll have

1       some of these key documents so you don't have to  
2       worry about writing down chapter and verse, you'll  
3       have the documents you can look at.

4               THE WITNESS:   Okay.   47, I'm back on it.

5       BY MR. STROKOFF:

6               Q.   Okay.  It says that if you're contacted about  
7       football business, refer the calls to Tom Bradley,  
8       right?

9               A.   Yes.  That's what it says.

10              Q.   Tom Bradley was the acting head football  
11       coach following Joe Paterno's termination, right?

12              A.   Yes.

13              Q.   But there was a point in time in January of  
14       2012 when Tom Bradley was terminated, right?

15              A.   Yes.  I believe so.

16              Q.   Did anybody contact you to say if you're  
17       contacted with any football related stuff, you're to  
18       contact Bill O'Brien or anything like that?

19              A.   No.

20              Q.   Do you have any contact from Penn State  
21       administration following your return of items and  
22       whatever that they wanted returned in November?

23              A.   Repeat that again, please.

24              Q.   Did you have any contact with anybody from  
25       the Penn State administration following your going

1 on this paid administrative leave and after you  
2 turned in your cell phone and car and stuff like  
3 that?

4 A. Yes.

5 Q. And what was that contact?

6 A. To -- in January, they wanted me to come  
7 clean out my office fully. And they called me.

8 Q. Who's they?

9 A. The people I met at the building were Tommy  
10 Venturino and Erika Runkle, I believe.

11 Q. And you were there for what purpose?

12 A. To clean out my office completely, fully.

13 Q. You mean remove all your personal items?

14 A. Yes. Everything. Pictures. When I left my  
15 office originally, it was literally grab a couple  
16 things. But my office was still, you know, quote  
17 unquote my office, you know, my diplomas up on the  
18 wall. So, they called me to come get all of that  
19 stuff out of the office.

20 Q. And did you do that?

21 A. Yes.

22 Q. And what kind of experience was that?

23 A. Not pleasant.

24 Q. Any other contacts with the administration  
25 while you were on paid administrative leave?

1       A. I had no contact while I was on paid  
2 administrative leave.

3       Q. Okay. How did you find out that you were no  
4 longer an employee of Penn State?

5       A. Watching a press conference on TV. I believe  
6 -- I believe it was when Mr. Freeh, when they held  
7 the press conference because of The Freeh Report I  
8 believe. It was in July.

9       Q. And what did you hear?

10      A. It was in the question and answer segment,  
11 someone asked a question regarding what I'm doing or  
12 what my role was. And Dr. Erickson said I was no  
13 longer with the University or associated or I'm not  
14 with the University or something.

15      Q. So that's how you were notified you were no  
16 longer employed by the University?

17      A. Yes.

18      Q. All right. And how did that make you feel?

19      A. Again, it blows my mind to be frank with you.  
20 Even if you wanted to treat me like dirt, at least,  
21 like, cover your bases. At least hey, we better  
22 send him an email in June, just let him know. It  
23 doesn't have to be extensive, you don't have to say  
24 sorry, just say you're no longer employed, June 30th  
25 is your last date. But then I think Cynthia Baldwin

1        may have said it best, no one even thought of Mike.  
2        That's just poor. That's -- you know, I don't know  
3        I -- it's wrong to do to somebody. It's just not  
4        right.

5                MR. STROKOFF: Your Honor, it's noon and I  
6        have an entirely different line of questioning to  
7        ask the witness.

8                THE COURT: Okay. Members of the jury, we'll  
9        take our lunch break then, and we'll pick it back up  
10       at one o'clock. Please have in my my admonition not  
11       to discuss that matter and not let anyone discuss it  
12       with you.

13               Mr. McQueary, you're not to discuss your  
14       testimony with your attorney because you have not  
15       been cross-examined yet.

16               THE WITNESS: Thank you.

17               (Whereupon, a luncheon recess was taken.)

18               E N D   O F   P R O C E E D I N G S  
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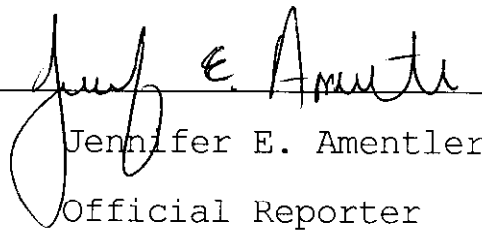


## C E R T I F I C A T E

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me upon the hearing of the within matter and that this copy is a correct transcript of the same.

11/2/16

Date

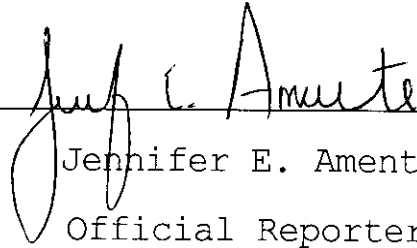
  
Jennifer E. Amentler  
Official Reporter

## C E R T I F I C A T E

I hereby certify that a copy of this transcript was furnished and made available to counsel of record for the parties, advising they had until October 28, 2016, in which to file any objections or exceptions to the same. That time period having elapsed without recording of objections or exceptions, the transcript is therefore lodged with the Court for further action.

11/2/16

Date

  
Jennifer E. Amentler  
Official Reporter

## ACCEPTANCE BY COURT

Upon counsel's opportunity to review and to offer objections to the record, the foregoing record of proceedings is hereby accepted and directed to be filed.

Date

11-2-16Thomas G. Gavin

Thomas G. Gavin  
Senior Judge  
Specially Presiding  
15th Judicial District